Please note

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Code of practice no: 13

Governance and administration of occupational trust-based schemes providing money purchase benefits

September 2016

The Pensions Regulator

The Pensions Regulator

Draft to lie before the Northern Ireland Assembly for ten days on which the Assembly has sat or thirty calendar days whichever period is the longer, during which time the Assembly may resolve that the code be not made.

Code of practice no. 13

Governance and administration of occupational trust-based schemes providing money purchase benefits

Presented to the Northern Ireland Assembly pursuant to Article 86(5) of the Pensions (Northern Ireland) Order 2005

6 June 2016

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Purpose of this code of practice

1. This second version of code of practice 13 replaces the version published in 2013.

2. The purpose of this code of practice is to set out the standards of conduct and practice that we expect trustee boards to meet in complying with their duties in legislation. The code assumes that trustee boards have a good level of knowledge of the legislation with which they are required to comply, so while often referring to legislative requirements, it does not seek to set out in detail all the requirements of the law. The absence of reference to any particular piece of legislation must not be taken to mean that we do not expect trustee boards to comply with that legislation. If trustees are not confident that as a board they are conversant with the legislation relevant to those running a scheme which offers money purchase benefits, we urge them to consider whether they are meeting the requirements for trustee knowledge and understanding, and undertake training as appropriate.

3. The standards set out in this code are those that we expect all trustee boards to adhere to insofar as the law applies to them. They represent our view of actions and behaviours which are expected of trustee boards and which demonstrate compliance with the law. In many instances the code is not prescriptive about particular methods that trustee boards should use to meet the standards, in recognition that different approaches may be appropriate for different schemes, eg what is appropriate for a large master trust may not be appropriate for a small single employer scheme. Trustee boards will need to make judgement calls as to what is a reasonable and proportionate method of ensuring compliance for their scheme.

4. If trustees are, for any reason, unable to act in accordance with the standards set out in this code they should consider their statutory duty under section 70 of the Pensions Act 2004 to assess and if necessary report breaches of the law.

5. A number of pieces of guidance support this code of practice. The practical guidance contained in these is designed to help trustee boards in running a high quality scheme. The guidance sets out (and clearly distinguishes between) recommended best practice and suggested approaches that trustee boards may choose to take, where appropriate, for the circumstances of their scheme.

Introduction

6. This code of practice (the DC code) is issued by The Pensions Regulator (the regulator), the body that regulates occupational pension schemes. The code has been produced under the power given to the regulator in section 90 of the Pensions Act 2004, and has been developed in light of the statutory objectives which were introduced by the Pensions Act 2004.

7. Our statutory objectives are to:

   - protect the benefits of pension scheme members
   - reduce the risks of calls on the Pension Protection Fund
   - promote, and improve understanding of, the good administration of work-based pension schemes
   - maximise compliance with the duties and safeguards of the Pensions Act 2008
   - minimise any adverse impact on the sustainable growth of an employer (in relation to the exercise of the regulator's functions under Part 3 of the Pensions Act 2004 (scheme funding) only).

8. We have developed this code to meet the objectives relevant to defined contribution (DC) schemes but recognise trustee objectives to comply with their fiduciary duties and ensure that scheme benefits can be paid as they fall due.

Status of codes of practice

9. Codes of practice are not statements of the law and there is no direct penalty for failing to comply with them[1]. 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 nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. 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[2].

10. 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 the regulator.

1
Section 90(4)
Pensions Act 2004.

2
Section 90(5)
Pensions Act 2004.

To whom is this code directed?

11. This code applies to trustee boards of all occupational trust-based pension schemes with two or more members (whether active, deferred or pensioner) which offer money purchase benefits. This means that as well as applying to DC schemes and DC sections within schemes offering mixed benefits, it also applies to money purchase additional voluntary contributions (AVCs) within occupational defined benefit (DB) schemes, money purchase benefits with a DB underpin, and money purchase underpin benefits where these are provided by a scheme, insofar as the relevant legislation applies to them.

12. Though some specific legal obligations do not apply where the only money purchase benefits provided are AVCs, other requirements do apply to AVCs. Trustee boards of schemes in this category should consider the risks to members in the context of the significance of the value of AVCs relative to members' overall benefits in the scheme, and where the law applies to AVCs, apply a proportionate approach to meeting the relevant standards in our DC code.

