The Pensions Regulator

Annex 1

Full draft of the new code of practice

March 2021

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Annex 1: Full draft of the new code of practice

Who this code applies to

This code applies to governing bodies of occupational, personal and public service pension schemes. Some legal obligations do not apply to all types of governing bodies or schemes.

> **Governing bodies**
> Trustees or managers of occupational pension schemes, managers of personal pension schemes, and the scheme managers and/or pension boards of public service schemes that we regulate.

Governing bodies will retain ultimate responsibility for compliance with their legal obligations, even where they have chosen to delegate the task of meeting these to another party such as an administrator or sub-committee.

Governing bodies may wish to take professional advice to establish the extent to which the law applies to them.

Introduction

The code sets out our expectations of the conduct and practice governing bodies should meet to comply with their duties in pensions legislation.

We assume users of this code will have a good level of knowledge of pensions legislation, and we do not seek to set out in detail all the requirements of the law.

Additionally, in many instances the code is not prescriptive about methods that governing bodies should use to meet our expectations, in recognition that different approaches may be appropriate for different schemes.

Governing bodies need to use their judgement as to what is a reasonable and proportionate method of ensuring compliance for their scheme.

Status of codes of practice

This code of practice is issued by The Pensions Regulator under the powers given to us in section 90 and section 90A of the Pensions Act 2004.

The expectations we have set for governing bodies within this code have been developed in light of our statutory objectives, which were introduced by the Pensions Act 2004.

Codes of practice are not statements of the law and there is not usually a direct penalty for failing to comply with them, but it does set out our expectations of how governing bodies should comply with their legal duties

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 need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met.

The absence of reference to any particular piece of legislation must not be taken to mean that governing bodies do not need to comply with that legislation.

When determining whether the legal requirements have been met, a court or tribunal must take any relevant provisions of a code of practice into account.

If there are grounds to issue an improvement notice, or a compliance notice, we may direct a person to take, or refrain from taking, such steps as are specified in the notice. These directions may be worded by reference to a code of practice issued by us.

Governing bodies should be confident that they have a working knowledge of the pensions legislation relevant to them. If they do not, we urge them to consider whether they are meeting the requirements for knowledge and understanding, as these apply to them, and to undertake training as appropriate.

If governing bodies are, for any reason, unable to act in line with the standards referred to by this code, they should consider if they have a statutory duty under section 70 of the Pensions Act 2004 to assess and report breaches of the law.

Annex 1: Full draft of the new code of practice

The Governing body

Board structure and activities

Role of the governing body (TGB001)

The governing body is responsible for running a scheme. Governing bodies may be trustees or managers of occupational pension schemes, or, in public service pension schemes, the scheme manager and the pension board. Legislation may apply to governing bodies differently depending on the type of scheme they govern.

The governance structure of public service pension schemes will need to take account of the differing responsibilities of the scheme manager, pension board and, where appropriate, pension committee. Pension boards must have an equal number of employer and member representatives.[RO1]

Those responsible for appointing members to the governing body need to do so using the principles of proportionality, fairness and transparency, while also considering the mix of skills and experience needed by the governing body. Learn more about recruitment in **Recruiting to the governing body**.

The law also requires that members of certain governing bodies are fit and proper to carry out their duties.[RO2]

In some cases, legislation may dictate how a governing body is made up, who can be a member and how members are appointed.[RO3, RO4, RO5] Governing bodies remain accountable for any functions they delegate to a third party. Read more about appointing and managing relationships in **Managing advisers and service providers**.

Our expectations for how trustees of trust schemes[RO6] should act can be found on page 10. They also represent appropriate standards for governing bodies of other schemes.

RO1 Section 5 of the Public Service Pensions Act 2013 [Article 5 of the Public Service Pensions Act (Northern Ireland) 2014]
RO2 Section 3(1) Pensions Act 1995 [Article 3(1) Pensions (Northern Ireland) Order 1995]
RO3 Section 29(1) Pensions Act 1995 [Article 29(1) Pensions (Northern Ireland) Order 1995]
RO4 Section 5(4) of the Public Service Pensions Act 2013 [Article 5(4) of the Public Service Pensions Act (Northern Ireland) 2014]
RO5 Sections 241 to 243 Pensions Act 2004 [Articles 218 to 220 Pensions (Northern Ireland) Order 2005]
RO6 Section 3(1) Pensions Act 1995 [Article 3(1) Pensions (Northern Ireland) Order 1995]

Expected behaviours and standards

- Act honestly and with integrity, competence and capability, and financial probity, including in matters outside their role
- Meet their legal obligations and govern their scheme properly
- Act in the interests of the members and beneficiaries of the scheme
- Seek to ensure that all members of a scheme, whether deferred, active or in a pension or decumulation phase, benefit from good governance
- Be open and honest in their dealings with us
- Have, or be able to acquire, the appropriate levels of knowledge and understanding (see **Working knowledge of pensions**) and to keep these up to date (see **Building and maintaining knowledge**)
- Where acting in a professional capacity, members of governing bodies should be financially sound and not experiencing severe trading difficulties, and have indemnity insurance
- Identify and, where relevant, challenge others on any potential or actual failure to comply with the scheme rules, regulations and legislation (see **Managing advisers and service providers**)

Glossary

Active member
A person whose employment with the employer qualifies the member for benefits under the scheme and benefits continue to accrue

Decumulation
Accumulation is where your pension grows (by contributions or investment return, for example). Decumulation is where you take money out of your pension to fund your retirement, for example, as a lump sum or by buying an annuity.

Deferred member
A person who has benefits under the scheme and is no longer an active member

Pensioner member
A person who is currently receiving a pension from the scheme

Recruiting to the governing body (TGB014)

Trustees and scheme managers should have processes in place to exercise any powers they have in recruiting and appointing members to a governing body. Our expectations for appointing service providers and advisers can be found in **Managing advisers and service providers**. Processes for appointing members to a governing body should have the features below.

Recruitment and standards

- Be clear who is responsible for the recruitment, selection and appointment process.
- Include any input required from other parties.
- Identify gaps in skills and competencies across the governing body and how these can be addressed over time.
- Have a succession plan in place to maintain the skills and competencies needed by the governing body to operate properly.
- Document the principles for determining remuneration of members of the governing body (see **Remuneration policy**).
- Record the assessment of the fitness and propriety of candidates.
- Have a resignation and removal policy which provides clarity on who can remove a member of the governing body, under what circumstances and the steps for doing so.
- Follow any scheme rule or regulation requiring representation[RE1] of particular bodies or groups and have a process to ensure this is maintained.

RE1 Section 5 of the Public Service Pension Scheme Act 2013 and [section 241 and 242 of Pensions Act 2004]

When recruiting members to the governing body of a relevant multi-employer scheme further requirements will apply, as set out in the following below:

Governing bodies of relevant multi-employer schemes must:

- follow specific rules on representation and independence of the trustee board[RE2], including restrictions on how long some trustees can remain in post as non-affiliated trustees
- have at least three trustees, or where there is a sole corporate trustee that isn't a professional trustee body (a professional trustee body is treated as one trustee), at least three directors[RE3]
- appoint non-affiliated trustees in an open and transparent way[RE4]
- have a process in place to encourage scheme members, or their representatives, to speak up about matters that affect them[RE5]

RE2 Regulations 27-28 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulations 27-28 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RE3 Regulation 27 (1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 27 (1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RE4 Regulation 28 (1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 28 (1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RE5 Regulation 29 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 29 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

Member-nominated trustee appointments (TGB044)

The requirement

Some governing bodies are required to establish and implement arrangements that enable at least one-third of the trustees to be member-nominated trustees (MNTs). However, there are many exemptions to this requirement. Trustees should consider seeking legal advice where they believe an exemption may apply and record any conclusion reached.[ME1, ME2, ME3]

The cost and nature of MNT arrangements should be proportionate to the circumstances of the scheme. The arrangements should also include nomination and selection processes that are fair and transparent for all members of the scheme. Treating members fairly does not however mean that all categories of member have to be treated the same.

Governing bodies should have MNT arrangements in place within six months of a scheme's start date. However, this period may vary according to the size, structure and circumstances of the scheme.

> **Note:** If a scheme has a corporate trustee, the requirement is for one-third of the trustee board to be member-nominated directors (MNDs) based on the total number of company directors. For the purpose of this module, MNT can also refer to MND. Where a scheme has corporate and individual trustees, each company should be counted as a single trustee for the purpose of determining the total number of trustees.

Expectations for member-nominated trustee arrangements

Governing bodies have a series of expectations and requirements they should follow when establishing MNT arrangements. They should document how the arrangements comply with these requirements. They may also wish to record the reasons for any decisions made while establishing the processes.

ME1 Sections 241(8) and 242(10) of the Pensions Act 2004 [Articles 218(8) and 219(10) Pensions (Northern Ireland) Order 2005]

ME2 Regulations 2 and 3 The Occupational Pensions Schemes (Member-nominated Trustees and Directors) Regulations 2006 [Regulations 2 and 3 The Occupational Pensions Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 2006]

ME3 Among the exemptions are schemes where all the trustees or directors are independent as defined in section 23 of the Pensions Act 1995 [Article 23 of the Pensions (Northern Ireland) Order 1995]

Nomination process

- Arrangements must include a process for active and pensioner members, or any organisation that adequately represents these groups, to nominate potential candidates for MNT positions.
- The process should include the eligibility criteria for prospective nominees, taking into account any legislative provisions that prohibit certain individuals from being a trustee. Read more in **Recruiting to the governing body**.
- A non-member nominee[ME4] must have the employer's approval to qualify for selection.
- Governing bodies should discuss with the employer whether non-members will be eligible to be candidates.
- Eligibility of non-members should be reflected in the arrangements as a criterion for nomination and selection.

Selection process

- The selection process must include arrangements for determining who will be appointed as trustees when there are more nominations than vacancies.
- When there are fewer nominations than vacancies, the governing body may still run a selection process if appropriate.
- While methods of selection chosen may vary according to the circumstances of the scheme, they must include some or all of the scheme members.

The nomination and selection process should take place within six months of the requirement to appoint an MNT arising. Reasonable periods for completing the nomination and selection process will vary according to the size, structure and circumstances of the scheme.

If there are still unfilled MNT vacancies after the selection process, governing bodies must repeat the selection process at reasonable intervals. We consider a reasonable interval for repeating the process to be no more than three years from the end of an unsuccessful nomination process.

If there has been a material change to the scheme's circumstances and/or membership (for example, a bulk transfer in of new members or a large number of redundancies), it should be done sooner.

ME4 Sections 241(5)(c) and 242(5)(c) The Pensions Act 2004 [Articles 218(5)(c) and 219(5)(c) Pensions (Northern Ireland) Order 2005]

Role of MNTs and reviewing arrangements

Governing bodies must not exclude MNTs from the exercise of any trustee functions solely on the basis of being an MNT. More information about our expectations for appointed MNTs can be found in the modules: **Recruiting to the governing body**, **Working knowledge of pensions** and **Building and maintaining knowledge**.

Governing bodies should document and periodically review MNT arrangements at least every five years. For schemes with larger memberships, or those with more categories of member, a review every three years is more appropriate. Earlier reviews should also be considered if there is a material change to the scheme's circumstances and/or membership.

Communicating with scheme members

Our expectations for communications to scheme members at each stage of the MNT process are detailed below. Governing bodies should use their established means of communicating with members and provide sufficient time for them to consider their nominations.

The nomination stage should include:

- the number of MNTs the scheme is required to have and the current number of vacancies
- an explanation of the role and our expectations of trustees
- details of training that will be provided
- any eligibility criteria
- how to make a nomination and any time limits that apply
- details of the selection process and what would happen if insufficient nominations are received
- a contact for queries

The selection stage should include:

- the outcome of the nomination stage
- details for members involved in the selection stage of their next steps
- the method of selection

Outcome:

- an explanation of the process undertaken and details of any appointments that were made as result of this
- where insufficient nominations were received to fill all vacancies, confirmation of when the process will be repeated

Glossary

Corporate trustee
A company that acts as a sole trustee for a scheme

Member-nominated trustee (MNT)
MNTs are trustees who are nominated as a result of a process involving all active and pensioner members of a scheme, or an organisation that adequately represents these groups, and that are then selected by a process involving some or all of the scheme members. MNTs should be taken to include 'member-nominated directors' (MNDs) of corporate trustees.

Role of the chair (TGB015)

Governing bodies of occupational pension schemes need to have someone who fulfils the role of chair as a matter of best practice. Governing bodies of relevant schemes[RL1] must appoint someone as chair, and for certain schemes the role of chair should form part of its effective system of governance. Learn more about effective systems of governance in **Scheme governance**.

The role of the chair is an important one and we expect the appointment of a chair to be set out in a robust and documented process. The members of a governing body remain responsible for running the scheme and are equally responsible for any decisions taken.

Where it exists, the legal duty to appoint a chair typically falls on the governing body. Governing bodies should review their scheme rules and other relevant scheme documents, which, in the case of a corporate trustee, includes the company's articles of association or constitution, to check whether their scheme has a defined process for appointing a chair.

Specific requirements for relevant schemes

The identity of the chair must comply with the provisions of regulation 22 of the Scheme Administration Regulations.[RL2] The additional responsibility the chair has is they must sign the annual chair's statement.[RL3] Learn more about the chair's statement in **Chair's statement**.

A chair of trustees must be appointed within three months of a scheme being established, or within three months of an existing chair resigning or being removed.[RL4] We expect trustee boards to treat the timescale permitted in law as a maximum, and to appoint a chair of trustees as quickly as possible. The law requires governing bodies to inform us of the name of the chair.[RL5]

RL1 Regulation 1 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 1 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]
RL2 Regulation 22(2) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 22(2) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]
RL3 Regulation 23(1)(e) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 23(1)(e) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]
RL4 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997].
RL5 Regulation 3(1)(da) Register of Occupational and Personal Pension Schemes Regulations 2005 [Regulation 3(1)(a) Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005]

As a matter of best practice, the chair needs to demonstrate the skills and behaviours outlined below:

The role of the chair

- Act as the leader of the governing body and demonstrate the standards of behaviour expected from other members of the board.
- Represent the interests of the scheme to all relevant parties, including employers, advisers, service providers and members.
- Have an independent viewpoint when necessary, and be free from potential conflicts (see **Conflicts of interest**).
- Be able to recognise each individual trustee's potential, and ensure their knowledge and skills are used effectively (see **Working knowledge of pensions**).
- Encourage members of the governing body to think strategically and take the broad, long-term view.
- Help achieve compromise and consensus between differing parties to achieve good member outcomes.
- Encourage participation from all members of a governing body, including new members.
- Be able to demonstrate elements of the following skills:
  - communication with the governing body and its stakeholders
  - organisation, teaching and training (sourcing if not delivering)
  - debating, challenging and negotiating
  - ability to gather and understand diverse views
  - managing conflicts of interest.

Glossary

Articles of Association
The formal legal document that sets out the purpose of a company and the manner in which it will operate

Meetings and decision-making (TGB006)

We expect governing bodies to spend an appropriate amount of time running their scheme. In most cases, the governing body will need to meet at least quarterly.

Under section 249A of the Pensions Act 2004[MT1], governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[MT2]

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[MT3] and with the requirements of the law.

Governing bodies must include the following in their written meeting records:[MT4, MT5]

- the date, time and place of the meeting
- the names of all in attendance, including professional advisers or any other person present
- the names of those invited to the meeting but who did not attend
- any decisions made at the meeting, including the names of those who participated in them
- any decisions made outside a meeting since the previous meeting, or taken by a committee/sub-committee, including the time, place and date of the decision, and the names of the members of the governing body who participated in the decision
- decisions relating to the winding-up of the scheme[MT6]

Governing bodies that are required to put in place effective systems of governance should establish processes for planning and running meetings. Our expectations for these are listed on page 20.

MT1 Articles 226A of The Pensions (Northern Ireland) Order 2005
MT2 Section 249A(3) Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
MT3 As defined in Section 318(2) Pensions Act 2004
MT4 Section 49 Pensions Act 1995 [Article 49 Pensions (Northern Ireland) Order 1995]; Regulations 12 and 13 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulations 12 and 13 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]
MT5 Regulation 6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [Regulation 6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014]
MT6 Section 49A Pensions Act 1995[Article 49 Pensions (Northern Ireland) Order 1995]; the Occupational Pension Schemes (Winding Up Notices and Reports etc) Regulations 2002 [the Occupational Pension Schemes (Winding Up Notices and Reports etc) Regulations (Northern Ireland 2002]

Establishing meeting processes

- Understand and adhere to any prescribed governance processes in the scheme rules and legislation.
- Set the frequency of meetings for the governing body.
- Establish the circumstances, including legislative restrictions,[MT7] where and how extraordinary meetings may be called.
- Consider the complexity and urgency of any issues affecting the scheme to determine the length of the meeting.
- Create a process for rescheduling postponed meetings.
- Set expectations for members of the governing body in preparing for meetings, and actions needed in between them.
- Agree who has responsibility for setting the agenda and who else is consulted in its development.
- Agree standing agenda items, for example risk register and conflicts of interest items, and administration tasks.
- Establish the number of members of the governing body required to attend for any meeting to be considered quorate.
- Consider the extent to which the governing body can influence or direct other parties (such as the sponsoring employer) in decisions that may have material consequences for the scheme or the business supporting it.

Decision-making

- Ensure that decisions are made in accordance with the scheme rules and regulations, and the terms of reference of any sub-committees.
- Keep records relating to any decision taken by members of the governing body, including related advice or information.
- Establish appropriate retention periods for records of decision-making.
- Consider publishing information about their activity (see **General principles for member communications**), for example board papers, agendas and minutes or summaries of meetings. Redactions relating to sensitive or confidential information and/or data covered by the data protection legislation[MT8] may be appropriate.
- Consider ways to publish additional information, including information that has been requested, to encourage scheme member engagement and promote a culture of transparency.

MT7 Section 32 Pensions Act 1995 [Article 32 Pensions (Northern Ireland) Order 1995]; Regulations 9 and 10 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulations 9 and 10 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

MT8 Data protection 1998 and GDPR

Glossary

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Quorate

The necessary representation of members of the governing body to make a decision

Scheme rules

The rules and associated documentation setting out how a given scheme is to operate

Remuneration policy (TGB016)

This module applies to governing bodies of occupational pension schemes with more than 100 members, but not public service pension schemes or authorised master trust schemes. There are some other limited exceptions.[RM1] Other schemes may wish to adopt these principles as good practice.

A remuneration policy sets out the levels and means for remunerating those undertaking activities in relation to the scheme paid for by the governing body and/or sponsoring employer. Below are our expectations of remuneration policies for relevant governing bodies:

Remuneration policy

- The governing body should establish a remuneration policy and keep a written record of it.
- This policy should be proportionate to the size, scale, nature and complexity of scheme activities.
- It should support the sound, prudent and effective management of the scheme and be aligned with the scheme's long-term interests.
- The remuneration policy should apply to all persons or corporate bodies who effectively run the scheme, those who carry out key functions or whose activities materially impact the scheme's risk profile.
- The policy should include measures to mitigate potential conflicts of interest and focus on 'in-house' roles, such as trustees, trustee secretary, administrators and sub-committees.
- The policy should be reviewed at least every three years, but in most cases it will be appropriate to do so annually or immediately following any significant changes to the scheme's governance arrangements.
- The policy should include an explanation of the decision-making process for the levels of remuneration, and why these are considered to be appropriate.
- The governing body should consider any outsourced service provider. These include, but are not limited to, administration, actuarial, legal advisory, and investment services.
- The policy should be published on the scheme website or otherwise made available to scheme members.

RM1 Section 249A (3) Pensions act 2004 [Article 226A (3) Pensions (Northern Ireland) Order 2005]

Glossary

Chairperson

The person selected to take charge of the governing body in leading meetings and may often have the deciding vote on scheme matters. For DC schemes the chairperson is also required to sign the annual chair's statement

Risk profile

Includes consideration of the scheme's membership demographics, funding, asset allocation and sponsor covenant (where applicable)

Knowledge and understanding

Working knowledge of pensions (TGB017)

All governing bodies should maintain a list of items the members of the governing body should be familiar with. The list should be available in an accessible format and reviewed regularly. Our expectations for learning and development are set out in **Building and maintaining knowledge**.

