TPR’s new code of practice

Nick Gannon
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The purpose of codes of practice

- Our COPs are not statements of the law, except in certain circumstances set out in legislation. Instead, our COPs set out our expectations for the conduct and practice of those who must meet the requirements set in pensions legislation.

- In most cases there is no specific penalty for failing to follow a COP, or to meet the expectations set out in it.

- However, we may rely on COPs in legal proceedings as evidence that a requirement has not been met. In those situations, a court must take a COP into account when considering their verdict.

- Similarly, if we find grounds to issue an improvement or a compliance notice, they may be worded in relation to a COP issued by us.

Our codes of practice

Code of Practice	Code in force
01: Reporting breaches of the law	April 2005
02: Notifiable events	April 2005
03: Funding defined benefits	July 2014 (GB), July 2015 (NI)
04: Early leavers	May 2006
05: Reporting of late payment of contributions to occupational pension schemes	September 2013
06: Reporting of late payment of contributions to personal pension schemes	September 2013
07: Trustee knowledge and understanding (TKU)	November 2009
08: Member nominated trustees/member nominated directors – putting arrangements in place	November 2006
09: Internal controls	November 2006
10: Modification of subsisting rights	January 2007
11: Dispute resolution – reasonable periods	July 2008
12: Circumstances in relation to the material detriment test	June 2009
13: Governance and administration of the occupational trust-based schemes providing money purchase benefits	July 2016
14: Governance and administration of public service pension schemes	April 2015
15: Authorisation and supervision of master trusts	October 2018

The catalyst for change

- The OPS (Governance) (Amendment) Regulations (2018)
- Required us to draft new expectations for “effective systems of governance” and “own risk assessment”
- On review of the current codes we found many issues of outdated, duplicate and inconsistent expectations

Issues with codes of practice

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Affected by changes to legislation in April 2015

Outdated approach

Affected by change to legislation in January 2019

Structure

- Aims for consistency in expectations for all scheme types
- Just over a third the length of the codes it replaces
- Separates content into 5 key areas:
  - The Governing Body
  - Funding and investment
  - Administration
  - Communication and disclosure
  - Reporting to TPR
- Other codes being designed to fit into the new format and framework

New approaches

- Application
  - DB, DC, PS
  - Master Trusts & CDC
- Guidance uplifted
  - Cyber Security
  - Environmental, social and governance (ESG)
- Broadened expectations
  - Financial transactions

Web-based code of practice

- The new code is designed to be a web-based product
- Designed for ease of use, simple navigation and an efficient search
- Online look and feel developed alongside code text

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Scheme managers of public service pensions 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

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

Glossary and legal references

Glossary

Legal references

Related content

Publishing scheme information

The governing body

- The governing body is responsible for running a scheme
- It may be the trustees or managers of an occupational pension scheme
- In a public service pension scheme it is the scheme manager
- PS governance needs to take into account the differing responsibilities of the scheme manager, pension board and, where appropriate, pension committee
- Each PS scheme should determine who fulfils the role of scheme manager according to their regulations and local arrangements
- The code also sets out expectations for the pension board in their role

Increased importance: Internal controls

- Internal controls are the policies, processes and procedures carried out in running the scheme
- Governing bodies may delegate operational tasks but they retain accountability
- Several modules within the new code focus on risk management and specific controls that should be in place
- The modules set out below contain systems, arrangements or procedures that governing bodies should have in place

Internal controls	Administration and management
• Identifying, evaluating and recording risks • Internal controls • Assurance reports on internal controls • Scheme continuity planning • Risk management function	• Financial transactions • Record keeping • Data monitoring and improvement • Receiving contributions • Monitoring contributions • Maintenance of IT systems • Cyber controls

New Element: Effective system of governance

The Pensions Regulator

- The governance regulations have introduced a requirement for most occupational schemes to have and operate an effective system of governance. An effective system of governance should include processes and procedures to ensure compliance with the following modules:

Management	Operations	Finance	Communication
Role of the governing body Meetings and decision-making Appointment and role of the chair Conflicts of interest Remuneration and fee policy Knowledge & understanding Governance of knowledge and understanding Identifying, evaluating and recording risks Internal controls	Managing advisers and service providers Risk management function Record keeping Data monitoring and improvement Receiving contributions Monitoring contributions Maintenance of IT systems Scheme continuity planning Dispute resolution procedures	Investment governance Investment decision-making Investment monitoring Stewardship Climate change Statement of investment principles Financial transactions	General principles for member communications

New Element: Own risk assessment

- Private sector schemes with 100 or more members must complete an Own Risk Assessment (ORA)
- The ORA is then a regular process that requires the governing body to assess the effectiveness and risks of the effective system of governance
- Regulations set out frequency
- Code sets out content and approach

Consultation

- Consulted between 17 March and 26 May 2021
- Spoke with over 1,000 members of the pensions community
- Received 103 formal responses
- Nearly 17,400 individual answers to questions
- Meaningful consideration given to responses
- Design and content changes

When?

The Pensions Regulator

- Coming into force soon
- Currently in final approval process
- Needs to sit in Parliament for 40 days
- Will be widely publicised
- Familiarise yourself with the draft

https://www.thepensionsregulator.gov.uk/en/document-library/code-of-practice

Questions