13. This code applies to these schemes whether governance and administration functions described in the code are carried out by the trustee board themselves, or have been delegated to a sub-committee or outsourced.

14. Where a scheme offering money purchase benefits also provides defined benefits, the trustee board will need to also follow our **code of practice 3: scheme funding**[3].

15. This code does not apply to:

    - schemes offering only defined benefits
    - work-based personal pensions, stakeholder schemes or other contract-based schemes.

16. For the avoidance of doubt, nothing in this code impacts on these two types of arrangements. These continue to be regulated insofar as the relevant legislation applies as described in our existing codes and guidance. Work-based personal pensions and other contract-based arrangements are primarily regulated by the Financial Conduct Authority in accordance with its rules and guidance.

17. Trustee boards should take professional advice to establish the extent to which the law applies to them.

Northern Ireland

18. In this code, references to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland. The Appendix to this code lists the corresponding references.

3 www.tpr.gov.uk/code3

Terms used in this code

Trustees and **trustee boards** (for the purpose of this code): these terms include trustee directors of a corporate trustee and boards of directors of corporate trustees.

Relevant scheme[4] (for purposes other than in relation to the charge controls): an occupational pension scheme which provides money purchase benefits (excluding money purchase benefits solely related to AVC arrangements), which is not a scheme with only one member, a relevant small scheme or an executive pension scheme.

Relevant scheme[5] (for the purposes of the charge controls): an occupational pension scheme which provides money purchase benefits, which is not a scheme with only one member, a relevant small scheme or an executive pension scheme.

Relevant multi-employer scheme[4] relevant scheme which is or has been promoted as a scheme where participating employers need not be connected employers. Some exceptions apply.

Relevant small scheme[6] A scheme with fewer than 12 members where all the members are trustees of the scheme and either decisions have to be made unanimously or there is an independent trustee appointed to the scheme who appears on our trustee register. Where there is a sole corporate trustee the above conditions apply in relation to the directors of the corporate trustee.

Executive pension scheme[6] A scheme where a company is the only employer and the sole trustee, at least one third of current directors of the company are members, and all the members are either current or former directors.

Specified scheme[6]: A relevant scheme (for the purposes of the charge controls) used by at least one participating employer as a qualifying scheme for the purposes of complying with their duties under automatic enrolment legislation

Default arrangement[6, 7]: An arrangement within a relevant scheme, into which contributions are placed without the member having expressed a choice as to where the contributions are allocated, or in which 80% or more of members have actively chosen to invest at any relevant time. Some exceptions apply (for example, arrangements relating solely to AVCs). Legal requirements applicable to default arrangements differ depending on whether they are used by employers to comply with their duties under automatic enrolment. See also paragraphs 109-112.

4 Regulation 1(2) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

5 Regulation 2(2) Occupational Pension Schemes (Charges and Governance) Regulations 2015.

6 Regulation 2(1) Occupational Pension Schemes (Charges and Governance) Regulations 2015.

7 Regulation 1(2) Occupational Pension Schemes (Investment) Regulations 2005.

The trustee board

19. The trustee board is the body accountable for running a scheme. Trustees are required to act in accordance with their fiduciary duties to the beneficiaries of the scheme, as well as legal requirements.

20. Pensions legislation places rules around the individuals who can act as trustees[8], and in some cases around how a trustee board is made up and how trustees are appointed[9], for example, relevant multi-employer schemes, which includes master trusts. The law also requires that trustees are fit and proper to carry out their duties[10].

21. We expect trustees to act honestly and with integrity, competence and capability, and financial probity. We expect trustees to act in the interests of the members and beneficiaries of the scheme, and to conduct themselves with honesty and integrity, including in matters that arise outside their trusteeship. We also expect professional trustees to be financially sound and not experiencing severe trading difficulties, and to have indemnity insurance. All trustees should possess, or be capable of acquiring, the appropriate levels of knowledge and understanding (see the Scheme management and skills section of this code).

22. We expect the recruitment process for any trustee to include consideration of the fitness and propriety of the candidates. We expect trustee boards to regularly review the fitness and propriety of trustee board members.