Our expectations of knowledge and understanding apply equally to any individual who exercises any trustee function within a company acting as trustee of the scheme. Professional trustees and those appointed because of specialist expertise should be able to demonstrate a greater level of knowledge than members without such expertise.

The items we consider to be key are listed below. This list is not exhaustive, and some governing bodies may add other items. Some elements of this list will not be relevant to certain schemes.

Pension law and associated legislation

- The roles, responsibilities and duties of the governing body.
- The governing body's liabilities and potential liability for decisions made.
- The law relating to pensions and trusts.
- The definition and nature of a pension trust (if applicable).
- The separation of the scheme's assets (if applicable) and any sponsoring employer.
- Fiduciary duties and safeguarding the financial interests of all beneficiaries.
- The responsibility to act prudently and in accordance with the scheme rules.
- The law relating to pensions and trusts.
- Other legislation that might affect the scheme, for example:
  - anti-discrimination
  - data protection.
- The Pensions Regulator's codes of practice.
- Proposals for legislative change.
- Tax treatment of pension schemes.
- Main features of the state pension provision.
- Key elements of **automatic enrolment** legislation.

The scheme

- Trust deed and rules and any amendments (if applicable).
- Scheme regulations and statutory guidance (public service schemes only).
- The governing body's powers and discretions.
- The benefit structure, including the pension or decumulation options available to members.
- The balance of powers between the governing body and the employer.
- Any written policies and procedures relating to:
  - internal dispute resolution
  - the appointment of members of the governing body.
- Statements of policy about the exercise of discretionary functions.
- How policies, practices and scheme rules are reviewed and amended.
- Terms of reference, structure and operational policies of any sub-committees of the governing body.
- Any admission body policies (public service schemes only).
- Any categories of membership of the scheme.
- The annual chair's statement (certain DC schemes) (see **Chair's statement**).

Scheme funding and investments (excluding LGPS)

- Statement of investment principles (if applicable)
- Statement of funding principles (if applicable).
- Any policies the governing body has adopted in relation to stewardship of investments and ESG matters.
- The choice of investments, if any, offered to members and any default arrangement.
- The contribution rate(s) or amount(s) payable by employers participating in the scheme.
- The contribution rate(s) or amount(s) payable by scheme members participating in the scheme.
- The investment of scheme assets and the governing body's investment objectives.
- The importance of the **employer covenant**.

- Recovery plan and covenant analysis (if applicable).
- The Pension Protection Fund (PPF) where applicable.
- The scheme's investment mandates.
- Strategic asset allocation.
- Measurement and reporting of investment performance.
- The impact of investment charges and fees (see also **Value for members**).
- The key features and processes of investment management.
- The processes and principles used for selecting fund managers.

Principles of investment (excluding LGPS)

- How investment can affect scheme member outcomes.
- Custody arrangements including monitoring and record-keeping.
- The operation of financial markets.
- The major asset classes and their characteristics.
- Characteristics of alternative asset classes, financial instruments and investment techniques.
- The implications of overseas investment including foreign exchange risk and political risk.
- The nature of financial risk, including:
  - risk/reward profile of each major asset class
  - basic principles of matching assets to liabilities (DB)
  - basic principles of matching assets to pension expectations (DC)
  - managing risk by diversification of assets.
- The investment strategy adopted by the governing body.

Risk management

- The risk register.
- Risk assessment framework and risk management policies for the scheme.
- Any policies and procedures including documentation relating to:
  - conflicts of interest
  - reporting breaches
  - maintaining contributions to the scheme
  - gifts and hospitality.

Scheme administration and service providers

- The need to obtain professional advice in certain circumstances.
- The pension administration strategy, or equivalent documents setting details of performance targets etc.
- Whether the scheme is being used for automatic enrolment.
- The roles and responsibilities of appointed advisers and service providers.
- Any policies and procedures including documentation relating to:
  - record-keeping
  - cleaning and maintaining data
  - collection of data.

In relation to scheme communications governing bodies should be familiar with

- Any scheme-approved booklets, announcements and other key communications to scheme members and employers.
- Statements of policy about communications with scheme members and employers.
- Policies relating to the public provision of information and information given on request.
- Where applicable, procedures for dealing with Freedom of Information requests.

Glossary

Accessibility
Making sure that communications and online services can be used and understood by as many people as possible. This includes those with impaired vision or hearing, motor difficulties, cognitive impairments and learning disabilities. The government has produced helpful guidance on this: **https://www.gov.uk/government/publications/inclusive-communication/accessible-communication-formats**

Beneficiary
A person who benefits from a trust; the member, spouse or children, for example

Decumulation
Accumulation is where your pension grows (by contributions or investment return, for example). Decumulation is where you take money out of your pension to fund your retirement, for example, as a lump sum or by buying an annuity.

Employer covenant
The ability of the sponsoring employer to financially support a DB pension scheme

Custody arrangement
An arrangement where a third party holds assets on behalf of someone else (a pension scheme, for example). The custodian may undertake certain reconciliation and transaction activities.

Money laundering
The concealment of the origins of illegally obtained money

Passive management
Involves setting up your investment framework (having divided your investments upfront) and leaving the investments to grow

Pension Protection Fund (PPF)
The Pension Protection Fund is a statutory fund in the United Kingdom, intended to provide limited protection to DB scheme members if their pension fund winds up without sufficient funds to pay benefits

Professional trustee
A person whose business includes trusteeship. Someone will normally be considered a professional trustee if they have represented themselves to one or more unrelated schemes as having expertise in trustee matters generally (rather than just in certain areas).

Recovery plan
A plan put in place to enable a defined benefit scheme to return to being fully funded on a statutory basis

Scheme rules
The rules and associated documentation setting out how a given scheme is to operate

Governance of knowledge and understanding (TGB005)

This module applies to schemes subject to the requirement to maintain an effective system of governance under the Pensions Act 2004, section 249A.

It is important that the governing body as a whole can demonstrate they jointly possess the skills, knowledge and experience[GO1] to run the scheme effectively.

The governing body should:

- have a balance of skills and experience spread throughout the board and be able to demonstrate this
- be able to apply its knowledge to governing the scheme
- have sufficient skills to judge and question advice or services provided by a third party
- maintain a plan for the ongoing maintenance and development of the governing body's knowledge (see **Building and maintaining knowledge**).
- be able to identify and address skills gaps
- have sufficient understanding of industry good practice and standards to assess the performance of the scheme and its service providers (see **Managing advisers and service providers**).
- keep records of the learning activities of individual members and the body as a whole
- be able to demonstrate steps it has taken to comply with the law
- have and maintain training and development plans to ensure that its collective knowledge and understanding is kept relevant and up to date (see **Building and maintaining knowledge**).

GO1 Sections 247-248 Pensions Act 2004

Building and maintaining knowledge (TGB003)

Individual members of governing bodies must ensure they have the appropriate knowledge and understanding[BU1] to enable them to properly exercise their functions. Learn more in **Working knowledge of pensions** and **Governance of knowledge and understanding**.

The members of a governing body should invest sufficient time in their learning and development, alongside their other responsibilities and duties. Governing bodies should provide their members with the necessary training and support. Members of a governing body should be aware that their responsibilities and duties begin from the date they take up their post.

Learning programmes should be flexible, allowing members to update areas of learning and to acquire new knowledge. Members of governing bodies who take on new responsibilities will need to ensure they gain relevant knowledge and understanding. Trustees of occupational pension schemes have the right to time off to perform their duties as trustee of their employer's scheme and for trustee training.[BU2]

The steps to help governing bodies ensure their knowledge and understanding is established and maintained are outlined below. Members of a governing body should:

- be able to demonstrate a basic level of knowledge and understanding needed to run their scheme within six months of their appointment[BU3] (see **Working knowledge of pensions**).
- start on a programme of learning immediately on appointment, if not before, in conjunction with a scheme specific induction programme, if one is provided
- undertake advanced scheme-specific learning once a good understanding of the scheme has been obtained
- consider how they are meeting our expectations of knowledge and understanding (see **Working knowledge of pensions**).
- review their own knowledge and understanding and identify any gaps at least annually, particularly in relation to changes in legislation or their scheme
- keep records of any review of knowledge and understanding and steps taken to address any gaps
- keep records of any alternative or further learning activity (eg reading, attending conferences, sessions with the scheme advisers)

BU1 Sections 247, 248 and 248A of The Pensions Act 2004 [Articles 224, 225 and 225A of The Pensions (Northern Ireland) Order 2005]
BU2 See section 58 of the Employment Rights Act 1996 [Article 86 The Employment Rights (Northern Ireland) Order 1996]
BU3 Sections 247and 248 of The Pensions Act 2004 [Articles 224 and 225 of The Pensions (Northern Ireland) Order 2005]

Value for scheme members

Value for members (TGB009)

Unless exempt[VA1], governing bodies of trust-based occupational pension schemes providing defined contribution (DC) benefits must, at least annually:

- calculate the charges and, as far as they can, the transaction costs borne by members' funds
- assess the extent to which the charges and costs represent good value for members[VA2]
- explain their assessment of value for members (VFM) in the annual chair's statement.[VA3] Learn more in the **Chair's statement**.

The list below describes how governing bodies should assess, determine and manage VFM.

Assessing VFM

- Engage early with relevant parties, such as fund managers, administrators and scheme advisers, and establish the lead in time required to provide information about charges and costs.
- Record any problems encountered in obtaining the necessary information and the steps taken to resolve them.
- Document the evidence used to arrive at conclusions.

VA1 Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]. See the definition of 'relevant scheme' for the exemptions.

VA2 Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

VA3 Regulation 23(1)(c) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 25(1)(c) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

Determining VFM

- Make efforts to understand the characteristics of their members in a manner proportionate to the scale, size, and resources of their scheme.
- Consider characteristics such as scheme member demographics and, where possible, their salary profile.
- Where possible, consider members' preferences and financial needs.
- Consider all available evidence when exercising judgement about what represents VFM.
- Where direct member feedback is limited, consider what alternative methods can be used to assess VFM.
- Consider using publicly available industry research reports to compare their scheme to similar ones.
- Where the costs of a service are shared between members and employers – for example through a rebate arrangement or a proportional contribution from the employer, as opposed to a distinct division of cost – take into account all elements of services provided when carrying out their assessment.
- Clearly set out the basis of cost sharing in their explanation of the VFM assessment in the chair's statement.

Where governing bodies have identified areas of poor VFM they may wish to consider the following actions:

Managing poor VFM

- Document the issues identified, as well as the steps needed to improve VFM in those areas.
- Where it is not possible to improve VFM, document the reasons for this.
- Where they are unable to resolve matters leading to poor VFM, consider whether winding the scheme up is an appropriate action.
- Record the outcome of this consideration and regularly review it whilst poor value persists.

Advisers and service providers

Managing advisers and service providers (TGB010)

Governing bodies often appoint professional advisers and service providers to their scheme. In some cases,[MA1] governing bodies are required to make these appointments. Advisers and service providers may be appointed to carry out specific tasks such as administration. They also provide advice, and supplement the skills and knowledge of the governing body.

Where governing bodies appoint advisers and service providers, they retain ultimate accountability. Governing bodies should be able to demonstrate that they can manage commercial relationships.

Schemes with 100 or more members that are required to maintain an effective system of governance[MA2] should follow our expectations for processes in place for the selection, appointment, management and replacement below. Other schemes may wish to consider them as good practice.

Selection

- Establish agreed and documented policies for making appointments to the scheme. These should be reviewed at least every two years.
- Consider running a tender process when appointing advisers and service providers, and commit sufficient time and resources.
- Carefully consider any proposed degree of delegation, as well as the experience and skill-set of the chosen service provider.
- Be familiar with and understand the impact of the terms and conditions of contracts with service providers. Learn more in our **scheme management guidance**.
- Review relevant independent frameworks, such as ISO certification, or accreditation frameworks for specialist functions like administration.
- Assess service providers before appointment, including access to due diligence carried out as part of the appointment process.
- Fully understand the scope of the roles and responsibilities performed by service providers and advisers.

MA1 Section 47 Pensions Act 1995 [Article 47 Pensions (Northern Ireland) Order 1995]
MA2 Section 249A Pensions Act 2004 [Articles 226A of The Pensions (Northern Ireland) Order 2005]

Appointing

- Agree appropriate delegations and procedures for referral.
- Agree performance indicators on appointment and secure accountability within the service provider.
- Include a process for managing advisers, recording decisions taken as well as escalation points.
- Ensure the flow of communication with the service provider or adviser so all parties have the necessary information to make key decisions and to fufil their assigned roles.
- Take steps to identify and manage conflicts of interest (see **Conflicts of interest**).
- Understand the implications of Data Protection legislation[MA3] for any information that will be shared with or handled by service providers.

Managing

- Be aware of any obligations, professional conduct rules and whistleblowing requirements that may be placed on some advisers.
- Ensure service providers are able to demonstrate that they are fulfilling the requirements of any legal obligation that has been delegated to them.
- Regularly assess performance against agreed key performance indicators (KPIs) and service level agreements (SLAs). Record outcomes and ensure all actions are allocated for remedy and progress is tracked.
- Review the performance of providers of investment consultancy services against the objectives set for them. Learn more in our **objective setting guidance**.
- Periodically review the market of service providers and consider if the scheme continues to receive quality of service and value for money.
- Have the breadth of knowledge and understanding sufficient to enable them to fully understand any advice or information they receive.
- Understand how any advice or information they receive affects decisions or activities for which they are legally responsible.
- Have a process to ensure that improvements are made where poor service is identified.
- Work with service providers to understand and secure any necessary resources to deal with forthcoming legislative or scheme changes.
- Have clearly documented procedures in place to enable a continuous and consistent service in the event of a change of service provider, or provider failure (see **Continuity planning**).

MA3 Data Protection Act 2018 and UK GDPR

There may be circumstances where it is necessary for a governing body to replace an adviser or service provider. This may include cases where service has been consistently poor or no longer demonstrates good value, or where a contract is not, or cannot be renewed. In such circumstances, it would be appropriate for the governing body to act to ensure that there is no member detriment from their actions.

Replacing

- Consider the interests of the scheme members when replacing the adviser or service provider.
- Understand the impact of the terms and conditions of contracts, including any fees or penalties, and procedures for releasing relevant information to governing bodies and new advisers.
- Understand the risks associated with transitioning to a new provider and put plans in place to mitigate them.
- Plan effectively for the transition to a new adviser or service provider, setting out the key steps, actions, decisions, owners and timescales, including how costs will be met.

Glossary

Advisers
In the context of the code of practice, advisers is a broad reaching term and may refer to one or more of the following: actuary, benefit consultant, lawyer, independent financial adviser, investment consultant, insurance broker, professional trustee, fund manager, fiduciary manager

Key performance indicator
A quantifiable measure which can be used to evaluate success

Service level agreements
An agreement between a service provider and governing body setting legally binding service levels that must be met by the service provider in providing the service

Service providers
Any person or body providing services to a pension scheme, including advisers. Examples include insurer, administrator, accountant and auditor

Risk management

Identifying and assessing risks (TGB031)

Under section 249A of the Pensions Act 2004,[ID1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[ID2]

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes[ID3] are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[ID4] and with the requirements of the law.

The legal obligations for scheme funding, scheme investment, and environmental, social and governance concerns are different for public service pension schemes.[ID5] However, as far as these matters are either set out in the scheme rules[ID6] or in the requirements of the law, scheme managers of public service pension schemes must establish and operate adequate internal controls in relation to them.

It is not necessary, nor possible, to eliminate all risks from a pension scheme. Governing bodies should use risk management as a tool to identify risk and develop internal controls. As part of their risk management approach, governing bodies should assess all the risks faced by their scheme and define acceptable parameters for each.

The range of risks will vary from scheme to scheme and may include matters such as investment, employer covenant, funding, administration, communications, fraud and pension or decumulation options. Separately, some investment risks may be accepted by the governing body in their desire to seek greater returns.

ID1 Articles 226A of The Pensions (Northern Ireland) Order 2005
ID2 Section 249A(3) of the Pensions Act 2004 (Article 226A (3) of The Pensions (Northern Ireland) Order 2005)
ID3 As defined in section 318(1) of the Pensions Act 2004 (Article 2(2) of The Pensions (Northern Ireland) Order 2005)
ID4 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)
ID5 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
ID6 'Scheme rules' as defined in section 318(2) Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Governing bodies should consider risks such as:

- scheme investments, including asset liability management (if applicable). (see **Investment governance**).
- insurances, compensation funds and other risk mitigation techniques
- environmental, social and governance risks (if applicable) (see **Stewardship** and **Climate change**).
- scheme funding and the strength of the employer covenant (if applicable)
- the risk that existing controls are not operating as intended
- the risk of fraud
- failure to comply with the law and/or scheme rules
- poor record-keeping, poor administration, and IT and database failures
- cyber security risks (see **Cyber controls**).
- governance and decision-making not operating to the standard required by pensions legislation
- actual or potential conflicts of interest

Risk management function

Under section 249A of the Pensions Act 2004,[ID7] governing bodies of certain schemes[ID8] with 100 members or more[ID9] should have in place a risk management function. Governing bodies should achieve this in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities. This is different from the requirements on governing bodies to prepare an own risk assessment, learn more in **Own risk assessment**.

The risk management function may be a sub-committee of the governing body, or an independent body that facilitates reporting to the whole governing body or the relevant sub-committee. Responsibility for identifying and evaluating risks and/or internal controls and risk management (see **Managing risk using internal controls**) may be delegated to the risk management function.

ID7 Articles 226A of The Pensions (Northern Ireland) Order 2005
ID8 Unless exempt within section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
ID9 Section 249A Pensions Act 2004 and Regulations 3(1)(3)(a),(5),(6) and (9) of the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 (SI 2018/1103)[Article 226A of The Pensions (Northern Ireland) Order 2005 and Regulations 3(1)(3)(a),(5),(6) and (9) of the Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018 (SR 2018 No. 214 N.I.)]

The risk management function should be structured in such a way as to enable the scheme to adopt strategies, processes and reporting procedures necessary to identify, measure, monitor, and manage risk. The function should also regularly review the risks, at an individual and aggregated level, to which the scheme is or could be exposed, and the interdependencies of such risks.

The written policies regarding the risk management function should:

- only take effect after they have been approved by the governing body, and
- be reviewed at least once every three years

In schemes where members and beneficiaries bear risks, the risk management system should also consider those risks from the perspective of members and beneficiaries.

Identification and assessment

Risk identification and assessment processes will detect weaknesses in the governance and operation of the scheme at an early stage. Our expectations for governing bodies are set out below.

Establishing a process for risk assessment

- Set the objectives of their scheme.
- Refer to the documents they are required to be familiar with (see **Working knowledge of pensions**).
- Consider relevant sources of information, such as records of internal disputes and breaches of the law.
- Determine the various functions and activities carried out in the running of the scheme.
- Identify and document the actual and perceived risks facing their scheme, including activities that have been outsourced.
- Assess the likelihood and impact of the risks occurring.
- Assess the likelihood and impact of separate risks coinciding and the interdependencies between such risks.

Monitoring and mitigating risk

- Record the risks identified in a risk register and ensure that it is reviewed regularly.
- In the case of funded defined benefit schemes, establish any sponsoring employer's capacity to absorb investment risk.
- Define tolerance parameters, key indicators and triggers for action.
- Document and take steps to manage or mitigate risks.
- Maintain contingency plans for actions to be taken if risks materialise (see **Continuity planning**).
- Develop and implement plans with target dates for mitigating or closing risks.
- Undertake 'after action reviews' and incorporate any lessons learnt.

Continually monitor existing risks and identify new ones, including significant changes affecting the scheme, employers and members.

Roles and responsibilities

- Have processes that establish ownership and a responsible party for monitoring risk and issues between meetings of the governing body, (particularly if the action is the responsibility of a third party).
- Receive information from relevant parties (administrator, investment manager etc) at least quarterly to enable the risk register to be updated.

