Consultation response

Regulating defined benefit pension schemes

June 2014
Introduction

In December 2013 we published a consultation on a revised code of practice for defined benefit (DB) scheme funding, new DB regulatory strategy and revised DB funding policy.

One of the drivers for developing and consulting on a new approach was to take account of our new statutory objective‘to minimise any adverse impact on the sustainable growth of an employer’ when undertaking our funding functions. The government’s aim in providing the regulator with this new objective was to ensure that the funding regime is sufficiently flexible and does not act as a brake on investment and growth, recognising the vital importance of economically viable and healthy employers to schemes.

A review of the funding code and our approach to DB regulation was also necessary to reflect our experience of regulating schemes over the past eight years, evolving best practice and our greater understanding of risks and to ensure that our approach and guidance remain fit-for-purpose for the challenges facing DB schemes in the next few years.

This document summarises what we said in the consultation, what feedback we received and what changes we have made to our approach and the final documents published alongside this response.

1 Section 5(1), paragraph (cza) of the Pensions Act 2004. The new objective will come into force in July 2014.
Consultation process

In the year running up to the consultation we actively engaged with a wide range of stakeholders across the industry through events and fact-finding meetings to inform the development of our approach and of our documents.

The formal consultation process started on 2 December 2013, following publication of our consultation documents. Consultation ran for 10 weeks, closing on 7 February 2014. We consulted on the following:

- A revised code of practice on scheme funding providing practical guidance for trustees and employers on how to comply with the scheme funding requirements under Part 3 of the Pensions Act 2004

- A DB regulatory strategy setting out our overall strategic objectives in the regulation of DB schemes and our general approach to achieving these objectives

- A revised DB funding regulatory and enforcement policy outlining our approach to regulating DB funding issues, from assessing risk to applying our interventions and measuring impact.

Whilst consulting with industry on changes to the code, we discussed the potential impact on costs. On 25 February 2014 we published a Business Engagement Assessment (BEA) for comment in which we concluded that there would be no significant costs – as long as the code was applied proportionately.

What the consultation said

The consultation documents represented a change to our approach to reflect the balance of our new objective on sustainable growth in the context of our other statutory objectives and to reflect our evolving regulation of DB schemes in the past eight years.

Code of practice on scheme funding

Through our consultation code of practice on scheme funding, we sought to provide trustees and employers with a principle-based framework to help them meet their obligations under Part 3. The consultation code was distilled into nine funding principles to be applied proportionately to the scheme's and employer's circumstances.
In particular the consultation code set out updated practice on:

- **Balance** – The concept of balance ran throughout the code, based on our belief that a strong, ongoing employer alongside an appropriate funding plan is the best support for a well-governed scheme. Trustees should, therefore, seek to reach funding outcomes which deliver the benefits as they fall due whilst minimising any adverse impact on an employer’s sustainable growth and, therefore, its long-term ability to support the scheme.

- **Working collaboratively** – Trustees and employers should work together from the outset to reach balanced funding solutions that recognise the needs of the scheme and the employer’s plans for sustainable growth.

- **Taking risk** – It is not necessary to eliminate all risk nor does the repair of downside risk, should this materialise, need to be immediate. However, trustees and the employer should understand the risks being taken and the ability to manage a range of likely adverse outcomes without adversely impacting on the employer’s ability to invest in sustainable growth.

- **Managing risk** – When assessing risk, trustees should implement an integrated approach which considers the employer covenant and the impacts of investment and funding choices in the round. A similar approach should apply when monitoring and addressing risks.

- **Proportionality** – Whilst it is necessary to understand and manage the risks facing the scheme, trustees should act proportionately in carrying out their functions given their scheme’s size, complexity and level of risk.

- **Reaching funding targets** – The consultation code encouraged trustees to eliminate any deficit as quickly as the employer can reasonably afford. This does not mean that all recovery plans should be as short as possible. Trustees should use the flexibilities available in the funding regime to ensure that recovery plans are appropriately tailored to the scheme and employer’s circumstances.