Appointing a chair of trustees

23. The law requires schemes offering money purchase benefits to appoint a chair of trustees[11] where they meet the definition of a relevant scheme for this purpose, and where a chair is not already appointed in line with the legal requirements, or an existing chair ceases to hold office as chair.

24. The members of a trustee board remain jointly and severally accountable for running the scheme, and are equally responsible for any decisions taken. The one additional responsibility that the chair has, in law, is to sign the annual chair's statement (see the **Communicating and reporting** section on page 30 for further details)[12].

25. The law requires the chair of trustees to be either an individual trustee of the scheme or a professional trustee body[13]. Where a corporate trustee other than a professional trustee body is the sole trustee of the scheme the law requires a member of the board of directors to be appointed as chair of trustees.

8
Section 29(1)
Pensions Act 1995.

9
Sections 241 to 243
Pensions Act 2004.

10
Section 3(1)
Pensions Act 1995.

11
Regulation 22(1)
Occupational Pension Schemes (Scheme Administration) Regulations 1996.

12
Regulation 23(1)(e)
Occupational Pension Schemes (Scheme Administration) Regulations 1996.

13
Regulation 22(2)
Occupational Pension Schemes (Scheme Administration) Regulations 1996.

26. The law sets out timescales within which a chair of trustees must be appointed, which is generally within three months of a scheme being established or within three months of an existing chair resigning or being removed[14]. We expect trustee boards to treat the timescale permitted in law as a longstop, and to try to appoint a chair of trustees as quickly as possible. The law requires trustee boards to inform us of the name of the chair[15].

27. The role of the chair of trustees is an important one and we expect trustee boards to have a robust and documented process in place for appointing a chair. We expect the process to consider the leadership qualities of candidates and their ability to drive good practice within the scheme.

Member-nominated trustees

28. The law requires most trustee boards to have in place a process for appointing a minimum number of member-nominated trustees (MNTs)[16]. We expect these processes to be documented and to comply with the requirements of our **code of practice 8: MNT/ MND – putting arrangements in place**[17].

Relevant multi-employer schemes (including master trusts)

29. The law requires schemes which are relevant multi-employer schemes to follow specific rules on representation and independence of the trustee board[18]. These include some restrictions on how long some trustees can remain in post as non-affiliated trustees.

30. The law requires relevant multi-employer schemes to have at least three trustees, or where there is a sole corporate trustee in place that isn't a professional trustee body (note that a professional trustee body is treated as one trustee), at least three directors[19]. Trustee boards may of course be larger than this. We expect more than three trustees to be appointed in large scale or more complex schemes, unless all of the trustees are professional trustee bodies.

31. The law requires non-affiliated trustees to be appointed to the scheme in an open and transparent fashion[20] and gives examples of processes trustee boards may follow. Following the process set out in law for selecting an MNT or member-nominated director (MND) counts as an open and transparent process. Trustee boards may decide to use recruitment methods other than those examples included in legislation. However, whatever process they use, trustee boards need to be able to demonstrate how it meets the requirements for openness and transparency.

14
Regulation 22(4) to (6) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

15
Regulation 3(1)(da) Register of Occupational and Personal Pension Schemes Regulations 2005.

16
Section 241(1) Pensions Act 2004.

17
www.tpr.gov.uk/code8

18
Regulations 27 to 28 Occupational Pension Schemes (Scheme Administration) Regulations 1996.

19
Regulation 27(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

20
Regulation 28(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

32. Where a trustee who was already in post at the date the law regarding these independence requirements came into force, is deemed to be 'non-affiliated', we do not expect them to go through a reappointment process to fit the 'open and transparent recruitment' criteria.

33. The law requires trustees to have a process in place to encourage scheme members, or their representatives, to make their views known on matters that affect them[21]. We expect trustee boards to consider the size, nature and demographic of their scheme membership, and the extent to which member representation is present on the trustee board, and to put in place appropriate channels so that members can express their views.

21 Regulation 29 Occupational Pension Schemes (Scheme Administration) Regulations 1996.

Scheme management skills

34. Having the right number of trustees from the right background is just one of the components needed to ensure a DC scheme is well run. We expect trustee boards to seek to ensure that all members of a scheme, whether deferred, active or in a decumulation phase, benefit from good governance.