Glossary

Asset liability management
This is the practice of managing risks that occur between the misalignment of asset classes within an investment strategy

Governing bodies
Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004. In the case of a public service pension scheme subject to the requirements under section 249B of the Pensions Act 2004, governing bodies refer to scheme managers.

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Public service pension scheme
A scheme established under section 1 of the Public Service Pensions Act 2013

Scheme manager
Applies to public service pension schemes, and is the person responsible for managing or administering a public service pension scheme, and any statutory pension scheme that is connected with it (Section 4 of the Public Service Pensions Act 2013).

Sponsoring employer
The employer, or employers, responsible for making payments to a pension scheme (see our **Statement on identifying your statutory employer**).

Managing risk using internal controls (TGB032)

Under section 249A of the Pensions Act 2004,[MN1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls. However, there are certain exemptions.[MN2]

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes[MN3] are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[MN4] and with the requirements of the law. Internal controls refer to all the following:

- the arrangements and procedures to be followed in the administration and management of the scheme
- the systems and arrangements for monitoring that administration and management
- the arrangements and procedures to be followed for the safe custody and security of the assets of the scheme

The legal responsibility in relation to internal controls rests with the governing body. In relation to public service pension schemes, 'governing bodies' in this module refers to scheme managers. Even if functions or activities are delegated to advisers or service providers, accountability still resides with the governing body. Learn more in **Managing advisers and service providers**. Governing bodies should ensure that their internal controls are documented. The extent of documentation will depend on the size, scale nature and complexities of the activities of the scheme.

A scheme's internal controls should be reviewed at least annually. However, the review of controls can be staggered if they address different areas of a scheme's operations or governance. Reviews should also be carried out when substantial changes take place. These include changes to pension scheme personnel, service providers, scheme advisers, or administration and other IT systems. Similarly, reviews should take place if a control is not working as intended or if there is a deterioration in funding in schemes which are subject to Part 3 of the Pensions Act 2004.

A persistent failure to put in place internal controls could be a cause of an administrative breach. If this failure is likely to be of material significance to us in carrying out any of our functions, we would expect to receive a breach of law report. Learn more about reporting breaches in **Decision to report**.

MN1 Articles 226A of the Pensions (Northern Ireland) Order 2005
MN2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
MN3 As defined in in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
MN4 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Norther Ireland) Order 2005]

Governing bodies should carry out a prior risk assessment to understand the various risks facing the scheme and its members. We also expect that the process for monitoring, recording and mitigating risk is closely integrated with the operation of internal controls (see **Identifying and assessing risks**).

Governing bodies should ensure they design internal controls that ensure the scheme is managed in accordance with the law and the scheme rules. The internal controls should also:

- include a clear separation of duties for those performing them, and processes for escalation and decision-making
- require the exercise of judgement where appropriate, in assessing the risk profile of the scheme and in designing appropriate controls
- be integrated into the decision-making processes of the governing body

The rest of our expectations for internal controls can be found below.

Maintaining internal controls

- Regularly consider performance of internal controls in mitigating risks and, where appropriate, achieving long-term strategic aims.
- Consider obtaining external assurance about controls (see **Assurance of governance and internal controls**).

Ensure service providers meet their own standards for internal controls (see **Managing advisers and service providers**).

When designing internal controls, consider:

- how the control will be implemented and the skills of the person performing the control
- the level of reliance that can be placed on information technology solutions where processes are not automated
- whether a control is capable of preventing future recurrence or merely detecting an event that has already happened
- the frequency and timeliness of a control process
- how the control will ensure that data are managed securely
- the process for identifying errors or control failures, and approval and authorisation controls

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004. In the case of a public service pension scheme subject to the requirements under section 249B of the Pensions Act 2004, governing bodies refer to scheme managers.

Public service pension scheme

A scheme established under section 1 of the Public Service Pensions Act 2013

Sponsoring employer

The employer, or employers, responsible for making payments to a pension scheme (see our **Statement on identifying your statutory employer**).

Assurance of governance and internal controls (TGB033)

Under section 249A of the Pensions Act 2004,[AS1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[AS2]

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes[AS3] are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[AS4] and with the requirements of the law.

In relation to public service pensions schemes, governing bodies in this module refer to scheme managers but not to pensions boards.

There are various assurance frameworks suitable for use in relation to pension scheme operations. Governing bodies should understand the limits of each type of assurance, and the limits to the scope of any assurance process and how each can play a part in the internal controls framework of a scheme.

For each assurance report, the governing body should:

- consider the process for appointing service providers (see **Managing advisers and service providers**)
- understand the scope, methodology and supporting evidence used in making an assurance report
- recognise the control objectives that have been included, excluded or modified in any assessment and how the scope is relevant to their scheme
- understand the level of interrogation that has been carried out in assessing the scheme, for example if a site visit was carried out
- identify and act upon any issues or concerns they consider to be material

AS1 Articles 226A of the Pensions (Northern Ireland) Order 2005
AS2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
AS3 As defined in in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
AS4 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(2) of The Pensions (Norther Ireland) Order 2005]

Statutory audit

Most governing bodies of occupational pension schemes will be familiar with the annual statutory audit[AS5] (see **Audit requirements**). But governing bodies should not solely rely on the output of the audit as a means of assurance reporting. It provides assurance about a limited number of financial elements, but it does not, for example, communicate that benefits are being paid correctly.

Under certain circumstances, the statutory auditor may be prepared and able to undertake an audit with a wider scope. However, this may be limited by their profession's ethical guidelines. For example, statutory auditors cannot hold the office of 'internal auditor'.

Internal audit

The scope and nature of internal audit work can be tailored to meet the requirements of the governing body. The audit may include financial and non-financial processes and controls. When selecting a suitable internal auditor, the governing body should consider:

- the candidate's independence
- any actual or potential conflicts of interest (see **Conflicts of interest**)
- the candidate's knowledge of the subject

Governing bodies may have access to internal auditors within a participating employer who could provide similar scrutiny to an independent external assessment. This is a different role to the internal audit function that we discuss in **Managing risk using internal controls**.

> **Note:** Not all internal auditors within a sponsoring employer will have sufficient pensions knowledge to perform an adequate assessment of all scheme operations.

Assurance reporting by service providers

Some service providers may be able to supply assurance reports about their own operations. The governing body should satisfy themselves of the scope of such reports and the degree to which these are applicable. For example, whether the reports cover the specific team or office providing services to the scheme.

AS5 Section 47(1)(a) of the Pensions Act 1995 with exemptions in Regulation 3 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715) [Exemption in The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (SR 1997 No. 94 N.I.)]

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004. In the case of a public service pension scheme subject to the requirements under section 249B of the Pensions Act 2004, governing bodies refer to scheme managers.

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Continuity planning (TGB022)

Under section 249A of the Pensions Act 2004[CO1], governing bodies of certain schemes must establish and operate an effective system of governance including internal controls (see **Scheme governance**). They should develop and implement continuity plans to ensure that the operations of their scheme can be maintained in the event of a disruption to the activities of the scheme. Our expectations for continuity planning are set out below.

Scheme managers of public service pension schemes[CO2] do not have the same obligations in pensions legislation, but it is good practice for them to carry out continuity planning in the same way. Governing bodies should:

- seek to ensure continuity and regularity in the performance of the activities in the scheme
- have a resilient business continuity plan (BCP) that sets out key actions in case of a range of events occur that impact the scheme's operations
- make sure member data and general scheme administration are included in the BCP
- ensure advisers and service providers also have a BCP in place to maintain services to the scheme
- choose how to rely on reports and information about their service providers' BCP arrangements
- set out roles and responsibilities within the plan, and agree these with service providers
- regularly review process documents and maps, particularly after system or process change
- prioritise scheme activities in the event of the BCP being triggered, for example pensioner payments, retirement processing and bereavement services
- ensure continued access to resources, services and communications with key parties
- have an awareness of the timeframes required to bring new resources on board
- understand what contingency is in place to mitigate any under-resource due to, for example, increase in work volumes or the loss of staff
- seek to identify any events which may reasonably occur that may require additional resources

CO1 Article 226A of The Pensions (Northern Ireland) Order 2005
CO2 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

Glossary

Governing bodies
Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Public service pension scheme
A scheme established under section 1 of the Public Service Pensions Act 2013

Conflicts of interest (TGB039)

Conflicts of interest may arise from time to time while running a pension scheme, either among members of the governing body themselves or with service providers, sponsoring employers, advisers and others. Conflicts can also arise for members of the governing body who, for example, are members of the scheme or who represent trade unions. Conflicts of interest may be either real conflicts or potential conflicts. Unless otherwise stated, references to 'conflicts of interest' include both real and potential conflicts.

Under section 249A of the Pensions Act 2004,[CN1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[CN2]

There are different requirements for the management of conflicts of interest for public service pension schemes. These are set out at the end of this module.

In identifying and evaluating risks (see **Identifying and assessing risks**), governing bodies should consider conflicts of interest.

A conflict of interest may arise when a member of the governing body:

- is obliged to act in the best interests of the members, and
- at the same time has or may have either:
  - a separate personal interest or
  - another fiduciary duty or other duty owed to a different person in relation to that decision, giving rise to a possible conflict with the first duty[CN3]

It is possible that members of governing bodies will have other interests and responsibilities and need to understand when actual or potential conflicts arise. A member of a governing body with a conflict should consider withdrawing from decisions where that conflict occurs. Where there are acute or pervasive conflicts for a member of a governing body (for example where a trustee involved in funding negotiations is also the finance director) it is likely to be inappropriate for them to be involved in negotiations relating to the matters causing the conflict.

CN1 Article 226A of The Pensions (Northern Ireland) Order 2005
CN2 Section 249A(3) of The Pensions Act 2004 (Article 226A (3) of The Pensions (Norther Ireland) Order 2005)
CN3 Such conflicts of interest may affect not only trustees but also directors, agents, professional advisers and others

Members of governing bodies who are also directors of the sponsoring employer will also need to consider requirements of section 175 of the Companies Act 2006. This places an obligation on directors to avoid a situation where they have or can have a direct or indirect interest that conflicts, or possibly may conflict, with the interests of their company.

Certain legal and professional requirements relating to conflicts of interest may apply to members of governing bodies, advisers and service providers. For example, legislation applicable to English local authorities contains requirements for certain people about standards of conduct, conflicts of interest and disclosure of certain interests. Our expectations for identifying and recording conflicts of interest can be found below.

> **Note:** We have produced guidance on options and approaches to managing **Conflicts of interest**.

Identifying and recording conflicts of interest

- Have a clear understanding of the importance of managing conflicts of interest and the circumstances in which they may arise.
- Understand any requirements of the scheme's governing documentation, or regulations under which it may operate, in relation to conflicts of interest.
- Encourage a culture of openness and transparency in relation to conflicts of interest.
- Maintain a written policy for managing actual and perceived conflicts of interests.
- Maintain a register of interests which should be considered in every meeting of the governing body.
- Consider whether the register of interests should be published (for example on the scheme's website) redacted to the extent that it contains confidential information and/or personal data.
- Ensure all members of the governing body, advisers and service providers make declarations of interests and conflicts at their appointment, and as they arise.
- Ensure contracts and terms of appointment require advisers and service providers to operate their own conflicts policy and disclose all conflicts to the governing body.
- Record conflicts of interest in relation to a decision-making process, as well as the action taken to manage them, in the written records of the meeting (see **Meetings and decision-making**).
- If carrying out transactions with related parties, governing bodies should ensure transparency by complying with 'Financial Reporting Standard (FRS) 102 – Related Party Disclosures'
- Consider seeking independent legal advice to help decide the best approach to manage or avoid an actual or potential conflict of interest.

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes[CN4] are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[CN5] and with the requirements of the law.

To the extent that conflicts of interests is within that section, scheme managers should consider conflicts of interest in identifying and evaluating risks (see **Identifying and assessing risks**). Where relevant, our expectations on scheme managers for identifying and recording conflicts of interest are the same as the list above. The specific expectations that apply will vary from scheme to scheme.

Under section 5 of the Public Service Pensions Act 2013, scheme managers of public service pension schemes have to meet certain requirements relating to conflicts of interest regarding the pensions board. In this situation, a conflict of interest is a financial or other interest which is likely to prejudice the way in which someone carries out their role as a member of the pensions board. It does not include a financial or other interest arising merely from them being a member of the scheme or any connected scheme. The scheme manager must:

- be satisfied that a prospective member of the pension board does not have a conflict of interest
- remain satisfied that none of the members of the pension board has a conflict of interest

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CN4 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

CN5 As defined in section 318(2) of the Pensions Act 2004 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme that is subject to the requirements under section 249A of the Pensions Act 2004

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Pensions Board

Board set up as required by section 5 of the Public Service Pensions Act 2013 to assist the scheme manager with the matters set out in that section

Scheme manager

The person responsible for managing or administering:

- the scheme, and
- any statutory pension scheme that is connected with it (Section 4 of the Public Service Pensions Act 2013).

Sponsoring employer

The employer, or employers, responsible for making payments to a pension scheme (see our **Statement on identifying your statutory employer**).

Own risk assessment (TGB045)

Under section 249A of the Pensions Act 2004,[OW1] governing bodies of certain schemes must establish and operate an effective system of governance including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[OW2]

Governing bodies of schemes that must maintain an effective system of governance[OW3] should carry out and document an own risk assessment (ORA) of their system of governance. The ORA is an assessment of how well governance systems are working, and the way potential risks are managed. Governing bodies of other schemes may choose to carry out an ORA of their governance as an example of best practice.

The governing body should prepare and document its first ORA within one year of this code coming into force. Each subsequent ORA should be carried out and documented within 12 months of the last. It should also be reviewed whenever there is a material change in the risks facing the scheme or to its governance processes.

The ORA is a substantial process, and the governing body may need to expand its risk assessments to fulfil our expectations. The ORA does not need to document the steps taken to mitigate risks identified. However, the governing body should still ensure that it maintains appropriate records of mitigations as part of its ordinary risk management processes (see **Managing risk using internal controls**).

Records of the ORA do not need to be sent to us, but we may ask to see it as part of supervisory activity.

Use of the own risk assessment

As the ORA will identify the key governance risks facing the scheme, the governing body should incorporate the findings into its management and decision-making processes. The findings may be used to adjust or create new processes or procedures. They may also highlight areas of work that the governing body needs to undertake, and to prioritise these activities.

Carrying out the own risk assessment

The governing body should carry out an ORA that is proportionate to the size, nature and complexity of the scheme. The areas that should be covered when carrying out an ORA are set out below.

OW1 Articles 226A of The Pensions (Northern Ireland) Order 2005
OW2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
OW3 249A of the Pensions Act 2004 [Article 226A of The Pensions (Northern Ireland) Order 2005]

Documentation

The governing body should:

- ensure the ORA is in writing
- provide the ORA documentation to all members of the governing body
- ensure the ORA documentation is available on request
- make sure the chair of the governing body signs off the ORA

The governing body should record:

- the date on which the ORA has been prepared
- the date on which the next ORA will be prepared
- details of any interim reviews or updates that the governing body has carried out or plans to carry out

The ORA documentation should cover:

- how the governing body has assessed the effectiveness of each of the policies and procedures covered by the ORA
- whether the governing body considers the operation of the policies and procedures to be effective and why

To meet our expectations, the ORA should consider the effectiveness of, and risks arising from, each element listed below.

Policies for the governing body

- How the governing body is integrating risk assessment and mitigation into its management and decision-making processes (see **Scheme governance**) .
- The operation of policies relating to the role of the governing body, building and maintaining knowledge and governance of knowledge and understanding.

Risk management policies

- The operation of policies to identify and assess risks facing the scheme (see **Identifying and assessing risks**).
- The internal control policies and procedures for the scheme (see **Managing risk using internal controls** and **Assurance of governance and internal controls**).
- Management of potential internal conflicts of interest, and those with participating employers and service providers (see **Conflicts of interest**).
- The prevention of conflicts of interest where the employer and governing body use the same service provider.
- Continuity planning for the scheme (see **Continuity planning**) and, where applicable, how it has performed.

Investment

- The scheme's investment governance processes (see **Investment governance**).
- How investment performance is reviewed and monitored (see **Investment monitoring**).
- How the governing body assesses investment risks relating to climate change, the use of resources and the environment (see **Climate change**).
- How the governing body assesses social risks to the scheme's investments (see **Stewardship**).
- How the governing body considers the potential for depreciation of assets arising from regulatory or societal change (see **Stewardship**).
- How the governing body assesses the protection mechanisms available to the scheme, including how these might apply and the risks of them not functioning as intended.
- How the governing body ensures the security of assets and their liquidity when they are required (see **Investment decision-making**) .
- How the governing body assesses the protection of member benefits in the event of the insolvency of a sponsoring or participating employer, or a decision to discontinue the scheme.

Additional investment matters for DB schemes

- How the governing body assesses the scheme's funding needs with reference to its recovery plan.
- How the governing body assesses the specific risks relating to the indexation of benefits provided by the scheme.

Administration

- How the governing body assesses the risks associated with the scheme's administration (see **Administration**), with particular reference to financial transactions (see **Financial transactions**), scheme records (see **Scheme records**) and receiving contributions (see **Receiving contributions**).
- Action the governing body takes to manage overdue contributions (see **Monitoring contributions**), considering the degree to which they represent material amounts or delays.

Payment of benefits, where applicable

- How the governing body assesses operational risks, focusing on the risk to members and beneficiaries relating to record-keeping and payment of benefits.
- The governing body's management of risks relating to circumstances where accrued pension benefits may be reduced, under which conditions and by whom.
- The governing body's management of the risk of member benefits being reduced or altered, including on the insolvency of a sponsoring or participating employer or the cessation of the scheme.

Glossary

Protection mechanisms

The mechanisms protecting retirement benefits, including, as applicable, guarantees, covenants or any other type of financial support by the employer, insurance or reinsurance, or coverage by a pension protection scheme

Scheme governance

Scheme governance (TGB046)

All pension schemes need to have systems of governance and internal controls that:

- provide the governing body with oversight of the day-to-day operations of the scheme
- include any delegated activities for which the governing body remains accountable
- provide the governing body with assurances that their scheme is operating correctly and in accordance with the law

The standards of governance required by law depends on the type of scheme the governing body operates.

Under section 249A of the Pensions Act 2004,[SC1] governing bodies of certain schemes must establish and operate an effective system of governance including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[SC2]

Under section 249B of the Pensions Act 2004,[SC3] scheme managers of public service pension schemes[SC4] are required to establish and operate internal controls, which are adequate for securing that the scheme is administered and managed in accordance with the scheme rules[SC5] and with the requirements of the law.

A system of governance will include anything that can reasonably be considered part of the operation of a pension scheme. Internal controls are a key feature of any system of governance and are:

- the arrangements and procedures to be followed in the administration and management of the scheme
- the systems and arrangements for monitoring the administration and management
- the arrangements and procedures to be followed for the safe custody and security of the assets of the scheme[SC6]

SC1 Article 226A of The Pensions (Northern Ireland) Order 2005
SC2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
SC3 Article 226B of The Pensions (Northern Ireland) Order 2005
SC4 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
SC5 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]
SC6 Section 249A(5) of the Pensions Act 2004 [Article 226A(5) of The Pensions (Northern Ireland) Order 2005]

We have broadly the same expectations for each type of scheme. However, the standard required to meet those expectations frequently differs according to scheme type and size.

Where an expectation is different or applies differently in law for a specific type of scheme, this is made clear in this code. Where an expectation does not apply to a scheme because the law doesn't apply, the governing body may wish to consider whether the principles should be adopted as best practice.

The systems and controls put in place by a scheme should be proportionate to its size, nature, scale and complexity. This proportionality is a feature of legislation for some schemes.[SC7]

Effective system of governance

An effective system of governance should include processes and procedures to ensure compliance with the following modules.

Some of the modules contain only expectations for an effective system of governance (ESOG), and some contain expectations for ESOG and separate legal obligations. Expectations in respect of those legal obligations should be followed as part of ESOG as well as for wider legal compliance. Where a module identifies a matter as best practice, this will not form part of our expectations for ESOG.

The expectations set out are subject to some exceptions for certain schemes, which are detailed in each module listed below.