**Our regulatory strategy for DB schemes**

This is a largely new document. We explained that we balance our objectives by implementing a strategy focused on protecting accrued rights through adequately funded, supported and well governed DB schemes. The document further set out the high-level principles which underpin our approach to regulating DB schemes.
Our funding regulatory and enforcement policy

Our policy for regulating scheme funding set out how our assessment of risk, the setting of our funding policies and prioritising interventions was embedded in the three-year funding cycle and how we aimed to be outcome-focused, integrated, targeted, proactive, transparent and consistent in our approach. In particular, the consultation funding policy set out our proposed practice on:

- **Risk assessment** – We explained that we had retired our old recovery plan triggers and outlined a new risk assessment framework based on a broad range of risk indicators, including the Balanced Funding Outcome (BFO) indicator – a measure of what we consider to be a balanced funding outcome given the strength of the covenant and the scheme’s needs

- **Segmentation** – Because the covenant is a key driver behind the trustees’ funding and investment strategies, we proposed to segment the DB universe by covenant strength to help define what good outcomes might look like for schemes in similar circumstances

- **Prioritisation** – As a risk-based regulator we also explained that we would not seek to engage with all schemes and would therefore apply our risk indicators to select schemes which pose the greatest risks and where we can have the most impact. The primary focus of our proposed engagement was to understand the basis of key trustee decisions, including the consideration of the employer’s plans for sustainable growth

- **Evaluation** – We proposed to measure the impact of our activities through research, regular engagement with industry stakeholders and evaluating our interventions by reference to our analysis at the start of the funding cycle.

Responses to the consultation

We received 85 responses from a wide range of stakeholders including representative and professional bodies, employers, trustees, advisers and individuals. A full list of the respondents is included in the appendix.

In addition, we held a consultation event in London on 14 January 2014 which was attended by around 60 delegates from our key stakeholder organisations; many brought some of their members to discuss their experiences. We also had face-to-face meetings and more detailed discussions with a range of organisations and spoke at several events across the country. The feedback received at these meetings, which largely echoes the comments received in the consultation responses, was also taken into account in our response to the consultation.

We are extremely grateful for all the responses and comments we received, which have helped us considerably in improving our approach and finalising our documents.
Key points raised in consultation

The responses were very thorough and included some detailed views on the consultation questions and other areas addressed in the consultation documents. Due to the more narrative nature of many of the responses we received, we have organised the analysis and our response by the key themes raised in consultation rather than structure our response by the consultation question. All the questions we asked are covered by the discussion points below.

Areas of broad agreement with our consultation

Responses overall were broadly supportive of our proposed approach to the new objective, the consultation code and DB regulatory framework. In particular, a majority of respondents:

- thought that we have appropriately reflected our new objective on minimising the adverse impact on employer’s sustainable growth in our code and regulatory approach and we have struck the right balance with our other existing objectives of protecting member benefits and reducing risks to the Pension Protection Fund (PPF)
- welcomed our broad interpretation of the objective on sustainable growth (depending on the employer’s circumstances or on the nature of the organisation and its aims)
- welcomed the principle-based approach to the new code and thought it reflected existing good practice; in particular, there was strong support for the code’s focus on understanding and managing risks in an integrated way and our greater emphasis on collaborative working between trustees and employers
- felt that it was appropriate for the regulator, given its objectives, to focus on ‘protecting accrued rights to benefits through adequately funded, supported and well governed DB schemes’ and the risks to that aim
- welcomed our intention to retire our old triggers and adopt a more outcome-focused and targeted approach to looking at schemes using a broad range of risk indicators
- thought segmentation by covenant was a useful way of looking at the DB universe
- were of the view that proactive engagement with schemes is useful and effective as long as it is focused on the key risks and issues.
Areas where concerns were raised

However, respondents also raised detailed points or concerns in a number of areas.

1. Code of practice

Interpretation of the new objective on sustainable growth

Some respondents thought that the new objective had been underplayed in the consultation code because the exact wording of ‘minimising any adverse impact on the sustainable growth of an employer’ had not been used, thereby undermining the policy intention behind the objective.

Similarly, some respondents felt that the spirit of the objective had not been fully reflected because they believed that it promoted de-risking and very short recovery plans and a perception that trustees were being elevated above other creditors – these issues are discussed in subsequent sections below.

Our response

We acknowledge the concern about our interpretation of the growth objective in the consultation code and have incorporated the precise wording of the objective throughout to make sure that there cannot be any perception of weakening of the policy intention behind the objective.