35. Therefore it is vital that trustee boards possess and are able to demonstrate the right level of knowledge and understanding in relation to their scheme. We also expect them to possess certain skills in the application of that knowledge.

36. We expect trustee boards to spend an appropriate amount of time running their scheme, which will depend on the:

    - size of the scheme (or section of the scheme offering money purchase benefits)
    - complexity of the scheme rules and structure
    - complexity of any particular issues affecting the scheme.

Managing risk

37. The law requires that trustee boards establish and operate adequate internal controls[22] to ensure that the scheme is administered according to the scheme rules and the law.

38. Trustee boards need to understand the various risks that members are exposed to. They need to:

    - identify those risks
    - evaluate the likelihood and impact of the risks occurring
    - take steps to manage or mitigate them.

39. Risks to which members' benefits are exposed will vary across areas such as fraud, investment, administration, communications and decumulation options available to members. We expect trustee boards to record on a risk register the risks they identify, their evaluation of each risk and how they are managing it. We also expect trustee boards to regularly review and monitor their exposure to both new and existing risks and keep their risk register up to date, including plans with target dates for mitigating or closing risks.

40. We expect trustee boards to regularly discuss key risks and issues, including topics on which they must report in the annual chair's statement[23], and the extent to which the scheme is meeting the standards set out in this code.

22
Section 249A(1) Pensions Act 2004.

23
Regulation 23 Occupational Pension Schemes (Scheme Administration) Regulations 1996.

Trustee knowledge and understanding

41. The law requires that trustees are conversant with (ie have a working knowledge of) the documents governing their scheme[24]. It also requires that they have knowledge and understanding of pensions and trust law as applicable, and the principles of investment.

42. The level of knowledge and understanding required of individual trustees varies according to the role and expertise of the trustee and the type of scheme. We expect the trustee board as a whole to possess or have access to, and maintain, the knowledge and understanding necessary to properly run the scheme and ensure sufficient standards of governance and administration.

43. Newly appointed trustees who are not professional trustees are required to attain the required level of knowledge and understanding within six months of being appointed[25].

44. We expect professional trustees and trustees appointed having held themselves out to be an expert to meet a higher standard of care, and to be able to demonstrate appropriate knowledge and understanding immediately from their date of appointment[26]. We expect professional trustees and individual trustees who are appointed because they bring specialist expertise (eg investment) to demonstrate a greater level of knowledge in those areas than trustees without such expertise.

45. The law requires trustee boards to have a working knowledge of the rules relating to their scheme, including the extent of the powers which they are permitted to exercise under the scheme rules, and the benefit structure, including decumulation options available to members. They must also have a working knowledge and understanding of any policies in place, or practices that have been set by precedent, which may not be explicitly set out in the trust deed and rules. For example, a policy may be in place to limit the number of uncrystallised fund pension lump sums (UFPLS) a member can take within a given period of time.

46. Trustee boards need to identify where they have the discretion to review and change policies and practices, and aspects of the scheme rules. Where this is the case, we expect trustee boards to regularly review the appropriateness and suitability of any such policies, practices and relevant scheme rules in order to meet the standards set out in this code. For example, where the practice is for trustees to give consent to a member's benefits being paid, outside of decisions they are required to make under the scheme rules, they might consider whether other options are available which would reduce the time it takes for a member's benefits to be paid.

24
Sections 247 to 248 Pensions Act 2004.

25
Regulations 3 to 4 Occupational Pension Schemes (Trustee's Knowledge and Understanding) Regulations 2006.

26
Regulations 3 to 4 Occupational Pension Schemes (Trustee's Knowledge and Understanding) Regulations 2006.

47. We expect trustee boards to know whether their scheme is being used by one or more employers for the purposes of complying with their duties under automatic enrolment legislation.

48. We have published **Code of practice 7: Trustee knowledge and understanding (TKU)**, along with supporting guidance, and we expect trustee boards to meet the standards set out in that code[27] insofar as it is directed at them.