SC7 Section 249A(1A) of the Pensions Act 2004 [Article 226A(1A) of The Pensions (Northern Ireland) Order 2005]

Management of activities

- Role of the governing body
- Meetings and decision-making
- Remuneration policy
- Working knowledge of pensions
- Governance of knowledge and understanding
- Building and maintaining knowledge
- Dispute resolution procedures
- Continuity planning

Organisational structure

- Role of the chair
- Conflicts of interest
- Managing advisers and service providers

Investment matters

- Investment governance
- Investment decision-making
- Investment monitoring
- Stewardship
- Climate change

Communications and disclosure

- General principles for member communications

Internal review

Governing bodies should ensure that the elements of their ESOG are subject to a regular internal review. This should assess whether each element is functioning as intended, and whether changes are required.

The governing body should establish and maintain policies for the review of each element of the ESOG. These policies should be agreed before any review is carried out and reviewed at least every three years. An ESOG should have a process that ensures that any necessary changes are made to the ESOG or review policies.

Internal review continued...

Unless specified otherwise in law or code, each element of an ESOG should be reviewed according to a timetable established by the governing body. This should ensure that each element of the ESOG is reviewed at least every three years. It is not necessary for all elements of an ESOG to be reviewed at the same time. Options for formal internal audit and external assurance reporting are discussed in **Assurance of governance and internal controls**.

Own risk assessment

Governing bodies of schemes with 100[SC8] or more members should carry out and document an own risk assessment of their ESOG.

Internal controls

The modules set out below contain systems, arrangements or procedures that governing bodies should have in place to comply with the requirements for internal controls. They also apply to schemes required to maintain an ESOG.

The expectations set out are subject to some exceptions or limitations in scope for certain schemes, which are detailed in each module listed below.

Internal controls

- Identifying and assessing risks
- Managing risk using internal controls

Administration and management

- Financial transactions
- Scheme records
- Data monitoring
- Receiving contributions
- Monitoring contributions
- Maintenance of IT systems

SC8 Regulation 3(9) The Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 [Regulation 3(9) The Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018]

Annex 1: Full draft of the new code of practice

Funding and investment

Investment

Investment governance (FAI001)

The term 'investment governance' refers to the policies and procedures that ensure a governing body complies with any obligations it has in relation to investment.

A governing body's powers and responsibilities regarding investment will be scheme specific, and so its governance arrangements must also be relevant and tailored to the scheme (see also **Investment decision-making**).

The scheme managers of local government pension schemes do not have the same obligations in pensions legislation, but it is good practice for them to approach investment governance in the same way.

Obligations of governing bodies of DC and DB schemes

- Have a good working knowledge of investment matters relating to their scheme[IN1]
- Understand the investment powers and duties they have under the scheme trust deed, and rules and legislation[IN2] (see also **Working knowledge of pensions**).
- Appoint a suitably qualified person to advise on investments[IN3] and obtain and consider proper advice before making investment decisions[IN4]
- Produce a statement of investment principles (SIP), which covers their policies relating to the scheme's investments. Learn more in **Statement of investment principles**.
- Produce an annual implementation report as part of their annual report and accounts (see **Implementation report**).

The governing bodies of most DC schemes must produce a SIP for their default arrangement(s) if they have them, which is subject to different requirements. Learn more in **Statement of investment principles**.

IN1 Sections 247 and 248 of the Pensions Act 2004 [Articles 224 and 225 of the Pensions (Northern Ireland) Order 2005]
IN2 Sections 247 and 248 of the Pensions Act 2004 [Articles 224 and 225 of the Pensions (Northern Ireland) Order 2005]
IN3 Section 47 of the Pensions Act 1995 [Article 47 of the Pensions (Northern Ireland) Order 1995]
IN4 Section 36 of the Pensions Act 1995 [Article 36 of the Pensions (Northern Ireland) Order 1995]

Under section 249A of the Pensions Act 2004,[IN5] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[IN6] We expect that such governing bodies with investment responsibilities will have the following measures in place:

The governing body should:

- clearly document the objectives, roles, responsibilities and reporting relationships of all parties involved in making investment decisions
- ensure that investment decisions are taken by those with the necessary skills, knowledge, information and resources
- obtain advice and other inputs required to properly govern the scheme's investments (including considering what advice may be needed)
- ensure the governance structure relating to the assessment of investment risks and how investment decisions are made is reviewed regularly and is appropriate for their scheme's circumstances and level of complexity
- delegate investment decisions where appropriate for their scheme's circumstances and level of complexity. This may include delegating to an investment sub-committee or a qualified fund manager.
- have clear terms of reference and appropriate oversight for any bodies with delegated responsibilities
- have written policies covering the use of advisers. These policies should cover when to use advisers for the specific circumstances of the scheme, which should consider the investment knowledge and experience available to the governing body and the relevant legal requirements.
- have sufficient expertise to evaluate and challenge the advice they receive from advisers and service providers
- ensure investment policies take account of potential long-term effects on scheme investments
- assess the performance of scheme investments at least quarterly
- formally consider the performance of investment managers and advisers at least every three years and act upon any issues identified

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IN5 Article 226A of the Pensions (Northern Ireland) Order 2005
IN6 Section 249A(3) of the Pensions Act 2004 [Article 226A(3) of The Pensions (Northern Ireland) Order 2005]

The governing bodies of most DC schemes must produce a SIP for their default arrangement(s) if they have them, which is subject to different requirements. Learn more in **Statement of investment principles**. The governing body of a scheme with a DC element should:

- offer an appropriate choice of investment arrangements for members who do not wish to invest in any default arrangement
- provide access to information to enable members to make an informed choice about where their contributions are invested where more than one investment arrangement is available
- inform members in advance of potential changes to an investment offering
- allow members the opportunity to actively choose to switch to a new DC investment arrangement where their existing arrangement is changed or replaced
- if replacing or modifying an existing investment arrangement, manage the transition costs to maintain value for members

The governing body of a scheme with a DB element should:

- have governance policies that ensure the form and structure of liabilities, the strength of the employer covenant, the risk of sponsor default, life expectancy of members and the need to access cash at particular times are taken into account in investment decision-making
- clearly communicate the policies above to advisers, investment managers and other relevant stakeholders

Glossary

Employer covenant
The ability of the sponsoring employer to financially support a DB pension scheme

Membership profile
The demographics of the scheme membership, including their age and wealth

Sponsor default
The risk that the sponsoring company will default on pensions commitments

Stewardship
The process of taking an active role in oversight of the assets in which the scheme is invested

Stewardship reports
Reports from investment managers explaining what activity they have undertaken in the stewardship of the fund, eg voting at AGMs

Investment decision-making (FAI003)

Governing bodies of trust-based pension schemes with 100 members or more must invest in a way that ensures security, quality, reasonable liquidity and profitability for the scheme as a whole.[IV1] This also applies to financial managers with delegated investment responsibilities. The law also requires these governing bodies to invest scheme assets predominantly in regulated markets.[IV2, IV3] Unless there are exceptional circumstances, governing bodies should ensure no more than a fifth of scheme investments are held in assets not traded on regulated markets.

Governing bodies of trust-based schemes with fewer than 100 members must ensure their investments are appropriately diversified.[IV4]

Under section 249A of the Pensions Act 2004,[IV5] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[IV6] This system will include having processes in place to ensure prudent management of investments.

Governing bodies should:

- have processes in place to make sure investment decisions can be made in an effective and timely manner, and implemented promptly and appropriately
- ensure all the involved parties are clear on where responsibility and accountability sits in relation to the provision of oversight, advice and decision-making
- be able to critically evaluate the main points of the investment information received and understand the basis on which that information has been provided
- ensure costs and charges relating to any advice sought and/or investment transactions that may result represent reasonable value
- consider any likely personal biases and any conflicts of interest the person giving the input may have in the decisions to be made. Learn more in **Conflicts of interest**.

IV1 Regulation 4(3) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 4(3) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]
IV2 Regulation 4(5) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 4(5) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]
IV3 As defined in Regulation 4(11) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 4(11) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]
IV4 Regulation 7(2) of Occupational Pension Schemes (Investment) Regulations 2005 [Regulation7(2) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]
IV5 Article 226A of The Pensions (Northern Ireland) Order 2005
IV6 Section 249A(3) of the Pensions Act 2004 [Article 226A(3) of The Pensions (Northern Ireland) Order 2005]

- regularly assess the effectiveness of the governing body's investment decision-making and governance processes
- have clear terms of reference for any sub-committees
- set objectives for their investment holdings, considering the different requirements of the accumulation and decumulation phases
- document objectives and strategies appropriately, and regularly review to assess whether investment performance is in line with objectives and continues to remain suitable for members
- ensure the investment structure and decisions made in relation to investments will deliver the objectives and outcomes in accordance with the principles set out in the SIP (see **Statement of investment principles**).
- document any changes to investments or investment strategy, the reasons they were needed, and the improvements expected
- if using a bespoke investment arrangement to meet specific requirements, document a clear explanation of their strategy and objectives and how the specific requirements will be met
- clearly identify any investments not traded on a regulated market, document why such investments are being used and how they fit in with the agreed investment objectives
- understand the types of protection available, such as indemnity insurance or the Financial Services Compensation Scheme, for their different investments in the event of fraud, wrongdoing or other adverse events
- review the investment managers' fund documentation, get appropriate legal and investment advice and put in place the right level of protection for members, having considered that advice
- consider if and how to communicate the conclusions about the security of assets to members and employers

Glossary

Decumulation

Taking money out of a pension in a legitimate way, for example as a lump sum or by buying an annuity

Implementation report (FAI004)

The law[IM1] requires that trustees of certain trust-based schemes, unless exempt, must produce an annual implementation report as part of their annual report. This must set out the information contained in the list below, and some parts must be made publicly available free of charge on a website.

For all these schemes, the report must include the information set out in the Disclosure regulations.[IM2] The report must cover or include, broadly:

- a statement by the trustees giving details of any investments during the scheme year that were not made in accordance with the statement of investment principles (SIP) and an explanation why
- any action taken or proposed to remedy the deviation from the SIP
- a review of the investments' performance during the scheme year
- an assessment of the type of investments covering their geographical location, liquidity, security and value of the scheme's assets
- how closely, in the opinion of the trustees, they have followed their policy in relation to the exercise of the rights (including voting rights) attaching to the investments
- a description of the voting behaviour by, and on behalf of, the trustees in the preceding year, including the most significant votes cast by trustees
- a statement of any use of the services of a proxy voter during that year
- copies of the trustees' policies in relation to:
  - financially material considerations and non-financial matters that are considered in the trustees' investment activities
  - exercise of the rights attached to investment and undertaking engagement activities relating to the investments (including how and when trustees would monitor and engage with relevant persons about relevant matters)
  - the trustees' arrangements with asset managers[IM3]

IM1 Schedule 3, Part 5, paragraph 30 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Schedule 3, Part 5, paragraph 30 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

IM2 Schedule 3, Part 5, paragraph 30 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Schedule 3, Part 5, paragraph 30 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

IM3 Regulation 2(3)(d) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 2(3)(d) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]

For relevant DC schemes[IM4] the report must also include:

- how the governing body has followed and acted upon the investment policies set out in their SIP
- details of any review of the SIP during the year
- any subsequent changes made and why
- the date of the last SIP review (where no review was undertaken in the last year)
- a description of the voting behaviour by or on behalf of the trustees, including the most significant votes cast by trustees in the scheme year
- use of a proxy voter during the scheme year

The implementation report should:

- not simply be a 'tick box' report- its purpose is so members can be sure that the scheme is being run as they expect it to be.
- follow the principles for communicating with members as set out in **General principles for member communications**.

IM4 Regulations 1 or 2 of Occupational Pensions Schemes (Scheme Administration) Regulations 1996 [Regulation 1 or 2 of Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

Investment monitoring (FAI005)

Trustees' fiduciary duties include managing investments with due skill, care and diligence. The law requires trustees who have responsibility for investment decision-making to exercise those powers in accordance with regulation 4 of the Occupational Pension Schemes (Investment) Regulations 2005.[IE1]

Under section 249A of the Pensions Act 2004,[IE2] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[IE3] An effective system of governance will include having systems in place to review the performance of their investments.

They may do this by using manager or adviser reports or having meetings with the managers or advisers. If they are relying solely on reports produced by their investment managers, the governing body may wish to seek independent advice to help interpret the reports.[IE4]

The scheme managers of local government pension schemes do not have the same obligations in pensions legislation. However, it is good practice for them to approach investment governance in the same way.

Governing bodies must be confident that investment governance (see **Investment governance**) is carried out in accordance with legal obligations, with the best interests of scheme members and their beneficiaries in mind, and by people with the right expertise (particularly where any of these functions are outsourced).

IE1 Regulation 4 Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005
IE2 Article 226A of The Pensions (Northern Ireland) Order 2005
IE3 Section 249A(3) of the Pensions Act 2004 [Article 226A(3) of The Pensions (Northern Ireland) Order 2005]
IE4 Regulation 2 Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 2 Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]

Governing bodies should:

- have procedures to review and negotiate the terms of contractual arrangements and fund documents in place with investment managers and advisers as appropriate (see **Managing advisers and service providers**).
- regularly monitor the performance of their scheme's investment advisers (see **Managing advisers and service providers**).
- have procedures in place to monitor their scheme's investments and performance:
  - these procedures should consider investment returns both before and after fees, and against relevant benchmarks
  - these procedures should compare investment performance against the stated investment principles at least quarterly
  - these procedures should consider fees and costs and whether they are justified
  - where applicable, these procedures should consider the governing body's value for members assessment
- consider whether and how to report to interested parties, for example members, participating employers and sponsoring employers

Governing bodies should set expectations for their investment managers to:

- ensure monitoring information is prepared and considered at least quarterly and at shorter intervals as appropriate for the size and complexity of your scheme
- where applicable, include a stress test or scenario test to assess the impact of changing circumstances on scheme assets
- compare net investment returns to any relevant market or industry benchmarks
- monitor the level of investment risk run to deliver the performance and how this compares with the investment manager's risk targets
- consider environmental, social and governance (ESG) factors, including shareholder engagement, and have processes in place to ensure compliance. Learn more in **Stewardship and Climate change**.
- ensure that controls (including those related to the security, liquidity and safe custody of scheme assets) are in place to alert them to potential financial risks related to the investment manager
- regularly assess the effectiveness of their processes, ensuring proper review and monitoring of investments and making improvements as appropriate

Stewardship (FAI006)

Environmental, social and governance (ESG) focuses on the wider risk and return considerations for trustees in their decision-making and investment management practices.

Under section 249A of the Pensions Act 2004,[ST1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[ST2] This should include consideration of ESG matters relating to scheme investments. These governing bodies should take an active role in exercising the whole range of rights and responsibilities given to them through their investments.

Governing bodies required to prepare a Statement of investment principles[ST3] must have a policy on the exercise of the rights attaching to their investments.[ST4]

Governing bodies of schemes with 100 or more members[ST5] should incorporate these matters into the scheme's own risk assessment and document them appropriately. Learn more in **Own risk assessment**.

We recommend that governing bodies with investment responsibilities follow the principles set out below, even if they are not legally required to have an effective system of governance.

ST1 Article 226A of The Pensions (Northern Ireland) Order 2005
ST2 Section 249A(3) of the Pensions Act 2004 [Article 226A(3) of The Pensions (Northern Ireland) Order 2005]
ST3 Section 35 of the Pensions Act 1995 [Article 35 of the Pensions (Northern Ireland) Order 1995]
ST4 Regulation 2(3)(c) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 2(3(c) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]
ST5 Regulation 3(8)(h) of the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 [Regulation 3(8)(h) of the Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018]

Governing bodies should:

- identify steps to exercise the rights and responsibilities relating to the investments held, whether directly or indirectly
- ensure governing bodies are familiar with their investment manager's stewardship policies
- enable governing bodies to use investment managers' stewardship policies as selection criteria and seek to influence them as appropriate
- ensure the monitoring and regular review of investment managers' stewardship practices
- make sure governing bodies take into account the potential long-term positive and negative impacts of investment decisions on member outcomes
- seek to follow, where appropriate, the Financial Reporting Council's UK Stewardship Code
- identify and account for the systemic risk of climate change in decisions made about the scheme's investment and funding (see **Climate change**)
- include engagement with investee companies, policymakers and collaborative industry initiatives, whether directly or via investment managers, to mitigate these risks
- consider co-operation with other institutional investors in engaging with investee companies on ESG issues

Climate change (FAI011)

All pension schemes face some degree of material risk from climate change. These risks may include the physical effects of climate change such as:

- rising temperatures
- higher sea levels
- droughts
- floods
- storms

They may also include the impact of changes associated with the transition to a low-carbon economy such as:

- impacts on the strength of any sponsoring employer
- new climate policy
- disruptive technology
- shifting investor sentiment
- deteriorating reputation

Climate change and investments

Under section 249A of the Pensions Act 2004,[CL1] governing bodies of certain schemes must establish and operate an effective system of governance (ESOG) (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[CL2] An ESOG should ensure that consideration of environmental factors is part of the governing body's investment decision-making (see **Stewardship**). Governing bodies should:

- talk to their advisers and asset managers about how short and long-term climate change risks and opportunities are built into their recommendations
- understand what measures are being taken to reflect climate change risk within investment portfolios

> Governing bodies of certain schemes[CL3] are required to include policies in their **statement of investment principles** on **environmental, social and governance considerations**. This includes climate change.

CL1 Article 226A of the Pensions (Northern Ireland) Order 2005
CL2 Section 249A(3) of the Pensions Act 2004 [Article 226A(3) of The Pensions (Northern Ireland) Order 2005]
CL3 Regulation 2 of the Occupational Pensions Schemes (Investment) Regulations 2005 [Regulation 2 of the Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]

Governing bodies are not required to align their investment and funding plans with the objectives of the Paris Agreement and other climate change goals, such as the UK's own target of net zero emissions by 2050. However, they may wish to examine how their governance practices and investment decision-making (where applicable) take account of global progress towards those goals.

Managing scheme risks from climate change

Governing bodies that are required to establish and operate adequate internal controls[CL4] for their scheme should, as part of their risk assessment, assess the risks and opportunities associated with climate change. Learn more in **Identifying and assessing risks**.

Under section 249A of the Pensions Act 2004,[CL5] governing bodies of certain schemes[CL6] with 100 members or more[CL7] should have in place a risk-management function as part of their ESOG (see **Scheme governance**). Our expectations for these governing bodies are set out below. Other governing bodies may wish to consider these as best practice.

- Consider the possible short, medium and long-term effects of climate change on the objectives of the scheme and its operations.
- Maintain and document processes for identifying and assessing climate-related risks and opportunities.
- Integrate these processes into their risk management and governance arrangements.
- Ensure the governing body oversees, assesses and manages climate-related risks and opportunities related to the scheme.

CL4 Sections 249A and 249B of the Pensions Act 2004 [Articles 226A and 226B of the Pensions (Northern Ireland) Order 2005]
CL5 Article 226A of the Pensions (Northern Ireland) Order 2005
CL6 (Northern Ireland) Order 2005]
CL7 Section 249A of the Pensions Act 2004 and regulations 3(1)(3)(a), (5), (6) and (9) of the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 [Article 226A of the Pensions (Northern Ireland) Order 2005 and regulations 3(1)(3)(a), (5), (6) and (9) of the Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018]

Glossary

Paris Agreement
The international framework to address climate change

Statement of investment principles (FAI008)

Governing bodies of trust-based occupational pension schemes with 100 members or more must prepare a statement of investment principles (SIP) and review it at least every three years.[SA1] They must also review it as soon as possible after any significant change in investment policy.

When preparing the SIP governing bodies must obtain and consider professional advice,[SA2] and consult any sponsoring employer.

The purpose of a SIP is to set out the governing body's investment strategy, including the investment objectives and investment policies they adopt. We have issued guidance of best practice for preparing a SIP for DB schemes (**www.tpr.gov.uk/en/document-library/regulatory-guidance/db-investment/db-investment-governance**).