We are clear, however, that the growth objective is an objective for the regulator, not for trustees. The trustees’ objective is to comply with their fiduciary and legislative duties; it is also to ensure that scheme benefits can be paid as they fall due. Trustees’ ability to meet these objectives will be greatly enhanced if the employer supporting the scheme remains successful. This is why the framework set out in the final code recognises that a strong, ongoing employer alongside an appropriate funding plan is the best support for a well-governed scheme. It encourages trustees and employers to use the flexibilities in the funding regime to meet the scheme’s needs whilst minimising any impact on the employer’s sustainable growth. We have, therefore, made sure that this balance comes through in the final code whenever mention is made of the need to consider the employer’s sustainable growth.

In our own regulatory approach, we are ensuring that investing in employer growth is always one of the key considerations in the way we look at schemes.
Key points raised in consultation

De-risking

Many respondents felt that the consultation code placed too much emphasis on downside risk and could be interpreted as suggesting that schemes should de-risk, therefore placing undue stress on the employer. There was also concern that, as drafted, the code could imply more onerous requirements on trustees than are reasonable or consistent with legislative requirements.

Our response

We accept that we had not been sufficiently clear on the more positive aspects of risk. Therefore, we have made a specific reference to upside risk or reward in the final code, and in a similar vein we also acknowledge the issue of trapped surplus in contingency planning. We have also clarified the effect of low risk/high risk scheme investment strategies on employers’ cash flows and ongoing covenant.

We acknowledge the concern that some readers may have interpreted some of the original drafting as meaning that all risks that may crystallise need to be covered and that repair for downside risk should be immediate. This was not our intention. Therefore, we have made drafting changes to the final code to clarify that trustees should seek to ‘manage’, not ‘mitigate’ risk, and that the employer should neither have to cover all conceivable risks, nor repair immediately those that crystallise.

In our final funding policy, we are also acknowledging that for weaker schemes, taking risk in a controlled way may be a necessary approach but that risk taking needs to be managed to reflect the impact it may have on employers and members.

Recovery plans and reasonable affordability

Some respondents were concerned that the approach to assess reasonable affordability outlined in the consultation code seemed to imply that trustees should seek contributions from the employer in line with what can be paid rather than what should be paid.

Some also interpreted the principle that ‘trustees should aim for any funding shortfall to be eliminated as quickly as the employer can reasonably afford’ to mean that recovery plans should be as short as possible.

A few respondents argued that schemes with strong covenants should be able to have long recovery plans as a default.
Our response
It is a misunderstanding to suggest that when using the words ‘as quickly as reasonably affordable’ we mean ‘very quickly’.

However, to counter this, we have changed the emphasis on reasonable affordability away from repaying deficits as quickly as reasonably affordable to considering the appropriate period in which to do so in view of the risks to the scheme and the impact on the employer. This redraft does not constitute a change in our approach but we believe that this presentation is clearer and better aligned with the code’s focus on understanding and managing risks.

We believe that running a deficit in relation to an agreed funding target represents risk over and above that set in the technical provisions. The appropriate length of time to eliminate the deficit under a recovery plan is, therefore, a decision influenced by the trustees’ stance on overall risk and their views on the strength of the covenant to underwrite it (including the employer’s affordability and business plans). The final code suggests that it may be appropriate for schemes with strong technical provisions to have longer recovery plans – this should facilitate journey planning should schemes wish to undertake it. But we are equally clear that schemes (even those with strong covenants) that set weak technical provisions in line with the risk-taking capacity of their covenant, should not add further risk by having a long recovery plan.

Contingency planning
Many respondents were concerned that the requirements we set out in the consultation code in relation to contingency planning seemed to suggest that there must be documented mitigations for every conceivable adverse event, which is unrealistic and inflexible, and would place undue burden both on trustees and employers.

Our response
We accept that the approach to contingency planning set out in the consultation code needed to be nuanced. We recognise that there can be different levels of contingency planning depending on scheme circumstances, including the level of risk the scheme is running.

We have redrafted this section. The emphasis is now on trustees thinking about the likely adverse outcomes and what they may do in those circumstances and on having adequate and flexible response strategies and governance structures to allow quick and appropriate action should risks crystallise. At its simplest, this could involve identifying triggers for review and discussion between trustees and the employer.
Tangible, more definitive contingency plans can have the effect of allowing a scheme access to more covenant and enabling the scheme to take more risk.

We are also acknowledging the role of contingency planning in avoiding trapped surplus.

**Covenant assessment and reliance in the long term**

Some respondents were concerned that the 'long-term view' principle, referring to trustees’ decisions having to be consistent with their 'long-term views of employer covenant strength’ did not recognise the practical difficulties of assessing the covenant beyond the short to medium term. There was a further concern for some respondents that, where we did refer to limitations of assessing covenant over the long term, some may draw the conclusion that covenant could not be relied upon in the long term.