49. We expect trustee board members to be able to demonstrate that they have considered their level of knowledge and understanding and have taken steps to address any gaps. They could do this by completing the **Trustee toolkit** (**www.trusteetoolkit.com**) or an alternative measure that provides the same level of knowledge and understanding. Training may need to be scheme specific on occasions, and timely relative to the scheme life cycle issues being faced by the trustees. We expect trustee boards to have training and development plans in place, and to maintain them to ensure their knowledge and understanding is kept relevant and up to date.

50. The law requires that trustees describe annually in the chair's statement how they have met the legislative requirements for trustee knowledge and understanding during the previous scheme year[28]. Trustees must explain how the combined knowledge and understanding of the trustee board, together with the advice available to the board, enables them to properly exercise their functions as trustees of the scheme. See the 'Communicating and reporting' section for further detail on the chair's statement.

Appointing and managing relations with advisers and service providers

51. Trustee boards often need to (and in some cases are required to[29]) appoint professional advisers and service providers to their scheme to carry out specific tasks (eg administration) on their behalf, to provide advice, and to supplement their skills and knowledge.

52. Where trustees appoint advisers and service providers, as required by law or otherwise, the trustees retain ultimate accountability. It is therefore vital that trustee boards fully understand the scope of the roles and responsibilities being delegated to third parties and the role of advisers in relation to the scheme. The ability to effectively manage commercial relationships is a key skill that we expect trustee boards to be able to demonstrate.

27
www.tpr.gov.uk/code7

28
Regulation 23(1)(d) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

29
Section 47 Pensions Act 1995.

53. We expect trustees to be familiar with and understand the impact of the terms and conditions of contracts with service providers. This includes (but is not limited to):

    - the scope of services being provided
    - the cost of those services and the basis for calculating those costs
    - the arrangements, including notice periods, any fees or penalties, and procedures for releasing relevant information to trustees and new advisers, if the service provider is changed
    - any limits on liability.

54. We expect trustee boards to be satisfied that, as far as possible, the terms and conditions of any contracts with advisers and service providers enable the trustee board to obtain all the information and advice they need to make key decisions (eg setting the investment strategy, or assessing the extent to which costs and charges represent good value for members).

55. We expect a trustee board's breadth of knowledge and understanding to enable the trustee board to fully understand any advice they receive. We expect trustee boards to be able to challenge advice they are given and understand how such advice impacts on any decisions for which they are legally responsible.

56. Trustee boards need to be confident that any service providers they appoint are operating in accordance with the legal obligations that trustee boards are required to meet, for example, ensuring that core financial transactions are processed promptly and accurately. We expect trustees to regularly monitor the performance of their service providers, and have controls in place to accommodate that monitoring. This includes requiring sufficient reports and relevant information from service providers to allow the trustees to be confident that their service providers are performing as expected. We expect the trustee board to analyse this information, and discuss it regularly at trustee board meetings.

57. We expect trustee boards to regularly communicate with representatives from service providers carrying out key elements of the day to day running of the scheme and, where appropriate, to invite them to attend trustee board meetings.

58. Where a trustee board is not satisfied with the service they receive from an adviser or service provider, or believes they are not receiving value for money for members and is unable to resolve those concerns, it will need to consider whether it is in the interests of the scheme members to use another party to provide that service in the future. The law requires trustees to disregard any requirements of the trust deed or scheme rules which prescribe or restrict the choice of any adviser or service provider to the scheme[30]. Accordingly, we expect trustee boards to discount any such provision in the scheme rules and to select, appoint and review advisers and service providers to the scheme, taking into account the members' best interests.

Working effectively with the employer

59. Employers have a key role to play in the successful running of a DC scheme. This includes being responsible for providing key member data to the trustee board and their administrators and paying contributions to the scheme within prescribed timescales[31].

60. Trustee boards need to have a full understanding of the employer's responsibilities, and work with them to ensure they also fully understand those responsibilities, including the potential impact on members, and additional cost implications, of failing to meet them properly. We expect trustee boards to work with and help employers to understand and carry out their responsibilities. We expect trustees to regularly review the processes and mechanisms that the employer uses to provide information, taking steps where possible to improve those processes where they can be made more effective.

Conflicts of interest

61. Conflicts of interest may arise from time to time in the course of running a pension scheme, either among trustees themselves or with service providers and advisers. Part of the requirement in law to establish and operate adequate internal controls[32] includes having processes in place to identify and manage any conflicts of interest.