Governing bodies may have separate SIP documents for each individual arrangement within a scheme, but this is not a requirement. The law requires the governing bodies of relevant schemes[SA3] to make the most recent SIP relating to any default arrangement(s) available to members as part of the chair's annual statement and the scheme's annual report and accounts.

Governing bodies of all schemes required to prepare a statement of investment principles in accordance with section 35 of the Pensions Act 1995 must publish that SIP online, publicly available and free of charge. When publishing a SIP online, governing bodies need to follow our expectations on **General principles for member communications**.

In cases where preparing a SIP is not a legal requirement, in our view it would be good practice for governing bodies to prepare a document that is similar in nature, and to publish it online as if it were a SIP.

SA1 Regulation 2(1) Occupational Pensions Schemes (Investment) Regulations 2005 [Regulation 2(1) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA2 Regulation 2(2) Occupational Pensions Schemes (Investment) Regulations 2005 [Regulation 2(2) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA3 within the meaning of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [within the meaning of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1996]

The SIP must contain:

- the governing body's policy for securing compliance with the legislation on choosing investments[SA4]
- the governing body's policies relating to:
  - the investments to be held by the scheme
  - the balance between different investments
  - risks – including how they are to be measured and managed
  - the expected return on investments
  - the realisation of investments
  - financially material considerations[SA5] and how they are taken into account in investment decisions
  - the extent to which non-financial matters are taken into account in investment decisions[SA6]
  - how the governing body exercises rights, including voting rights, attached to investments
  - undertaking engagement activities in respect of investments, including but not limited to the methods set out in legislation[SA7]
  - any arrangement with the asset manager, setting out the matters described in legislation[SA8]

A default SIP[SA9] must contain:

- the aims and objectives of the trustees or managers in respect of the investments in the default arrangement
- the matters set out in the Investment Regulations[SA10]
- an explanation of the intention to ensure that assets of the default strategy are invested in the best interests of the members using it, and their beneficiaries

SA4 Section 36 of the Pensions Act 1995 [Article 36 of the Pensions (Northern Ireland Order 1995]
SA5 Regulation 2(4) Occupational Pensions Schemes (Investment) Regulations2005 [Regulation 2(4) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA6 Regulation 2(4) Occupational Pensions Schemes (Investment) Regulations2005 [Regulation 2(4) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA7 Regulation 2(3)(c) Occupational Pensions Schemes (Investment) Regulations2005 [Regulation 2(3)(c) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA8 Regulation 2(3)(b) Occupational Pensions Schemes (Investment) Regulations2005 [Regulation 2(3)(b) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA9 Regulation 2A (1) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 2A (1) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]
SA10 Regulations 2(3)(b), 2(3)(c) and 2(3)(d) Occupational Pensions Schemes (Investment) Regulations2005 [Regulation 2(3)(b), 2(3)(c) and 2(3)(d) Occupational Pensions Schemes (Investment) Regulations (Northern Ireland) 2005]

There are various steps that a governing body needs to go through when preparing their SIP. Under section 249A of the Pensions Act 2004,[SA11] governing bodies of certain schemes must, with certain exemptions,[SA12] establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). We expect that such governing bodies with investment responsibilities will have the following measures in place. Other schemes may wish to adopt these principles as best practice:

When preparing their SIP, the governing body should:

- ensure that relevant membership data is accurate
- consider the interests of active and deferred members and any members who are in a decumulation phase within the scheme
- consider any information they have obtained about when and how members may wish to take their benefits
- regularly assess the performance of investments and any investment options, including any default arrangement, within the context of the relevant objectives
- consider evaluating performance by referring to recognised and credible industry benchmarks for investment funds with similar risk/reward profiles
- document the evaluation process for each fund and consider the total amount of costs and charges levied on each fund, including transaction costs wherever possible
- consider the scheme's whole investment strategy (not just individual funds) taking into account the characteristics of different segments of members
- review the governance structure relating to how investment risks are assessed and investment decisions made
- consider the benefits of delegating some of the duties and the potential for establishing an investment sub-committee
- assess the financial materiality of environmental, social and governance (ESG) factors and allow for them when developing and implementing the investment strategy (see **Stewardship** and **Climate change**).
- ask their investment manager(s) and investment adviser for help with assessing the financial materiality of ESG factors if they do not have the necessary expertise in-house

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SA11 Article 226A of the Pensions (Northern Ireland) Order 2005
SA12 Section 249A(3) of the Pensions Act 2004 [Article 226A(3) of The Pensions (Northern Ireland) Order 2005]

When preparing their SIP, the governing body should: continued...

- take into account the types of investments scheme member prefer
- carefully consider the demographics of members of the scheme
- carefully consider whether potential ESG issues may affect the risk adjusted return members may receive
- take account of risks affecting the long-term financial sustainability of the scheme investments
- where a pooled fund is chosen, understand the ESG approach of the available funds, including in the selection criteria for new funds
- where a pooled fund is chosen, monitor how managers take into account ESG factors in practice
- consider the risks and opportunities of climate change (see **Climate change**)

In addition, when preparing their SIP, trustees of DB schemes should:

- set out overall DB investment objective(s) for the fund, which allow for:
  - the scheme's liabilities
  - the strength of the employer covenant
  - the risk capacity and appetite of the sponsor and trustees

Glossary

Decumulation
Taking money out a pension in a legitimate way. For example, as a lump sum or by buying an annuity.

Pooled funds
The investment manager pooling all the investments to be invested in the stock market and managing them into a single fund

Relevant scheme
Schemes defined by Regulations 1 or 2 of the Occupational Pensions Schemes (Scheme Administration Regulations) 1996

Default arrangements and charge restrictions (FAI010)

> The requirements of the law to which this module relates are very complex. We recommend governing bodies consider appropriate professional advice and all relevant guidance in order to ensure their scheme complies.

Default arrangements

The law sets out how to identify a 'default arrangement' within a DC pension scheme.[DE1] Governing bodies will need to assess whether any of their investment arrangements satisfy one or more of the default arrangement descriptions set out in the legislation. This assessment will need to allow for a default arrangement being formed from a single investment fund or collection of funds.

Charges and cost restrictions

In certain circumstances and for certain schemes, the law restricts charges that may be imposed on members.[DE2] There are legal restrictions on the amount members can be charged in default arrangements used by employers to meet their duties under automatic enrolment legislation.[DE3]

Some types of charge or cost are excluded and do not count against the charge cap, for example transaction costs. The law also places restrictions on the charging structures that can be used in such default arrangements, prohibiting all but two types of charging structure: a single percentage charge calculated by reference to the value of the member's rights under the scheme, or a specified combination charging structure.[DE4]

DE1 Regulation 1(2) Occupational Pension Schemes (Investment) Regulations 2005 [Regulation 1(2) Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005]

DE2 Part 2 Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Part 2 Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

DE3 Regulation 6 Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 6 Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

DE4 Regulation 5(1) Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 5(1) Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

Costs and charges continued...

It is against the law to charge more to non-contributing members than they would have had to pay had they been contributing members (also known as active member discounts[DE5]). This ban applies to all investment arrangements within a relevant scheme, not just the default arrangement. Additionally, the law bans member borne commission,[DE6] and governing bodies must report to us any service providers who have such a commission arrangement in place. The ban applies to all arrangements within a scheme used by employers to meet their duties under automatic enrolment legislation.[DE7]

Governing bodies should:

- document how they identify whether default arrangements observe the charge controls
- have processes in place to identify and report any activities involving charging members commission[DE8]

DE5 Regulation 11 Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 11 Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

DE6 Regulation 11A(2) Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 11A(2) Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

DE7 Regulation 6 Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 6 Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

DE8 Regulation 11A(2) Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 11A(2) Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

Glossary

Relevant scheme

Schemes defined by Regulation 1(2) of the Occupational Pension Schemes (Charges and Governance) Regulations 2015

Annex 1: Full draft of the new code of practice

Administration

Scheme administration

Administration (ADM001)

Any scheme depends on the timely and accurate processing of multiple transactions. These range from investing contributions in the scheme, to paying benefits when a member begins to access their retirement funds. A breakdown in any transaction can lead to member losses, and costs to the scheme and employer to put any errors right.

The Occupational Pension Schemes (Scheme Administration) Regulations 1996[AD1] set out the records that must be maintained by governing bodies of trust-based pension schemes. Under section 249A of the Pensions Act 2004,[AD2] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[AD3]

The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014[AD4] set out the records that must be maintained by governing bodies of public service pension schemes. Under section 249B of the Pensions Act 2004,[AD5] scheme managers of public service pension schemes[AD6] are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[AD7] and with the requirements of the law.

Every governing body should have some of the following measures in place, although these measures will vary depending on the nature of the scheme and the legal obligations to which it is subject.

AD1 Occupational Pensions Schemes (Scheme Administration) Regulations (Northern Ireland) 1997
AD2 Articles 226A of The Pensions (Northern Ireland) Order 2005
AD3 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
AD4 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014
AD5 Articles 226B of The Pensions (Northern Ireland) Order 2005
AD6 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
AD7 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Planning and preparation

- Maintain sufficient knowledge and understanding of administration (see **Working knowledge of pensions**).
- Understand the scope of administrator responsibilities and tasks, as well as the suitability of those performing them.
- Where necessary, have access to appropriate advice and assistance to negotiate contractual terms.
- Consider quality as well as value for members when selecting an administrator (see also **Managing advisers and service providers**).
- Include administration as a regular agenda item at governing body meetings.
- Ensure administration and record-keeping are key features of the risk register. Learn more in **Identifying and assessing risks**.
- Develop a strategy for the long-term administrative objectives of the scheme.
- Ensure monitoring of administration processes is used to drive necessary improvements.

Maintaining proper administration

- Regularly receive appropriate information and reports from administrators and be able to challenge them when appropriate.
- Ensure that all tasks delegated to an administrator are being carried out properly.
- Regularly monitor the performance of administrators (see **Managing advisers and service providers**).
- Manage issues with administrator performance and consider utilising any contractual terms to drive improvements.
- Have procedures in place to enable a continuous and consistent service in the event of a change of administrator personnel, or administration provider.
- Record the procedures to follow when administering the scheme, and how to maintain those procedures.
- Ensure that administrators have an adequate business continuity plan that is reviewed at least annually and tested as appropriate (see **Continuity planning**).

Information handling

Financial transactions (ADM002)

Governing bodies of defined contribution (DC) schemes must ensure that core financial transactions as defined in legislation[FI1] are processed promptly and accurately. Governing bodies of all schemes should also ensure that financial transactions are managed as part of their internal controls.[FI2]

The Occupational Pension Schemes (Scheme Administration) Regulations 1996[FI3] set out the records that must be maintained by governing bodies of trust-based pension schemes. Under section 249A of the Pensions Act 2004,[FI4] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[FI5]

The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014[FI6] set out the records that must be maintained by governing bodies of public service pension schemes.[FI7] Under section 249B of the Pensions Act 2004,[FI8] scheme managers of public service pension schemes are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[FI9] and with the requirements of the law.

FI1 Regulation 24 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

FI2 Section 249A Pensions Act 2004 [Article 226A Pensions (Northern Ireland) Order 2005], Section 249B Pensions Act 2004 [Article 226B Pensions (Northern Ireland) Order 2005]

FI3 Occupational Pensions Schemes (Scheme Administration) Regulations (Northern Ireland) 1997

FI4 Articles 226A of The Pensions (Northern Ireland) Order 2005

FI5 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

FI6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014

FI7 As defined in section 318(1) of the Pensions Act 2004 (Article 2(2) of The Pensions (Northern Ireland) Order 2005)

FI8 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)

FI9 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)

In their management of financial transactions, governing bodies should:

Governance processes and IT systems

- Understand the procedures and controls the administrator operates to ensure that financial transactions are processed promptly and accurately. Learn more in **Receiving contributions**.
- Annually review all processes and systems related to financial transactions and identify opportunities to improve them (where the governing body can influence this).
- Ensure that any authorisation processes for any financial transactions do not cause undue delay.
- Seek to ensure that a segregation of duties exists in administration processes to prevent financial transactions without appropriate authorisation.
- Use electronic means to process financial transactions wherever feasible, for example only accept payments by cheque in exceptional circumstances.
- Have expected service standards or service level agreements (SLAs) in place which are specific to the scheme and administrative tasks (see also **Managing advisers and service providers**).
- Keep performance against service level agreements under review to maintain the processing of financial transactions, and be prepared to make a judgement as to whether this is satisfactory.
- Where appropriate maintain a dialogue with participating employers to facilitate the flow of necessary information, and improve those processes where needed.
- Ensure that scheme data is complete and accurate so that core financial transactions can be processed accurately. Learn more in **Scheme records**.

Investing contributions (if applicable)

- If the scheme operates a daily dealing cycle, contributions to the scheme, including sums transferred into the scheme, are invested within three working days following receipt.
- If the scheme operates a less than daily dealing cycle, contributions to the scheme should be invested at the next available dealing date, and within five working days.
- During reconciliations that identify discrepancies, only hold unreconciled contributions pending resolution and invest the remaining amount as usual.

Glossary

Internal controls:

- Arrangements and procedures to be followed in the administration and governance of the scheme
- Systems and arrangements for monitoring that administration and governance, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Service level agreement

An agreement between a service provider and governing body setting contractually binding service levels that are to be met by the service provider in providing the service

Transfers (ADM014)

Many members of pension schemes have a right to transfer their benefits to another pension scheme, either by legislation[TR1] or scheme rules. Governing bodies should ensure they have the necessary administrative procedures to deal with transfer requests without undue delay.

> **Note:** The governing body should also maintain accurate and complete records of all requests received and the transfers that have been made. See **Administration**, **Financial transactions** and **Scheme records** for more information about our expectations in these areas.

The transfer process under legislation will typically begin when the governing body receives a request from an eligible scheme member for a statement of entitlement. This will include their cash equivalent transfer value (CETV). The governing body must provide the statement within two months of receiving the request, unless this information has been provided in response to a request in the previous 12 months.[TR2]

For a member with defined benefit (DB) benefits, the CETV represents the actuarial calculation of the member's benefits within the scheme. As part of the calculation,[TR3] the scheme actuary and governing body will be required to make assumptions about the course of future events affecting the scheme and the member's benefits.

For a member with defined contribution (DC) benefits, the CETV will be the total of the accumulated contributions made by and on behalf of that member. This sum will include any investment gains or losses.

TR1 Part 4ZA Pensions Schemes Act 1993 [Part 4ZA Pensions Schemes (Northern Ireland) Act 1993]
TR2 Regulation 14 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 14 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]
TR3 Part III of The Occupational Pension Schemes (Transfer Values) Regulations 1996 [Part III of The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996]

Transferring member benefits

Before a governing body processes a request to transfer member benefits, there are certain checks they should perform. There are also specific requirements that must be met in relation to members wishing to transfer from a DB scheme to a DC arrangement. Our expectations for transferring member benefits can be found below.

Before transferring member benefits

- Check the receiving scheme to ensure it is:[TR4]
  - able to accept the transfer
  - willing to accept the transfer
  - a scheme to which a transfer can be made under the relevant legislation.
- Where they suspect the receiving scheme is not a legitimate arrangement, they should refer to the **Scams** module.
- If they believe they will not meet the legislative deadlines, they should ensure they make an application to us before the deadline (see the **Extension** section below).
- Where they suspect the receiving scheme is not a legitimate arrangement, they should make a report to **Action Fraud**.

The governing body of a DB scheme:

- must notify us of transfers of more than £1.5m or, if lower, 5% of scheme assets[TR5]
- should monitor transfer requests and the subsequent impact those transfers could have on scheme funding
- should consider the effect of a transfer of those members with a large transfer value relative to the scheme

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TR4 Section 95(2) Pension Schemes Act 1993 [Article 91(2) Pensions Schemes (Northern Ireland) Act 1993]

TR5 Section 126(1)(a) and (b) of the Pensions Act 2004 and Pensions Regulator (Notifiable Events) Regulations 2005 [Article 110(1)(a) and (b) Pensions (Northern Ireland) Order 2005 and Pensions Regulator (Notifiable Events) Regulations (Northern Ireland) 2005]

Specific requirements for DB to DC transfers

Scheme members must take appropriate independent advice when transferring benefits valued at £30,000 or more from a DB to a DC arrangement. The governing bodies of DB schemes that receive a request to transfer or convert member benefits of £30,000 or more must check the scheme member (or survivor) has received the appropriate independent advice.[TR6]

Members will receive written confirmation from their adviser, which they will be able to provide to the governing body.[TR7] Governing bodies must check the adviser has the correct permission to give the advice[TR8] by verifying their details on the **FCA's Financial Services Register.** Governing bodies must not fulfil any request where the advice provided is not from an adviser whose firm is listed on the FCA's register.

We have set out our expectations for the governing body regarding checks required in the list below.

Checking written confirmation

- Retain a copy of the written confirmation that advice was received by the member.
- Ensure records are held of:
  - who conducted the check
  - when this was conducted
  - evidence that the adviser's firm or company was on the Financial Services Register before the transfer of benefits was made
  - retain these records for at least six years.
- Be alert to the risk of fraudulent communications submitted to the scheme.
- Where suspicions arise, contact the advisory firm directly using the contact details as listed on the FCA register to check that firm has a record of providing the advice.
- Contact the transferring member immediately if there is a problem with verifying the adviser's permission and inform them that the transfer will not proceed until the appropriate advice has been received.
- Keep records of payments of the transfer, including details of the receiving bank account, and confirmation of receipt by the receiving scheme.

TR6 Section 48 and 51 of the Pension schemes Act 2015

TR7 Regulation 7 of the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 [Regulation 7 of the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015]

TR8 Regulation 11 the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 [Regulation 7 of the Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations (Northern Ireland) 2015]

Timeframes to complete transfers and extension requests

Governing bodies are required to complete transfers within six months.

For DB benefits, this is measured from the guarantee date provided in the statement of entitlement.[TR9]

For DC benefits, this is measured from the date of the request for the transfer to be made.[TR10]

Where a governing body is unable to complete the transfer in the required time, there are limited circumstances where we may grant an extension to this time period.[TR11] Any application must be received by us before the six-month period expires. See our guidance for further details

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TR9 Section 99 2(a) Pension Schemes Act 1993 [Article 95 2(a) Pensions Schemes (Northern Ireland) Act 1993]

TR10 Section 99 2(b) Pension Schemes Act 1993 [Article 95 2(b) Pensions Schemes (Northern Ireland) Act 1993]

TR11 Regulation 13(a) Occupational Pension Schemes (Transfer Values) Regulations 1996 [Regulation 13(a) of The Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996]

Glossary

Cash equivalent transfer value
The cash value of pension benefits, calculated in accordance with legislation. The value may change and is typically provided as at a certain date and (for DB benefits) can be guaranteed for a certain period.

Scheme records (ADM003)

There are requirements for governing bodies to maintain complete and accurate records.[SH1, SH2]

The Occupational Pension Schemes (Scheme Administration) Regulations 1996[SH3] set out the records that must be maintained by governing bodies of trust-based pension schemes. Under section 249A of the Pensions Act 2004,[SH4] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[SH5]

The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014[SH6] set out the records that must be maintained by governing bodies of public service pension schemes. Under section 249B of the Pensions Act 2004,[SH7] scheme managers of public service pension schemes[SH8] are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[SH9] and with the requirements of the law.

SH1 Regulation 4 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [Regulation 4 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014]

SH2 Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

SH3 Occupational Pensions Schemes (Scheme Administration) Regulations (Northern Ireland) 1997

SH4 Articles 226A of The Pensions (Northern Ireland) Order 2005

SH5 Section 249A(3) of the Pensions Act 2004 (Article 226A (3) of The Pensions (Northern Ireland) Order 2005)

SH6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014

SH7 Articles 226B of The Pensions (Northern Ireland) Order 2005

SH8 As defined in section 318(1) of the Pensions Act 2004 (Article 2(2) of The Pensions (Northern Ireland) Order 2005)

SH9 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)

Governing bodies must in any event keep records of information relating to transactions[SH10, SH11] and meetings of the governing body and decisions.[SH12, SH13] Governing bodies should have a series of measures in place to maintain scheme records. Our expectations for these processes can be found below.