**Our response**

We have recognised in the covenant assessment section that it may not be feasible to formally assess covenant in the long term by using forecasts and stressed the importance of looking at a range of plausible scenarios to assess the likely strength of the covenant beyond the medium term.

We have made it clear that the inability to have a certain long-term view of covenant is an aspect of covenant assessment. It is not a view on the nature of the long-term value of covenant but rather highlights the need for ongoing monitoring of the covenant.

**Proportionality**

Many respondents were concerned that proportionality did not follow through consistently in the consultation code or it was not explained clearly how it could be applied in practice. In particular, some thought our expectations around the extent of the analysis required to assess the covenant seemed disproportionate. The concern was that it would be difficult and costly for small schemes to apply the code’s principles.

**Our response**

We have reviewed the drafting to ensure that proportionality is properly referenced and emphasised throughout. We are looking to develop additional guidance to support the final code and will consider whether the proportionality principle can be explained further through illustrative examples.
Key points raised in consultation

On covenant assessment, we had already made clear (under the ‘Working with advisers’ section) that trustees may choose not to commission independent covenant advice as long as they can satisfy themselves that they are sufficiently equipped, independent and experienced to undertake the work to the appropriate standard.

In the section on ‘Employer covenant considerations’, we have emphasised the need for a proportionate approach (for instance, in-depth analysis may not be necessary if the scheme is relatively small or there has been no material change in the covenant since the last review). We also stress that assessment should focus on the knowledge gaps and where value can be added. Finally, we have made clear that the scope of any covenant review will depend on the circumstances of the scheme and it is, therefore, not always necessary for trustees to consider all the factors listed in the code.

**Dividends**

A few respondents were concerned about the approach the consultation code was expecting trustees to take in relation to dividend payments (making sure that the reasonable dividend payments made from the employer in line with industry norms should not usually impact on employer covenant and may be consistent with the employer’s overall plans for sustainable growth).

**Our response**

We recognise the concern that the consultation code may not have made it clear that paying dividends is a normal business activity which can be consistent with employers’ growth plans and trustee objectives to pay benefits in full. We have redrafted accordingly. However dividend payments can, in some cases, be detrimental to the covenant or inconsistent with the funding approach.

The final code, therefore, makes it clear that the need for trustees to scrutinise the employer’s dividend policy depends on circumstances and should be proportionate. It goes on to explain that such scrutiny should only really come into play when, for instance, the covenant is constrained, dividend payments take place at an unusual time or are exceptionally large. We have removed the phrase ‘in line with industry norms’ as it is not something we expect trustees to be able to assess.

**Elevating the pension scheme above other creditors**

Some respondents were concerned that the consultation code seemed to elevate the pension scheme above other creditors, giving trustees too much say over the employer’s investment and other key business decisions.
Our response

It is not our intention to elevate the scheme above that of its natural place as a creditor. We have made changes in the final code to make clear that it is not for trustees to be involved in, or criticise, the key business decisions made by employers and that in most cases employers should be free from the trustees’ scrutiny. We have clarified the circumstances in which such scrutiny will be necessary – for example, where employers are asking for investment in the business to be prioritised over contributions that the scheme needs, trustees need to understand the nature of the investment plans and likely impact on the covenant.

Mature schemes need to be given more flexibility

A few respondents were concerned about the extent to which the maturity of the scheme ought to be a factor in trustees’ consideration of the investment strategy and the regulator’s assessment of risk, implying that mature schemes should de-risk.

Our response

The consultation code had set out that sufficiently strong covenants may be in a position to support mature schemes that continue to run investment risks but that trustees need to be aware of the risks this brings, including the potential for more immediate calls on employers which may affect their scheme’s investment plans. We have done some minor re-drafting to bring this point out more strongly.

Scheme maturity is an element that we consider as part of our overall risk assessment as mature schemes have less time to correct downside risks that crystallise than less mature schemes.

Section 75 double counting

Some respondents restated their concerns about the regulator’s position on section 75 double counting and were of the view that this should not be included in the code.

Our response

We believe that our position reflects the legislative framework but we have redrafted the paragraph in the code to be more reflective that it is guidance.
Key points raised in consultation

Length and clarity of the code
A great majority of respondents thought that the consultation code was too long, which detracted from its clarity, increased the risk of misinterpretation and inconsistencies and made it hard for trustees and employers to understand and absorb the key messages.

