



TPR single code consultation launched

Introduction

We have been awaiting this new code for some time now. It is The Pension Regulator’s attempt to revamp and rewrite some Codes of Practice that have existed for nearly 15 years. This may make some of us who remember reading them the first time feel quite old. This Code is also notable for the long awaited implementation of the IORP II requirements which should have come into force in 2019.

The new code is a major undertaking and it will take time to fully absorb the areas that Trustees will need to address. This is a high level

summary of some of the key points. However, it is clear that all schemes will need to review and tighten their areas of internal controls. Even the best run schemes will need to take some action as some of the areas covered are new. The key clear goal of TPR is to up the ante on internal governance of pension schemes and their decision making processes.

The table below is a summary of the existing codes that have been included and excluded in this project. The intention remains to bring ALL the codes into one.

Existing Code of Practice	Part of new code	Existing Code of Practice	Part of new code
Reporting breaches of the law	Yes	Internal controls	Yes
Notifiable events	No	Modification of subsisting rights	No
Funding DB	No	Dispute resolution – reasonable periods	Yes
Early Leavers	Yes	Material Detriment test	No
Reporting late payment of contributions to occupational pension	Yes	Governance and admin trust-based schemes with DC	Yes
Reporting late payment of contributions PP	Yes	Governance and admin public sector schemes	Yes
Trustee Knowledge	Yes	Authorisation and supervision of master trusts	No
MNT/MND	Yes		



Own Risk Assessment

This new requirement to undertake an Own Risk Assessment is the area that will focus the minds of all Trustees. It is, at its heart, the core of the new code from which much of it flows. The Own Risk Assessment or ORA is a standalone step in addition to the internal controls (risk register, policies etc) that the Trustees may, and indeed should, already have in place. The ORA is an assessment of the governance systems that are in place, how well they are working and how potential risks are managed. TPR's expectation is that this exercise will be a substantial process.

The report will cover:

- Risk management processes – risk registers, policies, conflicts of interest, continuity planning.
- Investment – governance, monitoring, climate risks etc
- Funding – how trustees assess funding needs and risks of indexation
- Administration – focussing on financial transaction, scheme records, payment of contributions and payment of benefits

Whereas we note that ORAs are not technically required by schemes with fewer than 100 members, we would encourage Trustees to use the opportunity to take the lead and show their own commitment to increased governance via adopting a short-form ORA which is more proportionate to the size, nature and lower complexity of scheme.

The first ORA document will be required within one year of the code coming into force and then annual review thereafter. The report does not need to be proactively shared with TPR but should be available on request. The code is expected to come into force in late 2021 or early 2022.

Other areas of note

Climate Change – there is a short section under investments asking Trustees to consider the impact and implications of climate change on the scheme and sponsor. This would seem in addition to the climate risk assessment requirements recently introduced.

Cyber controls – trustees are expected to be taking action to reduce the risk of cyber-attack and loss of data. Actions will include ensuring trustees understand the risks, risks are managed and reporting data incidents.

Broadstone view

IORP II required updates to the codes to ensure that the UK has an effective system of governance across pension schemes and this opening gambit from TPR would seem to add this new layer. Much of the code is a streamlining but, as noted above, there are some new areas for Trustees to get to grips with. What actions are required will differ from scheme to scheme dependent on the level of work already carried out on governance matters.

However, existing policies and processes will need to be reviewed and documented. The revamp brings some new terminology. Those that run pension schemes (managers or trustees) are now referred to as the scheme's "governing body".

The consultation runs through until 26 May 2021 and so we will have time to assess the final Code and what is required to ensure the "governing body's" processes are fit for purpose.

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