Record-keeping

- Be able to demonstrate to us, where required, that they operate processes to maintain accurate and up-to-date records sufficient to run their pension scheme.
- Keep records of transactions made to and from the scheme.
- Ensure that the data they or their administrator holds enables financial transactions to be processed accurately. Learn more in **Financial transactions**.
- Identify and rectify any errors in scheme records.
- Review and amend processes as necessary to prevent further errors.

Administrative systems

- Ensure that processes exist to record member benefits, identifiers, contributions, investments, member decisions, payments and transfers.
- Record accurate investments and disinvestments.
- Accurately perform standard benefit calculations.
- Provide members with accurate information regarding their pension benefits (both accrued and projected entitlements) as required and on a timely basis.[SH14]
- Carry out reconciliations of data, transactions and investments held.
- Identify members approaching retirement and other scheme specific events.

SH10 Regulation 5 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [Regulation 5 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014]

SH11 Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

SH12 Regulation 6 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [Regulation 6 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014]

SH13 Regulation 13 of The Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

SH14 Section 14 of the Public Service Pensions Act 2013 [Section 14 of the Public Service Pensions Act (Northern Ireland) 2014], and the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

Data from other parties

- Have processes in place enabling participating employers to provide timely and accurate data.
- Ensure that appropriate procedures are in place to reconcile employer data and scheme data.
- Have processes in place for situations where an employer fails to meet their legal duties to the scheme. See **Decision to report** for more information.

Governing bodies should also consider adopting the following measures as best practice.

Record-keeping

- Hold member and benefit records electronically on a dedicated administration system where feasible.
- Keep records of scheme governing documentation including details of any amendments and how they apply to members.
- Make sure the administrator has basic member information known as common data.
- Work with the administrator to identify the items of scheme specific data.
- Take into account developments in technology that may be available to the scheme to improve administration and record-keeping.

Administrative systems

- Process financial transactions, including core transactions automatically (where feasible) and securely. See **Financial transactions**.
- Generate appropriate reporting on historic contributions, membership movements, and core and scheme specific data (see our Record-keeping guidance)

Data from other parties

- Encourage employers to understand the main events where member information should be shared by the employer to the scheme and/or another employer.

Glossary

Common data
This data is needed so that a member can be uniquely identified. Learn more in our Record-keeping guidance.

Identifiers
Personal information that could be used to identify a member, such as their national insurance number

Internal controls:

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Scheme specific data
Other data specific to a scheme relating to its members and their participation in the scheme. Learn more in our Record-keeping guidance.

Data monitoring (ADM006)

There are requirements for governing bodies to maintain complete and accurate records.[DA1, DA2]

The Occupational Pension Schemes (Scheme Administration) Regulations 1996[DA3] set out the records that must be maintained by governing bodies of trust-based pension schemes. Under section 249A of the Pensions Act 2004,[DA4] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[DA5]

The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014[DA6] set out the records that must be maintained by governing bodies of public service pension schemes. Under section 249B of the Pensions Act 2004,[DA7] scheme managers of public service pension schemes[DA8] are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[DA9] and with the requirements of the law.

DA1 Regulation 4 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [Regulation 4 of The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014]
DA2 Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 12 of The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]
DA3 Occupational Pensions Schemes (Scheme Administration) Regulations (Northern Ireland) 1997
DA4 Articles 226A of The Pensions (Northern Ireland) Order 2005
DA5 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
DA6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014
DA7 Articles 226B of The Pensions (Northern Ireland) Order 2005
DA8 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
DA9 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Governing bodies should have the following processes for monitoring scheme data:

Universal requirements

- Monitor data on an ongoing basis to ensure it is accurate and complete in relation to all pension scheme members.
- Ensure they receive information about material errors and gaps in their scheme data, once identified.
- Ensure any service providers follow their own procedures for reporting errors to the governing body.
- Ensure data improvement is prioritised for members decumulating.
- Ensure any plan for improving data can be monitored and has an achievable deadline.
- Where applicable, ensure member records are reconciled with information held by the employer(s).
- Ensure regular reconciliation of scheme membership, especially those reaching retirement.

Data reviews

- Assess the need for a data review exercise at least annually.
- Decide the frequency and nature of any additional data review where errors and gaps are identified or in response to significant scheme events, for example winding up the scheme or changing the administrator.
- Ensure data reviews include an assessment of the accuracy and completeness of common and scheme specific data.
- Keep a record of data reviews undertaken and their findings.
- Where errors and gaps are identified, put a data improvement plan in place to address the issues.
- Ensure the plan includes the actions necessary by the governing body or administrator to correct member data.

Data protection

- Ensure processes to manage scheme member data meet the requirements of the data protection legislation[DA10] and the data protection principles.
- Ensure processes address any breaches of the data protection legislation or principles.
- Understand their obligations under data protection law.

DA10 The law includes the Data Protection Act 2018 and the Retained Regulation (EU) 2016/679) (UK General Data Protection Regulation)

Glossary

Decumulating

Accumulation is where your pension grows (by contributions or investment return, for example). Decumulation is where you take money out of your pension to fund your retirement, for example as a lump sum or by buying an annuity.

Internal controls:

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Maintenance of IT systems (ADM015)

Governing bodies should ensure they have a process for ensuring transmission of information. Having put the appropriate IT systems in place (see also **Financial transactions** and **Scheme records**) it is important that they are reviewed and maintained regularly.

Under section 249A of the Pensions Act 2004,[MI1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[MI2]

Under section 249B of the Pensions Act 2004,[MI3] scheme managers of public service pension schemes[MI4] are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[MI5] and with the requirements of the law.

Internal controls processes should ensure that IT systems are able to meet the scheme's current needs and legal requirements. Governing bodies should take steps to ensure that their service providers are able to demonstrate they meet our expectations for maintaining IT systems as listed below.

Standards for maintaining IT systems

- Ensure cyber security measures and procedures are in place and functioning. Learn more in **Cyber controls**.
- Record evidence of how changes are planned and executed within the system.
- Put a written policy in place for maintaining, upgrading, and replacing hardware and software.
- Provide evidence to show there is a schedule for the system to be replaced or updated, such as changes to tax thresholds.
- Assign adequate and sufficient hardware and personnel resources, with appropriate functionality and/or skills, to carry out the work.
- Secure evidence that the IT system can meet the current and anticipated physical system requirements.
- Manage planned and potential future upgrades within the administration system.

MI1 Articles 226A of The Pensions (Northern Ireland) Order 2005
MI2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
MI3 Articles 226B of The Pensions (Northern Ireland) Order 2005
MI4 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
MI5 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Glossary

Internal controls:

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

IT

Information technology. The systems (especially computers and telecommunications) used for storing, retrieving, and sending information.

Cyber controls (ADM016)

'Cyber risk' refers to the risk of loss, disruption or damage to a scheme or its members as a result of the failure of its information technology systems and processes(see also **Identifying and assessing risks**). Governing bodies should take steps to reduce the risk of incidents occurring, and appropriately manage any incidents that arise. Properly functioning cyber controls will assist governing bodies in complying with data protection legislation,[CY1] and may reduce liabilities in the event of a data breach.

Under section 249A of the Pensions Act 2004,[CY2] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[CY3] These controls need to include measures to reduce cyber risk.

Under section 249B of the Pensions Act 2004,[CY4] scheme managers of public service pension schemes are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[CY5] and with the requirements of the law.[CY6]

The legal obligation to establish measures to reduce cyber risk is different for public service pension schemes.[CY7] As far as cyber controls is a matter set out in the scheme rules[CY8] or in the requirements of the law,[CY9] scheme managers of public service pension schemes must establish and operate adequate internal controls in relation to them. In such cases, internal controls need to include measures to reduce cyber risk.

To the extent that cyber risk does not fall (wholly or partly) within the last paragraph, it is good practice for scheme managers of public service pension schemes to adopt the measures set out below. Our expectations for the governing body's processes and procedures are summarised below. Governing bodies should also be aware of their responsibilities under the UK GDPR.

CY1 For example, Data Protection Act 2018 and the Retained Regulation (EU) 2016/679) (UK General Data Protection Regulation)
CY2 Articles 226A of The Pensions (Northern Ireland) Order 2005
CY3 Section 249A(3) Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
CY4 Articles 226B of The Pensions (Northern Ireland) Order 2005
CY5 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
CY6 As defined in Section 318(2) Pensions Act 2004 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]
CY7 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
CY8 As defined in Section 318(2) Pensions Act 2004 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]
CY9 The law includes the Data Protection Act 2018 and the Retained Regulation (EU) 2016/679) (UK General Data Protection Regulation)

Assessing cyber risk

- Ensure the governing body has knowledge and understanding of cyber risk.
- Understand the need for confidentiality, integrity and availability of the systems and services for processing personal data, and the personal data processed within them.
- Have clearly defined roles and responsibilities to identify cyber risks and breaches, and to respond to cyber incidents.
- Ensure cyber risk is on the risk register and regularly reviewed (see also **Managing risk using internal controls**).
- Assess, at appropriate intervals, the vulnerability to a cyber incident of the scheme's key functions, systems and assets (including data assets) and the vulnerability of service providers involved in the running of the scheme.
- Consider accessing specialist skills and expertise to understand and manage the risk.
- Ensure appropriate system controls are in place and are up to date (eg firewalls, anti-virus and anti-malware products).

Managing cyber risk

- Ensure critical systems and data are regularly backed up.
- Have policies for the use of devices, and for home and mobile working.
- Have policies and controls on data in line with data protection legislation (including access, protection, use and transmission).
- Take action so that policies and controls remain effective.
- Have policies to assess whether breaches need to be reported to the information commissioner (**www.ico.org.uk**).
- Maintain a cyber incident response plan in order to safely and swiftly resume operations. Learn more in **Continuity planning**.
- Satisfy themselves with service providers' controls (see **Managing advisers and service providers**).
- Receive regular reports from staff and service providers on cyber risks and incidents.

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme that is subject to the requirements under section 249A of the Pensions Act 2004

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Public service pension scheme

A scheme established under section 1 of the Public Service Pensions Act 2013

Contributions

Receiving contributions (ADM007)

Employee contributions are deducted from scheme members' salaries. Unless the scheme rules or regulations set out a shorter period, those contributions must be paid to the scheme by the 19th day of the following month, or the 22nd day if paid electronically.[RC1] There are special rules for the first deduction of contributions on automatic enrolment.[RC2] Employer contribution payments must be paid by the date specified in the scheme rules, regulations or documentation.

Governing bodies are responsible for preparing and understanding the payment schedule, or direct payment arrangement, which details the contributions due to be paid. They must also put in place processes that facilitate the monitoring of contributions and transmission of payment information between the employer, member and scheme administrator.

Unless exempt,[RC3] a governing body should ensure it has the following measures listed below in place.

RC1 Section 49(8) Pensions Act 1995 [Article 49(8) Pensions (Northern Ireland) Order 1995]

RC2 Regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RC3 The exemption from the requirement to secure a schedule of contributions in respect of DB schemes under section 227 of the Pensions Act 2004 is in regulation 17 of the Occupational Pension Schemes (Scheme Funding) Regulations 2005. [The exemption from the requirement to secure a schedule of contributions in respect of DB schemes under Article 206 of the Pensions (Northern Ireland) 2005 is in regulation 17 of the Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005].

The exemption from the requirement to secure a payment schedule in respect of DC schemes under section 87 of the Pensions Act 1995 is in regulation 17 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996. [The exemption from the requirement to secure a payment schedule in respect of DC schemes under Article 87 of the Pensions (Northern Ireland) Order 1995 is in regulation 17 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997].

Maintaining and recording contributions

- Manage the payment schedule (DC schemes), schedule of contributions (DB schemes), direct payment arrangements (personal pensions) or other scheme documentation.
- Ensure contributions adhere to the rules of the scheme and any overriding legislation.
- Maintain a record of employer and member contributions expected and received, due dates and any outgoings, for example benefits and expenses likely to be incurred in the coming scheme year.[RC4]
- Prepare any schedule in consultation with the employer(s).
- Be aware of the information employers must provide.[RC5]
- Maintain a log of missed contributions and related recovery activities.

Operational and risk management

- Have processes and systems in place to ensure the scheme can accept contributions from existing and, if necessary, new employers.
- Be confident that other parties, including employers, third party payroll, administration systems, investment managers, and investment platform providers, have the capacity to transfer data and monies efficiently.
- Be able to monitor, quickly identify and pursue missing contributions.
- Apply a risk-based and proportionate approach identifying employers and situations that present a higher risk of materially significant payment failures.
- Treat any failure to make payment of employee contributions as materially significant.
- Safeguard all contributions once they are in the scheme.
- Have processes to enable members to demonstrate compliance with HMRC tax requirements, ie annual allowance.

RC4 Section 87(2) Pensions Act 1995, see also regulations 18 and 19 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996. [Section 85(2) Pensions (Northern Ireland) Order 1995, see also regulations 18 and 19 of the Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RC5 The Occupational Pension Schemes (Scheme Administration) Regulations 1996 [The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

Reporting and remedial actions

- Be able to check whether contributions and amounts due to the scheme have been paid on time.
- Have processes in place to identify whether a payment failure is of material significance.
- Fulfil their obligation to report material payment failures to us and members (see also **Decision to report**).
- Seek to recover outstanding payments and debts owed to the scheme.
- Reclaim any outstanding contributions from the employer assets in the event of an employer insolvency or claim on the redundancy payment service. Learn more in **Resolving overdue contributions**.
- Have a process for rectifying the missing contributions, ensuring minimal financial detriment to the member.
- Where necessary, keep records of any employer contribution due to the scheme that has been written off.[RC6]

RC6 Regulation 5 of the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 and section 49 Pensions Act 1995 [Regulation 5 of the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014 and Article 49 Pensions (Northern Ireland) Order 1995]

Glossary

Contributions

Money paid into the scheme. This may come from members in the form of regular or additional contributions, or from employers as regular or deficit-related contributions.

Direct payment arrangements

These are arrangements between the member and the employer under which contributions fall to be paid by the employer towards the scheme:

1. on the employer's own account (but in respect of the member), or
2. on behalf of the member (if the member is making any contributions) out of deductions from the member's pay

Essentially, direct payment arrangements exist where:

- the employer arranges to make employer contributions to a personal pension scheme (under the arrangements), and/or
- the employer arranges to deduct the member's contributions from pay and to pay them across to the pension scheme for the member

Personal pension

A UK tax-privileged individual investment vehicle, with the primary purpose of building a capital sum to provide retirement benefits

Monitoring contributions (ADM008)

Governing bodies should have processes in place to check contributions due to the scheme and to reconcile them with what is actually paid. Where a scheme has multiple employers, this can be a risk-based process.

Under section 249A of the Pensions Act 2004,[MO1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[MO2]

Under section 249B of the Pensions Act 2004,[MO3] scheme managers of public service pension schemes[MO4] are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[MO5] and with the requirements of the law.

Payment schedules or direct payment arrangements must be administered, maintained and managed in accordance with any scheme rules, regulations and legal requirements.[MO6]

Creating a contributions monitoring record

Governing bodies should develop and maintain a record for monitoring the payment of contributions to the scheme. A contributions monitoring record enables governing bodies to check whether these have been made on time and in full. It also provides a trigger for escalation for investigations into any payment failure that arises. Learn more in **Resolving overdue contributions**. It will also enable consideration of whether a payment failure must be reported to us and, where relevant, members.[MO7]

A contributions monitoring record should include the following information:

- contribution rates
- the date(s) on or before which employer contributions are due to be paid to the scheme
- the date when employee contributions are to be paid to the scheme
- any rate or amount of interest payable where the payment of contributions is late

MO1 Articles 226A of The Pensions (Northern Ireland) Order 2005
MO2 Section 249A(3) of the Pensions Act 2004 (Article 226A (3) of The Pensions (Northern Ireland) Order 2005)
MO3 Articles 226B of The Pensions (Northern Ireland) Order 2005
MO4 As defined in section 318(1) of the Pensions Act 2004 (Article 2(2) of The Pensions (Northern Ireland) Order 2005)
MO5 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)
MO6 Section 111A of Pension Schemes Act 1993 [Article 107A of Pension Schemes (Northern Ireland) Act 1993]
MO7 Section 88(1) of Pensions Act 1995 [Article 86(1) of Pensions (Northern Ireland) Order 1995]

This monitoring record also helps employers to develop and implement new contribution payment processes. The contributions monitoring record should provide schemes with information to maintain records of money received and assist in keeping their member records up to date.

Recording employee and employer transactions

Governing bodies must record and retain information on transactions. This will support them in their administration and monitoring responsibilities, including:

- amounts received in respect of an active member of the scheme
- payments of pensions and benefits[MO8]

As part of their general administration, employers should provide the information required by the governing body to monitor contributions at the same time they send them to the scheme. Payment information may include:

- the contributions due to be paid by the employer and on behalf of the employee as specified in the scheme regulations and/or other scheme documentation
- the pensionable pay that contributions are based upon (where required)
- payment due date(s) for contributions and other amounts, although contributions can be paid earlier

If the necessary payment information is not supplied, and the governing body needs it to carry out risk-based monitoring, they should request the information they need from the employer.[MO9] Governing bodies should only obtain payment information when it is necessary for effective monitoring.

Employers should provide governing bodies with payment information within seven days of the request. If employers fail to comply, the governing body will be unable to meet its monitoring obligation.

Governing bodies must report to us where payment information requested is not supplied by the employer. This should be done within 14 days of the date of the initial request (see **Decision to report**).

MO8 Section 249A Pensions Act 2004 [Article 226A Pensions (Northern Ireland) Order 2005]
MO9 Regulation 6 of the Occupational Pension Scheme (Scheme Administration) Regulations 1996 [Regulation 6 of the Occupational Pension Scheme (Scheme Administration) Regulations (Northern Ireland 1997]

Glossary

Contributions
Money paid into the scheme. This may come from members in the form of regular or additional contributions, or from employers as regular or deficit related contributions.

Days
References to 'days' means all days. References to 'working days' do not include Saturdays, Sundays or Bank Holidays.

Direct payment arrangements
These are arrangements between the member and the employer under which contributions fall to be paid by the employer towards the scheme:

1. on the employer's own account (but in respect of the member), or
2. on behalf of the member (if the member is making any contributions) out of deductions from the member's pay

Essentially, direct payment arrangements exist where:

- the employer arranges to make employer contributions to a personal pension scheme (under the arrangements), and/or
- the employer arranges to deduct the member's contributions from pay and to pay them across to the pension scheme for the member

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Pensionable pay
Refers to any element of an employee's pay from which pension contributions may be deducted, for example basic pay, bonuses or commission

Personal pension
A UK tax-privileged individual investment vehicle, with the primary purpose of building a capital sum to provide retirement benefits

Resolving contributions (ADMO11)

When a payment failure is identified (see also **Monitoring contributions**), the governing body should contact the employer promptly and seek to resolve the overdue payment. They should attempt to recover contributions within 90 days from the due date or prescribed period having passed.

Under section 249A of the Pensions Act 2004,[RS1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls (see **Managing risk using internal controls**). However, there are certain exemptions.[RS2]

Under section 249B of the Pensions Act 2004,[RS3] scheme managers of public service pension schemes[RS4] are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[RS5] and with the requirements of the law.

Governing bodies usually have flexibility when designing procedures. They can obtain overdue payments and rectify administrative errors in the most effective and efficient way for their scheme. A typical process should cover the following steps:

- Investigate any employer failure to pay contributions.
- Contact the employer promptly and seek to resolve the overdue payment.
- Attempt to find out and record the cause and circumstances of the payment failure.
- Investigate any action the employer has taken as a result of the payment failure.
- Consider the wider implications or impact of the payment failure.
- Consider whether the failure is part of a pattern of a systemic failure.
- Seek to ensure that the employer resolves the payment failure.
- Where appropriate provide members with sufficient information to enable them to raise any issues with the employer.
- Take steps to make sure that a recurrence in the future is avoided.