Some respondents thought the consultation code was too prescriptive and detailed and should be more principle-based while others thought it could benefit from more case studies or practical examples to explain the key points.

Some also thought there may be undue repetition between the consultation code and the funding policy.

Our response
Scheme funding is a comprehensive, complex issue and the code needs to include a certain level of detail, in particular given its legal standing. We have, however, shortened the final code by around 20 pages by cutting down repetition, consolidating some of the sections and removing some of the appendices. The introduction to the code contains the nine principles underpinning it and provides trustees and employers with a high-level overview of the code’s key messages. In addition we have published an essential guide which serves as a high level introduction to the final code.

The code (which sets out our expectations to trustees and employers in relation to scheme funding) and funding policy (which sets out how we will regulate scheme funding) serve different purposes but are clearly interrelated, so some repetition between the two documents will be inevitable.

We are planning to review our guidance and education material with a view to produce new products to support awareness and understanding of the code. We also intend to improve the DB section of our website so that the most up-to-date version of our guidance and education material is easily accessible.

Charities/not-for-profit organisations
A few respondents thought that we had not made it sufficiently clear what ‘minimising any adverse affect on the sustainable growth of an employer’ means when the employer is a charity or not-for-profit organisation.

They also commented that covenant-related issues for such employers had not been recognised in the consultation code.
Our response

Whilst we recognise that there is some concern around how the new objective applies to different kinds of organisations, we have stated our intention to interpret it broadly. In the absence of any particular drafting suggestions we think it is preferable to retain the wording we use, which reflects the Minister’s explanation in Parliament, rather than risk inadvertently narrowing the application of the objective.

We recognise the different considerations in covenant assessment for not-for-profit organisations and have highlighted this in the final code and policy. We will also consider what additional guidance (for example, on covenant issues) may be useful for these types of schemes.

NAMES schemes

A few respondents expressed the view that the code principles are difficult to apply to non-associated multi-employer schemes (NAMES) (in particular in relation to collaborative working, covenant assessment and seeking balance) and that we should recognise the circumstances of these schemes in the code, in particular setting out ‘materiality’ as a legitimate concern.

Our response

We think that the nine key funding principles of the code should apply to all schemes. However, how they fulfil them may be different.

We have added consideration of the complexity of scheme design and employer relationships to the proportionality section of the final code as a response to the materiality argument. We are considering whether short guidance or examples recognising the particular complexities of NAMES schemes may be helpful.

2. Regulatory approach

Implementation of the new objective in our regulatory approach

Some respondents were concerned that our regulatory approach, in particular in relation to assessing risk and engaging with schemes (for example segmentation by covenant and use of the BFO indicator), may constrain the flexibilities available in the system and undermine the aim of the new objective.

Our response

We believe that our regulatory approach is sufficiently flexible but we have made changes to the funding policy to clarify this further - in particular we have made clear that:
Key points raised in consultation

- our policies are not aiming to limit the flexibilities in the funding regime but rather encourage their use in an appropriate way
- our segmentation and risk indicators are for internal use only. Although in our policy we provide further information on our focus by covenant grade to provide greater transparency on the areas we are likely to be concerned about
- our approach to segmentation is designed to allow us to look at schemes and assess overall outcomes consistently. We are not seeking to drive specific rigid behaviours and are not looking to set out a list of prescribed actions
- covenant is a continuum. The purpose of allocating schemes to one of four covenant grades is purely to undertake an initial screening and to make policy decisions across the landscape in aggregate. We expect trustees to make their own covenant assessment
- we use a broad range of risk indicators and do not focus exclusively on the BFO (renamed Funding Risk Indicator (FRI), see below). Our approach is not to push schemes to target a particular indicator
- we will assess employer’s affordability based on expert judgement which reflects the employer’s circumstances.

Transparency around our risk indicators

Many respondents to the consultation welcomed the move away from our old triggers to using a broad range of risk indicators. While the majority of respondents favoured greater transparency on how our risk indicators are derived, in particular the FRI (previously named BFO), concerns were also raised about the consequences of publishing the FRI.