62. We expect these controls to include as a minimum:

- a written policy setting out the trustee board's approach to dealing with conflicts
- a register of interests (which should be reviewed at every regular board meeting)
- declarations of interests and conflicts made at the appointment of all trustees and advisers
- contracts and terms of appointment to require advisers and service providers to operate their own conflicts policy and disclose all conflicts to the trustee board.

30 Regulation 6A Occupational Pension Schemes (Scheme Administration) Regulations 1996.

31 Regulation 16 Occupational Pension Schemes (Scheme Administration) Regulations 1996.

32 Section 249A Pensions Act 2004.

Administration

63. Good administration is the bedrock of a well run DC scheme. The nature of a DC scheme means that it depends on the timely and accurate processing of multiple transactions. These range from investing contributions in the scheme to paying benefits at the point a member begins to decumulate and access their retirement funds, whether via the scheme itself or through one or more transfers to alternative arrangements. A breakdown in any transaction in a DC scheme can lead to member losses and costs to the scheme and employer to put any errors right.

64. We expect the trustee board to consider administration as a substantive item at every regular meeting. We also expect administration, including key elements such as record-keeping, to feature on the scheme's risk register.

65. Administration is one of the main areas that trustee boards often outsource to a third party, or it is dealt with by a particular area within the sponsoring employer's business. This can vary from an individual within the HR department, to a dedicated pensions department. Trustee boards remain accountable for the quality of the scheme administration and all legal requirements that relate to it. In all cases, we expect trustee boards to have a clear understanding of the scope of administrator responsibilities, and the tasks which the administrator carries out.

66. We expect trustee boards to regularly receive appropriate information or stewardship reports from their administrators. These should allow them to effectively monitor performance and ensure that all tasks delegated to the administrator are being carried out to a standard which allows the trustee board to be satisfied that, at a minimum, it can meet its legal obligations.

67. We expect trustee boards to adopt procedures to check that whoever carries out their scheme administration has the appropriate training and expertise. We expect trustee boards to have procedures in place to enable a continuous and consistent service in the event of a change of administrator personnel, or administration provider. For many schemes this is likely to include a manual that sets out the procedures to follow when administering the scheme.

68. We expect trustee boards to ensure that they have an adequate business continuity plan and that this is reviewed at least annually, and tested as appropriate. The complexity of this plan will depend on the size and complexity of the administration operation, but we expect it to cover:

    - loss of key personnel
    - business disaster recovery
    - safeguarding of data
    - how to continue to process core financial transactions.

69. Where a third party administrator is used, trustee boards will need to understand the business continuity arrangements that the service provider has in place, and be confident that it adequately mitigates any risks to member data and benefits.

Core financial transactions

70. The law requires trustees to ensure that core financial transactions are processed promptly and accurately[33]. We expect trustee boards to have a good knowledge of the procedures and controls the administrator operates to ensure that core financial transactions are processed promptly and accurately. We expect trustee boards to treat all transactions which relate to the handling of member and employer contributions, and assets relating to those contributions, once they have been received by the scheme, as 'core financial transactions'.

Promptness

71. There are a number of variables which can influence what is considered to be 'prompt', for example, the timing of the investment cycle in a scheme. Trustees may not always have the power to amend or change the frequency of all processes that affect the time it takes to process a core financial transaction. Where they do have the power we expect trustee boards to regularly review those processes and, where appropriate, make amendments to shorten the time it takes to process core financial transactions. This includes taking into account developments in technology that may be available to the scheme.

72. We do not expect trustee board sign off processes for any core financial transaction to cause undue delay to processing a transaction. For example, where trustees are required to sign paperwork to authorise a transfer out of the scheme, the frequency of trustee meetings should not cause the processing of a transfer out to be delayed.

33 Regulation 24(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

73. We expect trustee boards to use electronic means to process financial transactions wherever possible. We expect payment of monies by cheque to be appropriate only in exceptional circumstances. We also expect trustee boards to consider using services and platforms that facilitate the prompt transfer of funds.