RS1 Articles 226A of The Pensions (Northern Ireland) Order 2005
RS2 Section 249A(3) of the Pensions Act 2004 (Article 226A (3) of The Pensions (Northern Ireland) Order 2005)
RS3 Articles 226B of The Pensions (Northern Ireland) Order 2005
RS4 As defined in section 318(1) of the Pensions Act 2004 (Article 2(2) of The Pensions (Northern Ireland) Order 2005)
RS5 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)

Governing bodies should maintain a record of their investigation and communications between themselves and the employer. This will also inform the decision of whether a payment failure must be reported to us and members.[RS6]

A monitoring process based on information provided by employers may not be able to confirm deliberate underpayment or non-payment, or fraudulent behaviour by an employer (see **Who must report**). Governing bodies should review current processes to ensure they detect situations where fraud may be more likely to occur and where additional checks may be appropriate.

Where employer contributions are not paid on time, and the governing body has reasonable cause to believe that the failure is likely to be of material significance to us (see also **Decision to report**), they should send a written report of the matter to us. This should be done within 14 days of the determination that the payment failure is materially significant.[RS7]

When an employer fails to pay employee contributions to the scheme, and the governing body believes it to likely be of material significance, this must be reported to us.[RS8] Reports should be made to us within 14 days, and members should be notified within 30 days of the report to us.[RS9]

RS6 Section 88(1) of Pensions Act 1995 [Article 86(1) of Pensions (Northern Ireland) Order 1995]
RS7 Sections 70 and 70A of the Pensions Act 2004.[Articles 65 and 65A of the Pensions (Northern Ireland) Order 2005]
RS8 Reporting to the regulator does not affect any responsibility to report to another person or organisation
RS9 Sections 49(9) and 88(1) of The Pensions Act 1995 [Articles 49(9) and 86(1) of the Pensions (Northern Ireland) Order 1995]

Glossary

Contributions
Money paid into the scheme. This may come from members in the form of regular or additional contributions, or from employers as regular or deficit related contributions.

Days
References to ‘days’ means all days. References to ‘working days’ do not include Saturdays, Sundays or Bank Holidays.

Material significance
Determines whether we expect a breach of law to be reported to us, as determined by a number of factors (see **Decision to report**)

Annex 1: Full draft of the new code of practice

Communications and disclosure

Information to members

General principles for member communications (CAD001)

This module covers the main principles we expect governing bodies to comply with when meeting their legal obligations to communicate with members.

The law details when governing bodies must communicate with their members, the information they must provide and the timescales for providing the information.

For example, governing bodies must provide basic scheme information to members who do not already have it and to prospective members where practicable. Anyone else with an interest in the scheme should be given the information on request. Basic scheme information should include how contributions are determined and the terms and conditions of scheme membership.

Where the member is being automatically enrolled, this information must be provided within one month of the governing body receiving information about the jobholder. Otherwise, governing bodies have up to two months to provide the required information to a new member (from date of joining) or an existing member (from date of request).[GE1]

Other information governing bodies are required to provide to members can be found in the following modules:

- **Statutory financial statements (DC)**
- **Statutory financial statements (DB)**
- **Statutory financial statements (PSPS)**
- **Retirement information**
- **Transfers**

GE1 Regulation 6 of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 6 of The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

When preparing communications to members, the governing body should:

- ensure that all communications sent to members are accurate, clear, concise, relevant and in plain English
- regularly review member communications, taking account of member feedback
- when deciding on the format of communications and information to be published, consider any technology that may be available to them and appropriate for their members
- consider using various communication methods, including accessible online content, audio, Braille, large font, and languages other than English
- regularly inform members of the impact their contributions will have on their overall benefits
- provide any additional information or explanation that members may need to help them make informed decisions about their benefits

Statutory financial statements (DC) (CAD003)

Governing bodies of schemes providing DC benefits must provide their DC members with annual benefit statements.[SDC1] When drafting annual benefit statements, governing bodies should follow the principles set out in **General principles for member communications**. Governing bodies can also find further information on communicating with members in our **Communicating and reporting guide**.

The governing bodies must:

- issue the annual benefit statement to members within 12 months:
  - for occupational pension schemes, the end of the scheme year, and
  - for personal pension schemes, the anniversary of the date the person first joined the scheme (or contributions were credited to them, if later)
- detail the contributions credited (before deductions) to the member in the relevant year to which the benefit statement relates
- include the value of the member's benefits under the scheme (as at a date specified by the governing body)
- provide the cash equivalent transfer value[SDC2] if different from the value above
- where required by legislation,[SDC3] include a statutory money purchase illustration, ie an illustration of what the member's pension may be at retirement
- where required by legislation,[SDC4] provide details of how the member may obtain information about pooled funds
- include details of where to find information online that governing bodies are required to publish[SDC5]

SDC1 Regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

SDC2 Calculated in accordance with sections 97 and 101I of the Pension Schemes Act 1993 in the case of an occupational pension scheme, or regulations 3 and 4 of the Personal Pension Schemes (Transfer Values) Regulations 1987, in the case of a personal pension scheme. [Calculated in accordance with Articles 93 and 97I of the Pension Schemes (Northern Ireland) Act 1993 in the case of an occupational pension scheme, or regulations 3 and 4 of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987, in the case of a personal pension scheme.]

SDC3 There are certain exceptions to the requirements to provide this information see Paragraph 6 of Regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [There are certain exceptions to the requirements to provide this information see Paragraph 6 of Regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014.]

SDC4 Paragraph 5A of Schedule 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Paragraph 5A of Schedule 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

SDC5 Paragraph 5B of Schedule 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Paragraph 5B of Schedule 6 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014].

Governing bodies should present contributions information to members in an accessible, transparent form so the member is able to check they are receiving the contributions they are due. This may include information on:

- the contributions received by the scheme after tax relief
- the percentage of pensionable pay due for employer and member contributions
- pensionable pay information, where held
- the dates contributions were due and paid
- charges or commission taken before or after payment to the scheme

Glossary

Contributions

Money paid into the scheme. This may come from members in the form of regular or additional contributions, or from employers.

Statutory financial statements (DB) (CAD011)

Governing bodies of DB pension schemes must, unless they are exempted from doing so,[SDB1] provide their members and beneficiaries with a summary funding statement within a reasonable period of finalising any actuarial report or actuarial valuation.[SDB2]

We expect that, in most cases, a period of three months is reasonable. Governing bodies of DB pension schemes must also issue benefit statements to members on request.[SDB3]

When drafting these statements, governing bodies should follow the principles set out in **General principles for member communications**. Governing bodies can also find further information on communicating with members in our **Communicating and reporting guide**.

We have set our expectations below. These expectations relate to information about DB benefits in the scheme. Any scheme providing DC benefits, for example through additional voluntary contributions, should ensure the requirements in **Statutory financial statements (DC)** are also met.

SDB1 Regulation 15 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 15 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

SDB2 See regulation 15 of, and schedule 4 to, the Occupational and Personal Pension Schemes (Di closure of Information) Regulations 2013 [See regulation 15 of, and schedule 4 to, the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

SDB3 Regulation 16 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 16 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

Summary funding statements

The governing body must include within the statement:[SDB4]

- a summary of the extent to which the scheme assets are adequate to cover the technical provisions based on the latest available actuarial valuation
- an explanation of any changes in the funding position from the previous statement
- the actuary's estimate of solvency as set out in the latest valuation
- a summary of any recovery plan in force
- a statement explaining the following, including a summary of any applicable circumstances. Whether the scheme:
  a. has been modified under section 231(2)(a) of the Pensions Act 2004 (the 2004 Act)
  b. is subject to directions under section 231(2)(b) of the 2004 Act
  c. is bound by a schedule of contributions by us under section 231(2)(c) of the 2004 Act
- a statement explaining any surplus payment to the employer, and the amount of that payment

Benefit statements

The governing bodies must:

- issue a benefit statement to members as soon as possible following a request being made, and within two months
- include the information required by legislation[SDB5]

SDB4 Schedule 4 to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Schedule 4 to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

SDB5 Regulation 16(2) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 16(2) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

Glossary

Additional Voluntary Contributions
Known as AVCs, an additional employee contribution paid into the scheme in return for additional benefits

Recovery plan
A payment plan for the scheme employer or employers, put in place to enable a defined benefit scheme to be funded on the minimum statutory basis

Statutory financial statements (PSPS) (CAD012)

Scheme managers of public service pension schemes must provide all active members with an annual benefit statement.[SPS1] They may also be required to provide a benefit statement to certain types of member on request.[SPS2] They must also provide annual benefit statements to deferred members of the scheme where this is required by scheme regulations.

When drafting annual benefit statements, scheme managers should follow the principles set out in **General principles for member communications**. Governing bodies can also find further information on communicating with members in our **Communicating and reporting guide**.

Annual benefit statement requirements for scheme managers of public service pension schemes

For active members of DB schemes, scheme managers must:

- include a description of the benefits earned by a member during their pensionable service[SPS3]
- issue the annual statement by no later than 31 August of the year following the period to which the statement relates
- comply with any HM Treasury directions in terms of any other information that must be included and the way it must be provided to members

For active, deferred, or pension credit members of any DB scheme, scheme managers must:

- provide a benefit statement following a request if the information has not been provided to that member in the previous 12 months
- issue a benefit statement as soon as possible following a valid request being made, and within two months
- include the information required by legislation[SPS4] in any benefit statement

SPS1 Section 14(1) of the Public Service Pensions Act 2013. [Article 14(1) of the Public Service Pensions Act 2014]

SPS2 Regulation 16 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 16 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

SPS3 Section 14(2)(a) of the Public Service Pensions Act 2013. [Section 14(2)(a) of the Public Service Pensions Act 2014]

SPS4 Regulation 16(2) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 16(2) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

For members with DC benefits, scheme managers must:

- provide a benefit statement to every member within 12 months of the end of the scheme year
- include the information required by legislation[SPS5] in any benefit statement. See also **Statutory financial statements (DC)**.

SPS5 Regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 17 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

Retirement risk warnings and guidance (CAD004)

Members with a DC or cash balance pension pot have a variety of options for taking retirement benefits. There are no restrictions on the amount they can withdraw as cash, though there may be potentially significant tax implications. Depending on the scheme's rules, a member may not be able to access their chosen flexible benefits directly from the scheme. They may need to transfer to another arrangement to gain access to the full range of options.

When providing members with information about retirement options for their DC or cash balance benefits, the law requires certain information on guidance and risk warnings to be provided to members:

Governing bodies must:

- in certain circumstances,[RT1, RT2, RT3] provide a statement informing members about the free and impartial government guidance service
- ensure the statement recommends the member accesses the government's guidance service and that they consider taking independent advice
- where contact is made by either the member or the governing body about what the member may do with their DC or cash balance benefits, provide the above statement about relevant guidance (and any additional statement where required). The statement(s) may be given verbally unless requested in writing.[RT4]
- identify any circumstances where there is a requirement to provide the information to individuals other than the member (eg beneficiaries)

Governing bodies should:

- make members aware of their right to transfer their benefits to another scheme at any age, to access their benefits in a variety of different ways
- ensure all communications issued to members about their retirement options clearly set out what they need to consider to make an informed decision about their benefits. See also **General principles for member communications**.

RT1 Regulations 18A to 20 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Regulations 18A to 20 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

RT2 Part 1, Schedule 10 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Part 1, Schedule 10 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

RT3 Regulation 18B Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Regulation 18B Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

RT4 Regulation 18B(3) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Regulation 18b(3) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

Where scheme members with DC or cash balance benefits are approaching retirement:

Governing bodies must:

- issue retirement information to members setting out the options available on accessing their retirement savings within the scheme. The information must include either:[RT5]
  - the Money Advice Service guide 'Your pension: your choices' (or any replacement that is prepared or approved by us)
  - a statement that gives materially the same information
- provide certain 'risk warnings' to members when providing the member with an application form or another way to access their benefits (some exceptions apply).[RT6] The risk warning statement must:
  - contain information about the options available to members in respect of their benefits and the risks associated with each,[RT7] or
  - provide personalised risk warnings tailored to the member's circumstances.
- highlight in the risk warning statement the importance of reading the warnings and accessing pensions guidance or independent advice.[RT8]

Governing bodies should:

- ensure that communications containing risk warnings clearly articulate the risks associated with each of the different options available to the member, and clearly draw the member's attention to those risks
- continue to communicate with members who remain in the scheme who have flexibly accessed some or all of their pension using options offered by the scheme, as appropriate.

RT5 Paragraph 14, Part 3, Schedule 7 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Paragraph 14, Part 3, Schedule 7 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

RT6 Regulation 19A Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Regulation 19A Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

RT7 Regulation 19A(6) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Regulation 19A(6) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

RT8 Regulation 19A(4) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. [Regulation 19A(4) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2013].

Glossary

Annuity
A specific type of insurance policy, which can be purchased to secure an income for life at retirement

Beneficiary
A person who benefits from a pension trust

Flexible benefits
Pension benefits that may be drawn from a scheme and used for purposes other than purchasing an annuity

Short service refunds (CAD016)

Individuals automatically enrolled into a pension scheme, who opt out within one month have their contributions returned, less tax. This is not a refund of contributions.

The rules of a DC scheme may permit a refund within 30 days of pensionable service starting. However, there is no statutory right to a refund of contributions where a member's benefit is entirely DC. It is not possible to pay a refund once a DC member has 30 days pensionable service. The member will normally be entitled to preserved benefits or a transfer to another scheme on leaving service.[SO1]

Members of DB and hybrid schemes with less than two years' service may have an entitlement to a refund of contributions. They may instead receive preserved benefits where, for example, allowed by the scheme rules or where the member has transferred benefits into the scheme.[SO2]

Any member with an entitlement to a preserved benefit in a scheme must receive a statement of their benefits when they leave service (see also Statutory financial statements (DC, DB or PSPS as appropriate)).

Where a member has a right to a refund, the governing body must provide them with a written notice containing the information required by legislation.[SO3]

The governing body should provide this information within three months of the date the member left service. Governing bodies should advise members where it is likely to take more than three months to provide the information.

The governing body should give members[SO4] three months to reply and can, at their discretion or if a member asks, extend this deadline. Where the member does not respond the governing body may arrange to pay a refund after a further month.

SO1 Section 101AA Pension Schemes Act 1993 [Section 97AA Pensions Schemes (Northern Ireland) Act 1993]
SO2 Section 101AB Pension Schemes Act 1993 [Section 97AB Pensions Schemes (Northern Ireland) Act 1993]
SO3 Section 101AC Pension Schemes Act 1993 [Section 97AC Pensions Schemes (Northern Ireland) Act 1993]
SO4 Section 101AD Pension Schemes Act 1993 [Section 97AD Pensions Schemes (Northern Ireland) Act 1993]

A scheme member can inform the governing body of their choice in any way considered acceptable by the governing body, or set out in scheme rules or regulations. The governing body should carry out the member's wishes within three months of receiving them.[SO5] The governing body can extend this period in exceptional circumstances. The governing body should make payment of any refund requested directly to the member.

Leaving schemes that are being wound up

If an active member has between three months' and two years' pensionable service and no vested rights when a scheme commences wind-up, they will only have an entitlement to a refund of their own contributions (if any).[SO6] They will not have the option to take a cash transfer sum. The governing body should take steps to pay the refund within one month.

If a member leaves a scheme but wind-up starts after they have left, they still have the option to take a cash transfer sum. The transfer value may be reduced or increased in accordance with legislation (even after the member has replied to the governing body) before the transfer is made.

SO5 Section 101AG Pension Schemes Act 1993 [Section 97AG Pensions Schemes (Northern Ireland) Act 1993]

SO6 Regulation 5 Occupational Pension Schemes (Winding up, etc.) Regulations 2005 [Regulation 5 Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005]

Glossary

Cash equivalent transfer value
The cash value of pension benefits, this value often fluctuates, is typically provided as at a certain date and can be guaranteed for a certain period.

Contribution
Money paid into the scheme. This may come from members in the form of regular or additional contributions, or from employers as regular or deficit related contributions.

Preserved benefits
Benefits held in the scheme for a beneficiary who is not currently in active service in relation to those benefits

Vested rights
Benefits that can be preserved in a pension scheme in the event of a member leaving active membership

Chair's statement (CAD008)

Basic principles of the chair's statement

The law requires certain governing bodies of DC occupational pension schemes to prepare a chair's statement within seven months of the end of each scheme year. Compliance with this requirement must be declared on the scheme return sent to us each year. In the chair's statement, governing bodies must describe and explain how they have met certain legislative governance standards.[CH1]

We expect governing bodies to ensure the statement is written using the principles set out in **General principles for member communications** and that it provides clear details about how they comply with governance standards.

The law requires the chair to sign the statement on behalf of the governing body.

Failure to produce a statement signed by the chair that meets the requirements set out in the legislation will result in an automatic penalty of between £500 and £2,000,[CH2] which the governing body will be personally liable to pay.

As a matter of good practice, governing bodies may wish to document actions as they occur and to hold evidence of any actions described within the statement. Further details on the information that must be included on the chair's statement can be found in the chair's statement section of our **Communicating and reporting guide**.

Making the chair's statement available

Governing bodies must make the statement available upon request as part of the scheme report and accounts. Certain parts of the statement must be publicly available, free of charge, on a website. We have set out below the areas that must be published online. However, in many cases it will be appropriate for governing bodies to publish the statement online in its entirety.

CH1 Regulation 23 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 23 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

CH2 Regulation 28(4)(b) Occupational Pension Schemes (Charges and Governance) Regulations 2015 [Regulation 28(4)(b) Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015]

Parts of the statement that must be published online:[CH3]

- the statement of investment principles for the default arrangement, and the information set out in the chair's statement around the review of those arrangements
- the level(s) of charges and transaction costs paid by members for each default arrangement and fund that members are able to select
- the 'illustrative examples' included in the statement that show the effects of charges and transaction costs on members' accrued rights
- details of any unavailable transaction costs and steps being taken to obtain that information in future
- the explanation of the assessment of whether the scheme represents good value for members

CH3 Regulation 29A(2) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 29A(2) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

Scams (CAD005)

Under section 249A of the Pensions Act 2004,[SM1] governing bodies of certain schemes must establish and operate an effective system of governance (see **Scheme governance**) including internal controls. However, there are certain exemptions.[SM2]

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes[SM3] are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,[SM4] and with the requirements of the law.

As part of their internal controls, governing bodies should ensure that they take appropriate steps to mitigate the risk of scams.

Governing bodies should be aware of the warning signs of a scam and consider whether any are present when dealing with transfer requests (see **Transfers**) and requests for early retirement.

When members ask to transfer out of a scheme, the governing body should carry out due diligence on the scheme to which the member wishes to transfer, to check whether the transfer can legally be paid. This includes checking whether the scheme is registered with HM Revenue and Customs for tax purposes, and potentially obtaining professional advice on their obligations.

Governing bodies should take steps to ensure their members are aware of the risks of pension scams. They may do this by including clear information on how to spot a scam in all relevant communications to members, including within standard communication materials such as the retirement wake-up pack and in annual benefit statements. Scams warning messages may also be placed on the scheme's website.

The Pension Scams Industry Group (PSIG) Code of Good Practice is a helpful tool for governing bodies looking to protect members from scams.

Further information can be found under the **Scams** section of our website.

SM1 Articles 226A of the Pensions (Northern Ireland) Order 2005.
SM2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]
SM3 As defined in in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]
SM4 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Public information

Publishing information about public service pension schemes (CAD010)

Scheme managers of public service pension schemes must publish certain information about the pension board and keep that information up-to-date. This will ensure that scheme members can easily access information about who the pension board members are, the representation of scheme members on the pension board, and the responsibilities of the board.

Governing bodies may also consider publishing information about pension board business, for example board papers, agendas and minutes of meetings. These may be redacted to the extent that they contain confidential information and/or data protected by data protection legislation. Governing bodies should consider requests for publication of additional information, to encourage scheme member engagement and promote a culture of transparency. Governing bodies may consider how best to publish information, making use of the principles outlined in **General principles for member communications**.