In particular, stakeholders were concerned that the FRI could be perceived as a new funding requirement, distracting trustees from focussing on the important issues and potentially creating a levelling down of scheme funding. Others thought the indicator was not yet sufficiently robust to be used beyond a case selection tool or too mechanistic/rigid to be able to take account of a scheme’s circumstances, including sustainable growth of the employer.
Our response

We believe that there may be potentially significant benefits to be gained in using the FRI and publishing more detail on our risk indicators in terms of providing clarity around standards, especially for small schemes, driving consistency and providing a useful framework for evaluating impact. However, after careful consideration of the risks and benefits highlighted in consultation responses, we have concluded that we should develop further our approach to risk assessment over the next year, including our risk indicators, to make sure it is sufficiently robust to support our intended uses beyond using it, alongside our other risk indicators, to prioritise our engagement. We have decided, for the time being, not to publish in detail where we set our risk indicators (beyond a high level description) in the funding policy document or in the annual funding statement.

Small schemes and risk-based prioritisation

Many respondents were concerned that our emphasis on considering the size of the scheme in our risk-based approach was not appropriate. Some thought this raised the risk that smaller schemes might not face the same prospect of regulatory scrutiny and be less inclined to focus on compliance. Others argued that smaller schemes tended to be less well administered and advised, more risky than larger schemes and should receive greater regulatory scrutiny. Some also questioned the usefulness of education without what they felt was the same prospect of regulatory scrutiny.

Our response

We believe that our risk assessment and prioritisation approach as set out in the funding policy is consistent with being a risk-based and proportionate regulator and reflects a balanced view of all our objectives. As a risk-based regulator, risks occurring in large schemes, all other things being equal, are of greater concern to us as they have the greatest impact on members and risk to the system (90% of members and liabilities are concentrated in the 1,210 largest schemes2). However, we expect the same standards from all schemes irrespective of size and we do engage with small and medium schemes where we believe that the risk warrants it. So whilst our primary focus will continue to be on education and enablement as the best means of supporting small and medium sized schemes, we will also engage with those schemes. In 2012-2013, nearly half of our investigations were in relation to small and medium sized schemes.

Implementation and evaluation

While many respondents supported the broad approach we outlined in our consultation documents, some were concerned that it may not be fully implemented in our operational approach and casework, in particular in relation to the new objective and around ensuring consistency across all that we do.

Some stakeholders also stressed the importance of having a robust evaluation process in place to measure the regulator’s impact, especially in relation to implementing the new objective, whilst recognising that quantitative measurement would be challenging.

Our response

We are clear on the need to ensure consistency in our approach and messages from strategic level to case work on the ground. Our strategy and policy documents set out how we intend to do this.

In the funding policy we have added as a key area of focus the aim to ensure we implement operationally the messages we are setting out in the code and policy.

We are undertaking a comprehensive implementation programme to ensure the new DB strategy and set of objectives are fully embedded in our operational approach. In particular, we will continue to:

- train operational staff
- review internal guidance
- undertake an ongoing review of risk assessment framework and case selection tools to ensure risks are adequately identified in line with our objectives
- use segmentation and portfolios to drive consistency in our risk assessment and engagement with schemes, and
- use panels to ensure consistency across case decisions.

In addition we are developing a framework to evaluate the impact of our regulatory approach and implementation of our new growth objective. Given that the first round of funding cycles under the new code will not be completed until 2015, we will be focusing initially on qualitative measures such as perception surveys. We will also be looking to develop new key performance indicators and measures to assess the effect of pension schemes on employer growth. Key to this will be the availability of robust data and we will be reviewing information and case recording systems to ensure robust measurement of casework outcomes and impact.

We are happy to work closely with stakeholders to develop ways of quantifying impact.
3. Other issues
We received a significant amount of considered comments on other aspects of our documents. These have been taken on board as far as possible.

Business engagement assessment

Leading up to, and during, the consultation we carried out a BEA by engaging with our regulated community in order to understand the likely cost impact arising from the revised code.

On 25 February 2014 we published our conclusions in a draft BEA document which drew on the engagement we had had, the data we have collected on scheme costs and governance, as well as written responses to our formal consultation. We concluded that implementation costs were not likely to be significant provided the guidance outlined in the code is to be applied proportionately.

We received two responses on the published BEA which focused on the need to emphasise the scalability of the code principles in order to avoid disproportionate impacts on smaller schemes. The changes we have made to take account of these comments are explained in the sections on ‘proportionality’ and ‘contingency planning’.