74. We expect trustee boards to have service level agreements (SLAs) in place with their administrator which are appropriate to the scheme and the tasks which the administrator carries out, and to keep these under review and aligned with the requirement to promptly process core financial transactions. Where the tasks relating to particular transactions are broken down into separate components in an SLA, trustee boards will need to make a judgement as to whether the total end-to-end time allowed for core financial transactions within an SLA can reasonably be considered 'prompt'. When determining whether timescales set out in SLAs can be considered 'prompt', we expect trustee boards to take into account any relevant comparable data, where available.

75. In some circumstances the law sets out maximum timescales for certain tasks and transactions. We expect trustee boards to treat these legislative timescales as absolute maximums, and not to consider them equivalent to 'prompt'.

76. Where a scheme operates a daily dealing cycle, we expect trustee boards to ensure that contributions to the scheme, including sums transferred into the scheme, are invested within a maximum of three working days following receipt of the contributions, and after completion of a reconciliation exercise. Where the dealing cycle is less frequent than daily, we expect investment to take place at the next available dealing date, and within a maximum of five working days, after completion of the reconciliation exercise. Where any discrepancies in contribution reconciliations arise, we expect only the unreconciled contributions to be held pending resolution, and for the remainder to be invested accordingly.

77. As set out in the Scheme management skills section of this code, the timing of information and contributions paid by employers are often key to the speed with which a core financial transaction can be processed. We expect trustee boards to work with and help employers to understand and carry out their responsibilities, and regularly review the processes and mechanisms the employer uses to provide information, taking steps to improve those processes where they can be made more effective.

78. We have published **Code of practice 5: Reporting late payment of contributions to occupational pension schemes**[34] which covers receiving contributions from employers and what to do if contributions are not paid on time.

34 www.tpr.gov.uk/code5

Accuracy

79. There are a number of components to ensuring that transactions are processed accurately, including data, processes, systems and scrutiny of the controls in place.

80. Trustees need to ensure that the data they or their administrator hold is complete and accurate so that core financial transactions are processed accurately.

81. We expect trustee boards to ensure that they hold the basic member information known as common data[35]. Different data items are required by different schemes to calculate a member's benefits: this depends on the scheme design and systems design, member circumstances (eg pension sharing orders) and events that have occurred during an individual's membership (eg transfers in). This data is known as conditional data. We expect trustee boards to identify the items of conditional data in their scheme, working with their administrator as necessary.

82. We expect trustee boards to carry out a data review exercise at least annually, working with their administrator as necessary. This includes assessing how complete and accurate the common and conditional data is, as well as documenting the process and outcome. Where gaps in data are identified, we expect trustee boards to put plans in place to complete the scheme's records as soon as possible, and to document those plans and progress made towards completion.

83. We expect trustee boards to make arrangements to ensure that contributions and investments, and the records relating to them, including member records, are reconciled at least monthly and that any discrepancies are resolved promptly. We also expect total unit reconciliations to be carried out regularly with investment managers to ensure that the total investments recorded by the scheme are consistent with the investment manager's records.

84. We expect trustee boards to correct any errors identified as quickly as possible and to review and amend processes as necessary to prevent further errors, taking into account developments in technology that may be available to the scheme.

35 http://www.thepensionsregulator.gov.uk/guidance/guidance-record-keeping.aspx

Investment governance

85. Appropriate investment governance in DC schemes, including during accumulation and leading up to and during decumulation, is one of the most influential factors in the delivery of good member outcomes.

86. In most schemes, trustee boards are responsible for investment governance and the law requires them to have a good working knowledge of investment matters relating to their scheme[36]. Trustee boards are also required to make investment decisions in the light of appropriate advice from a suitably qualified person[37], and to appoint a fund manager to manage any investments[38].

87. We expect trustee boards to understand the investment powers and duties they have under the scheme trust deed and rules and legislation, and to ensure that decisions are taken by those with the skills, knowledge and resources necessary to do so effectively. This includes considering the benefits of delegation and the potential for establishing an investment sub-committee.

88. We expect trustee boards to regularly review the governance structure relating to how investment risks are assessed and investment decisions made.

89. Although there are additional legislative requirements relating to default arrangements in relevant schemes, we expect trustee boards to ensure an appropriate choice of investment arrangements for those members who do not wish to invest in the default arrangement, and to apply good governance to all their scheme's investments.