The scheme manager must publish and maintain:

- the names of pension board members
- details about the representation of scheme members on the pension board
- details of the matters for which the pension board is responsible[PU1]

Governing bodies may also publish:

- the employment and job title (where relevant) and any other relevant position each board member holds
- details of the pension board recruitment process
- who each pension board member represents
- the full terms of reference for the pension board, including details of how it will operate
- any specific roles and responsibilities of individual pension board members

Governing bodies should:

- have policies and processes to monitor all published data on an ongoing basis to ensure it is accurate and complete
- ensure any out of date or incorrect information identified is updated as soon as possible and in any event within one month

PU1 Section 6(1) of the Public Service Pensions Act 2013. [Section 14(1) of the Public Service Pensions Act 2014]

Glossary

Data protection legislation
The laws and regulations established to protect personal data including the Data Protection Act 2018 and UK GDPR

Public service pension scheme board
A board created to advise the relevant scheme manager in accordance with section 5 of the Public Service Pensions Act 2013

Audit requirements (CAD014)

The law requires certain[AU1] governing bodies of occupational pension schemes to obtain the following within seven months of the end of each scheme year from an independent auditor of the scheme:

- audited accounts, prepared in accordance with regulation 3[AU2]
- the auditor's statement, prepared in accordance with regulation 4,[AU3] about payment of contributions under the scheme.

Accounts do not need to be sent to us as a matter of course.

The auditor's statement must:

- include their opinion on whether contributions have in all material respects been paid at least in accordance with any of:
  - the schedule of contributions
  - payment schedule
  - scheme rules or contracts under which they were payable
- where contributions have not been paid in accordance with the above, include a statement explaining why
- even where no contributions were payable in the audited period, still prepare an auditor's statement

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AU1 Regulation 2 of the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 [Regulation 2 of the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997]

AU2 The Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 [The Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997]

AU3 The Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 [The Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997]

The governing body:

- must provide a copy of the audited accounts as part of the annual report[AU4] to relevant persons[AU5] in relation to the scheme on request, and within two months of the request being received by the governing body
- may wish to consider publishing the accounts on a free website for the scheme
- should retain documentation relating to the preparation of the annual audited accounts for the scheme that records the process undertaken and its outcome, for at least seven years
- must ensure the normal auditing period[AU6] of 12 months is applied. The audit period may be between six and 18 months where the start date is being changed or the scheme is in final stages of being wound up.

AU4 Regulation 12 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [Regulation 12 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

AU5 As defined in the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [As defined in the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014]

AU6 Definition of “Scheme” in Regulation 1 of the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations 1996 [Definition of “Scheme” in Regulation 1 of the Occupational Pension Schemes (Requirement to Obtain Audited Accounts and a Statement from the Auditor) Regulations (Northern Ireland) 1997]

Glossary

Contributions

Money paid into the scheme. This may come from members in the form of regular or additional contributions, or from employers as regular or deficit related contributions.

Dispute resolution procedures (CAD015)

Governing bodies must put in place[DI1] formal procedures and processes to investigate and decide upon pension scheme disputes quickly and effectively. This applies to governing bodies of all occupational pension schemes, subject to certain exemptions.[DI2]

Dispute procedures play a key role in the effective governance and administration of a scheme and need to follow the legislative requirements.[DI3] The documents setting out the operation of the scheme may refer to internal dispute resolution arrangements.

Governing bodies must follow the dispute procedure to resolve various matters.[DI4] Dispute procedures may be used to resolve other disputes[DI5] where alternative arrangements do not exist.

Where a person with an interest in the scheme is not satisfied with any matter relating to the scheme (for example a decision that affects them), they have the right to ask for a review of the matter.

Governing bodies must ensure their scheme's procedures allow a reasonable period, which should be at least six months, for certain people[DI6] or their representatives[DI7] to make their applications. The six-month period should normally start immediately after the date on which the person ceased to be, or claims they ceased to be, a person with an interest in the scheme. Governing bodies can accept an application outside of this timeframe, if they believe it is appropriate.

DI1 Section 50(1) of the Pensions Act 1995 [Article 50(1) of the Pensions (Northern Ireland) Order 1995]

DI2 Section 50 (8) of the Pensions Act 1995 [Article 50(8) of the Pensions (Northern Ireland) Order 1995]

DI3 Section 50 of the Pensions Act 1995 [Article 50 of the Pensions (Northern Ireland) Order 1995]

DI4 Section 50(3) of the Pensions Act 1995 [Article 50(3) of the Pensions (Northern Ireland) Order 1995]

DI5 Section 50(9) of the Pensions Act 1995 [Article 50(9) of the Pensions (Northern Ireland) Order 1995]

DI6 Section 50A(1)(e) & (f) and Section 50B(3) of the Pensions Act 1995 [Article 50(1)(e) & (f) and Article 50B(3) of the Pensions (Northern Ireland) Order 1995]

DI7 Section 50B(3) of the Pensions Act 1995 [Article 50B(3) of the Pensions (Northern Ireland) Order 1995]

In relation to dispute resolution processes, governing bodies must:

- provide their internal dispute resolution procedure to:
  - prospective members, if it is practicable to do so
  - any scheme members who have not been given the information
  - certain people who request the information and who have not been given that information in the previous 12 months
  - members or prospective members when schemes receive jobholder information, or when a jobholder becomes an active member, in connection with automatic enrolment
- provide information about the Money and Pensions Service and the Pensions Ombudsman at certain stages of the dispute

Governing bodies should:

- agree on any details of their dispute resolution process that are not set out in law
- provide contact details for matters relating to disputes
- regularly assess the effectiveness of the dispute procedure
- be satisfied that those following the process are complying with the requirements set, which includes effective decision-making
- include in the internal dispute resolution procedure the information they are likely to need from applicants to reach a decision on a disputed matter
- consider the circumstances under which advice may be required to reach a decision on a dispute
- ensure they make the following information available to applicants:
  - the process to apply for a dispute to be resolved
  - the information that an applicant must include
  - the process by which any decisions are reached

In relation to reasonable time periods,[DI8] governing bodies should:

- decide the matter in dispute within four months of receiving the application
- in the case of a two-stage dispute resolution procedure, reach a first stage decision within four months of receiving the application
- in the case of a two-stage dispute resolution procedure, reach a second stage decision within four months of the point when the governing body receives the referral
- notify applicants of the decision no later than 21 days from when it is made
- not delay a decision where it is possible to process an application sooner than four months
- allow more than four months to reach a decision if it is appropriate to do so

When reviewing an application, decision makers should:

- ensure they have all the appropriate information to make an informed decision
- request further information if required
- be satisfied that the time and action taken to reach a decision and notify the applicant are appropriate to the situation, and be able to demonstrate this

Informing members

It is good practice for governing bodies to keep members informed about dispute resolution, this may include:

- publishing and making readily available details of the time limits within which someone with an interest in the scheme must make an application
- making their procedure accessible to members and potential applicants, for example by publishing them on a scheme website and in the joining booklet
- keeping applicants advised of the progress of their dispute and let them know when they are likely to receive an outcome

DI8 Section 50(5) of the Pensions Act 1995 [Article 50(5) of the Pensions (Northern Ireland) Order 1995]

Annex 1: Full draft of the new code of practice

Reporting to TPR

Regular reports

Registrable information and scheme returns (RTT001)

Registrable information

Governing bodies of registrable schemes[RG1] must provide us with all items of registrable information[RG2] upon registration of the scheme and report any subsequent changes to this information to us.

> The registrable information will vary, depending on the type of scheme and to learn more about registrable information see our guidance **Update information on the scheme register**

Any changes to items of registrable information should be reported to us within five working days, or at the very latest within five days of the governing body becoming aware of the change.[RG3] To update the registrable information online, visit our online portal.

RG1 As defined in section 59 of the Pensions Act 2004 and Regulation 2 of The Register of Occupational and Personal Pension Schemes Regulations 2005 [as defined in Article 54 of the Pensions (Northern Ireland) Order 2005 and Regulation 2 of The Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005]

RG2 As defined in section 60 of the Pensions Act 2004, Regulation 3 of The Register of Occupational and Personal Pension Schemes Regulations 2005 and Regulation 14 of The Occupational Pension Schemes (Regulatory Own Funds) Regulations 2005 [As defined in Article 55 of the Pensions (Northern Ireland) Order 2005, Regulation 3 of The Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005 and Regulation 14 of The Occupational Pension Schemes (Regulatory Own Funds) Regulations (Northern Ireland) 2005]

RG3 Section 62 Pensions Act 2004 [Article 57 Pensions (Northern Ireland) Order 2005]

Scheme returns

The law also requires governing bodies to complete a scheme return and in most cases we issue scheme return notices annually.[RG4] The scheme return includes items of registrable information plus any additional information we require. It is important that the information provided on the scheme return is accurate.

Governing bodies are accountable for the information they provide on the scheme return, regardless of whether it has been prepared by them, a scheme administrator or an adviser. Governing bodies should have measures in place to review and ensure the accuracy of the information in their scheme return before they send it to us. Governing bodies must also submit the scheme return by the date specified in the scheme return notice. If they do not provide it by the specified date, they may have to pay a fine.[RG5]

It is a criminal offence for any person to provide us with false or misleading information in the scheme return.[RG6]

RG4 Section 64 Pensions Act 2004 [Article 59 Pensions (Northern Ireland) Order 2005]
RG5 Section 64(2) Pensions Act 2004 [Article 59(2) Pensions (Northern Ireland) Order 2005]
RG6 Section 80 of the Pensions Act 2004 [Article 75 Pensions (Northern Ireland) Order 2005]

Glossary

Active members
A person whose employment with the employer qualifies the member for benefits under the scheme and benefits continue to accrue

Deferred member
A person who has benefits under the scheme and is no longer an active member

Occupational pension scheme
A pension savings arrangement provided by an employer for its employees

Pensions members
A person who is currently receiving a pension from the scheme

Trust-based pension scheme
An occupational pension scheme established under trust

Whistleblowing – Reporting breaches of the law

Who must report (RTT003)

Certain people (reporters) are required to report breaches of the law to us where they have a reasonable cause to believe that:[WH1]

- a legal duty which is relevant to the administration of a scheme has not been, or is not being, complied with
- the failure to comply is likely to be of material significance to us in the exercise of any of our functions

We interpret 'administration' widely in the context of the duty to report breaches of law. Our interpretation is broader than day-to-day administrative tasks such as record-keeping, dealing with membership movements, calculating benefits and preparing accounts. It also includes considering investment policy and investment management, and the custody of invested assets in all schemes and scheme funding in defined benefit schemes. Broadly, our interpretation covers anything that could affect members' benefits or the ability of members and others to access information they are entitled to.

WH1 Section 70 Pensions Act 2004 [Article 65 Pensions Order (Northern Ireland) 2005]

Who has the duty to report?

Trustees

Each trustee. If the trustee is a corporate body, the requirement to report falls on the directors.

Public service scheme pension boards

Each member of the pension board of a public service pension scheme.

Scheme manager

This includes managers of public service pension schemes and personal pension schemes where a direct payment arrangement exists.

Service providers

Those who provide administrative services to occupational and personal pension schemes, including:

- insurance companies and third-party administrators who carry out administrative tasks relating to a scheme
- participating employers who provide 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)
- financial advisers and consultants who provide services to trustees such as record-keeping or acting as intermediaries receiving and forwarding scheme documents

Employers

All employers. In a multi-employer scheme, this includes any 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

This includes advisers appointed by the governing body such as scheme actuaries, scheme auditors, reporting accountants, legal advisers,[WH2] and fund managers. Where an individual is appointed to provide the relevant service, the duty to report applies to that individual. Where a firm is appointed to provide services, the duty to report applies to the firm and not just the member of staff providing the services.

A scheme strategist or scheme funder of master trust schemes

This is defined in Part 1 of the Pension Schemes Act 2017 (see section 39 of that Act)

WH2 Subject to the exceptions set out in Section 311 Pensions Act 2004 [Article 283Pensions Order (Northern Ireland) 2005]

Governing bodies should be satisfied that those responsible for reporting breaches are aware of the legal requirements and this code. Training should be provided for the governing body and any in-house administrators.

A person's responsibility to report breaches is not limited to those that relate to their specific role in a scheme. Irrespective of the activities being undertaken, we expect material breaches to be reported as they are identified.

Whistleblowing protection and confidentiality

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. We understand the potential impact of a report on the relationship between a reporter and their client or, in the case of an employee, their employer.

The duty to report does not override legal privilege.[WH3] Communications (oral and written) between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed.

The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing report to us. Where individuals employed by firms having a duty to report disagree with a decision not to report, they may have protection under the ERA if they make an individual report in good faith.

We will take all reasonable steps to protect a reporter's identity and maintain confidentiality where a report is made in confidence. We will not disclose any information except where lawfully allowed to do so.

In all cases, we expect reporters to act conscientiously and honestly, and to take account of expert or professional advice where appropriate.

WH3 Section 311 Pensions Act 2004 [Article 283Pensions Order (Northern Ireland) 2005]

Decision to report (RTT044)

There are two key judgements required to make the decision to report a breach of the law:[DC1]

1. Is there reasonable cause to believe there has been a breach of the law?
2. Is the breach likely to be of material significance to TPR?

‘Reasonable cause’ to believe

Having a reasonable cause to believe that a breach has occurred means more than merely having a suspicion that cannot be proved.

Where a breach is suspected, reporters should carry out checks to establish whether a breach has occurred.

Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with members of the governing body or with others who are able to confirm what has happened. However, it would not be appropriate to alert those implicated in potential serious offences, such as theft or fraud. In such cases, it may be appropriate to bypass the usual checks with the governing body.

Likely to be of ‘material significance’

The legal requirement is that breaches likely to be of ‘material significance’ to us in carrying out any of our functions must be reported. Whether a breach is of ‘material significance’ depends on a number of factors:

1. **The cause of the breach**

   A breach is likely to be of material significance to us where it was caused by:

   - dishonesty, negligence or reckless behaviour
   - poor governance, ineffective controls resulting in deficient administration, or slow or inappropriate decision-making practices
   - incomplete or inaccurate advice
   - a deliberate act or failure to act

DC1 Section 70 of the Pensions Act 2004 & Article 65 of the Pensions (Northern Ireland) Order 2005

2. The effect of the breach

We consider a breach to be significant where the effects are as follows:

- A significant proportion of members, or a significant proportion of members of a particular category of membership, are affected by the breach.
- The breach has a significant effect on the benefits being paid, to be paid, or being advised to members.
- The breach – or series of unrelated breaches – have a pattern of recurrence in relation to participating employers, certain members or groups of members.
- Governing bodies do not have the appropriate degree of knowledge and understanding, preventing them from fulfilling their roles and resulting in the scheme not being properly governed and administered and/or breaching other legal requirements.
- There are unmanaged conflict of interests within the governing body, resulting in: it being prejudiced in the way it carries out the role; ineffective governance and administration of the scheme, and/or breaches of legal requirements.
- Systems of governance (where applicable) and/or internal controls are not established or operated, leading to schemes not being run in accordance with their governing documents and other legal requirements.
- Risks are not properly identified and managed and/or the right money is not being paid to or by the scheme at the right time.
- Accurate information about benefits and scheme administration is not being provided to scheme members and others, so members are unable to effectively plan or make decisions about their retirement.
- Appropriate records, including those for the dashboard, are not being maintained, resulting in member benefits being calculated incorrectly and/or not being paid to the right person at the right time.
- Governing bodies or anyone associated with the scheme misappropriate scheme assets or are likely to do so.
- Trustees of defined benefit schemes do not comply with requirements of the Pension Protection Fund during an assessment period.

3. Reaction to the breach

We will not normally consider a breach to be materially significant if prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, all affected scheme members have been notified.

A breach is likely to be of concern and material significance to us where a breach has been identified that:

- does not receive prompt and effective action to remedy the breach and identify and tackle its cause to minimise risk of recurrence
- is not being given appropriate priority by the governing body or relevant service providers
- has not been communicated to affected scheme members where it would have been appropriate to do so
- where it forms part of a series of breaches indicating poor governance

4. The wider implications of the breach

The wider implications of a breach should be considered when assessing whether it is likely to be materially significant to us. 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 (the reason could be that the governing body lacks the appropriate knowledge and understanding to fulfil their responsibilities)
- other schemes may be affected, for example schemes administered by the same organisation where a system failure has caused the breach

Those reporting a breach should consider general risk factors such as the level of funding (in a defined benefit scheme) or how well-run the scheme appears to be. Some breaches that arise in a poorly funded and/or poorly administered scheme will be more significant to us than if they arose in a well-funded, well-administered scheme.

Reporters should consider other reported and unreported breaches they are aware of. However, reporters should use historical information with care, particularly where changes have been made to address previously identified breaches.

We will not usually regard a breach arising from an isolated incident as materially significant, for example breaches resulting from teething problems with a new system or from an unpredictable combination of circumstances. However, in such circumstances reporters should consider other aspects of the breach such as the severity of the effect it has had that may make it materially significant.

Glossary

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management, and
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Reporter

Any person who has a duty to report a breach of law or notifiable event

How to report (RTT005)

Making a report

Reporters should make a report using our online web form, email or by post. We do not accept reports by telephone, but if a reporter discovers a serious breach, they should notify us by telephone (**www.tpr.gov.uk/en/contact-us/whistleblowing-contact-us)** before submitting their report in writing.

Reporters should also mark urgent reports as such and highlight any matters they believe are particularly serious.

Breach of law reports must be made to us in writing as soon as reasonably practicable[HO1] and in most cases, this should be within 10 working days of the breach being identified. However, reporters may use their judgement as to the application of 'reasonably practicable' in their specific circumstances.

The report should include the:

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

The report should also include:

- reason the reporter believes breach is of material significance to us
- address of the scheme
- type of scheme – whether occupational (defined benefit, defined contribution or hybrid), personal or public service
- name and contact details of the governing body (if different to the scheme address)
- pension scheme registration (PSR) number
- address of employer

HO1 Section 70 of the Pensions Act 2004 [Article 65 of the Pensions (Northern Ireland) Order 2005]

There are other requirements placed on those running pension schemes to report to other bodies. Where the duty to report to another body coincides with the duty to report to us, the report to us should include details of the other bodies the matter has been reported to.

We will acknowledge all reports within five working days of receipt. If reporters have not received an acknowledgement from us within five days, they should contact us.

Due to legal restrictions[HO2] on the information we can disclose, we will not keep reporters informed of the steps we are taking to deal with the report, but we may contact a reporter to ask for more information.

If a scheme or an individual is at risk, for example where there has been dishonesty, they should not take any actions that may alert those implicated that a report has been made. Similarly reporters should not delay their report to us, to check whether any proposed solutions will be effective.

Multiple reporters

More than one person may be responsible for reporting the same breach. Those who have a duty to report should be aware this is not automatically discharged by another party reporting the breach.

Where multiple reporters wish to submit a collective report, the reporting procedure must allow for the evaluation of breaches as described in this code of practice and for a report to be made as soon as reasonably practicable.

Where a report has already been made by another party, but as a reporter you hold additional relevant information about the breach, you must submit a further report.

HO2 Section 82 Pensions Act 2004 and Data Protection Act 2018 and the Retained Regulation (EU) 2016/679) (UK General Data Protection Regulation)

Reporting procedures

Those responsible for reporting breaches, including the governing body, should establish and operate procedures to ensure they are able to meet their legal obligations. Reporters should not rely on waiting for others to report.

We expect the governing body to have:

- a process for obtaining clarification of the law around the suspected breach where needed
- a process for clarifying the facts around the suspected breach where they are not known
- a process for considering the material significance of the breach to us by taking into account its cause, effect, the reaction to it, and its wider implications, including dialogue within the governing body where appropriate (see also **Decision to report**)
- a clear process for referral to a person at the appropriate level of seniority, so decisions can be made about whether to report to us
- an established procedure for dealing with difficult cases
- 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 us (the record of past breaches may be relevant in deciding whether to report future breaches, for example it may reveal an ongoing issue)
- a process for reviewing reporting procedures following any significant changes to the scheme's governance arrangements

Glossary

Reporter
Any person who has a duty to report a breach of law or notifiable event

How to contact us

Napier House
Trafalgar Place
Brighton
BN1 4DW

https://www.thepensionsregulator.gov.uk/

https://trusteetoolkit.thepensionsregulator.gov.uk/
Free online learning for trustees

https://education.thepensionsregulator.gov.uk/
Pensions education portal

The Pensions Regulator

Draft code: **The new code of practice**