Next steps

Transitional arrangements

The final code has been laid in Parliament today and is expected to be made and come into force in Great Britain\(^3\) in the following months, subject to the parliamentary process. It will apply to all schemes with valuation effective dates from the code making date onwards.

The code is an important tool to help trustees and employers comply with legislative funding requirements and we strongly encourage all trustees, when considering their funding and investment strategies, to take the new code into account as far as it is reasonable given where they are in their valuation cycle.

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3 The new objective will not come into force in Northern Ireland until later in the year. The code will be laid in the Northern Ireland Assembly soon after.
Next steps

In particular we understand that it may not be entirely practical for schemes which have already undertaken a substantial amount of work towards their valuation (e.g. that have commissioned advice, held detailed discussions with the employer or made decisions) to use the new code. Those schemes can refer to the guidance framework made up of the 2006 code and existing guidance (for example, on monitoring employer support or asset-backed contributions) while being mindful of the messages we have put out over the last few years (in particular, in our 2013 annual funding statement, which recommended that schemes adopt an integrated approach to risk management, and in our 2014 annual funding statement).

We will be regulating against our new objective, alongside our existing objectives, as soon as it comes into force. We will bear the new objective in mind when regulating Northern Ireland schemes, since it is expected to apply in the near future. We will take a pragmatic approach as to the extent to which we expect schemes to have taken into account our new code of practice based on where they are in their valuation cycle.

Future developments

We will review and update our existing guidance and education material for DB schemes to make sure they are up-to-date and consistent with the new code. We are also looking to continue our engagement with stakeholders to keep abreast of developments and inform the development of our approach, in particular in developing ways of measuring our impact. We are keen to work with the industry to develop further guidance to support our approach to the regulation of scheme funding.
Appendix
Respondents to the consultation

ACMCA Ltd
Aon Hewitt
Argyll Financial
Associated British Ports
Association of Consulting Actuaries
Association of Member Nominated Trustees
Association of Pension Lawyers (Legislative and Parliamentary Subcommittee)
Association of Professional Pension Trustees
BAE Systems
Baker Tilly Restructuring and Recovery LLP
Barclays Pension Funds Trustees Ltd
Barnett Waddingham LLP
BBS Consultants and Actuaries Ltd
BP Pension Trustees Ltd
British Telecommunications plc
BT Pension Scheme
Buck Consultants
Burges Salmon LLP
Capita Employee Benefits
Confederation of British Industry
David Weeks
Eversheds LLP
Financial Reporting Council
First Actuarial LLP
Freshfields Bruckhaus Deringer LLP
Fujitsu Services
Gazelle Corporate Finance Ltd
Geerings of Ashford Ltd
GMB
Hymans Robertson LLP

ICAS Pension Committee
J A Joliffe & Co
Jaguar Land Rover Ltd
JLT Benefit Solutions
Keep Britain Tidy
KPMG LLP
Lane Clark & Peacock LLP
Lincoln International Pension Advisory Ltd
Lloyds Banking Group
Macfarlanes LLP
Marcus Sinclair-Tailor
Mayer Brown International LLP
Mercer
National Grid Electricity Group Trustee Ltd
National Grid plc
National Grid UK Pension Scheme Trustee Ltd
Network Rail
Nick Foster
Occupational Pensioners Alliance
Penfida Partners LLP
Pension Employer Covenant Practitioner Working Group
Pensions Management Institute
Plumbing and Mechanical Services (UK) Industry Pension Scheme
PricewaterhouseCoopers LLP
Prospect
Punter Southall Ltd
Punter Southall Transaction Services
Railways Pension Trustee Company Ltd
RBS Pension Trustee Ltd
Appendix

Redington Ltd
Robert Birmingham
Royal London Consulting Actuaries
Sackers and Partners LLP
Scottish Power and ESPS Manweb Pension Schemes
Stagecoach Group Pension Scheme
Superannuation Arrangements of the University of London Trustee Company
Tesco PLC
The Church of England Pensions Board
The Co-operative Group
The Hundred Group Pensions Committee
The Institute and Faculty of Actuaries
The Law Society of Scotland
The National Association of Pension Funds
The Pensions Trust
The Royal Bank of Scotland plc
The Society of Pension Consultants
Towers Watson
Trinity Mirror plc
TUC
Unite
Universities Superannuation Scheme Ltd
Windsor Actuarial
Xafinity Consulting Ltd
Zephyrus Partners Ltd
Zurich Financial Services
Consultation response

Regulating defined benefit pension schemes

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