Documenting investment matters

90. We expect trustee boards to clearly document their investment governance, including the objectives, roles, responsibilities and reporting relationships of all parties involved in making investment decisions.

91. The law requires trustee boards to produce a statement of investment principles (SIP), unless they fall within an exemption[39]. As a minimum, the SIP must cover the trustee board's policies relating to the scheme's investments, including their policy for complying with legal requirements in relation to choosing investments.

92. The law also requires trustee boards of relevant schemes to produce a SIP for their default arrangement(s), which is subject to different requirements[40].

36
Sections 247 to 248 Pensions Act 2004.

37
Section 36(3) Pensions Act 1995.

38
Section 47(2) Pensions Act 1995.

39
Section 35(1) Pensions Act 1995.

40
Regulation 2A(1) Occupational Pension Schemes (Investment) Regulations 2005.

93. The law does not require, nor do we expect, trustee boards to have separate SIP documents for each individual arrangement within a scheme, although those that find it easier to prepare separate SIPs may do so. The law requires trustee boards to make the most recent SIP relating to any default arrangement(s) available to members as part of the chair's annual statement[41] and the scheme's annual report and accounts.

Setting investment objectives and investment strategies

94. The law requires trustee boards to take certain matters into account when exercising their powers of investment[42]. These requirements will need to be taken into account when setting investment strategies[43].

95. We expect trustee boards to ensure that the membership data on which investment strategies are based is accurate (see the Administration section for further details).

96. We expect trustee boards to consider the interests of both active and deferred members as part of the process of setting investment objectives and strategies and, where relevant, members who are in a decumulation phase within the scheme.

97. When setting investment strategies, we expect trustee boards to take account of risks affecting the long-term financial sustainability of the investments.

98. We also expect trustee boards to regularly take steps to engage with members about the date they may wish to take their benefits and any preferences they have about how to take their DC benefits, and to consider any information provided when determining investment options to offer to members and strategies for the scheme. This includes considering matters such as the likelihood of members wishing to gain flexible access to their benefits and preferences for particular approaches to investment (eg sustainable funds).

99. We recognise that the investment needs of members will vary across the membership profile and over the lifetime of the membership. We expect trustee boards to consider the scheme's investment strategy as a whole (not just the component funds) and to take into account the characteristics of different segments of members, for example by proximity to retirement or likelihood of selecting a particular retirement option.

41
Regulation 23(1)(a) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

42
Regulations 4 and 4A Occupational Pension Schemes (Investment) Regulations 2005.

43
Section 36(1) Pensions Act 1995.

100. Effective member engagement plays an important role in achieving good outcomes for members. We expect trustee boards to ensure that members have access to enough information about the investment options available to make informed decisions about their investment choices and to understand the potential impact of those decisions on their pension savings. See also the section on **Communicating and reporting** on page 30.

Monitoring and reviewing investment strategies and fund performance

101. The law requires trustee boards to review their scheme's SIP at least every three years and without delay following any significant change in investment policy[44]. Trustee boards must also consult with the employer, and take advice from a suitably qualified person[45], about their scheme's SIP before preparing or revising it.

102. There are additional legal requirements that relate to reviewing and monitoring default arrangements[46]. Trustee boards of relevant schemes are required to review both the default strategy[47] and the performance of the default arrangement at least every three years and without delay following any significant change in investment policy or the demographic profile of relevant members. When carrying out these reviews, they are required to consider the extent to which the return on the investments relating to the default arrangement (after deduction of investment charges) is consistent with the trustee board's aims and objectives for the default arrangement.

103. We expect trustee boards to regularly assess the performance of each investment option, including any default arrangement, within the context of the relevant objectives and to consider evaluating performance by referring to industry benchmarks for investment funds with similar risk/reward profiles. This includes documenting the evaluation process and taking account of the total level of costs and charges levied on each fund, including transaction costs (incurred as a result of buying, selling, lending or borrowing investments) wherever possible.

104. We expect trustee boards to regularly review their membership profile and to adjust their investment strategies as appropriate. This includes taking into account the number and risk profile of investment funds and/or arrangements offered to members as an alternative to the default strategy.

105. We expect trustee boards reviewing their investment strategies to consider the changing long-term investment market conditions, and the investment products and techniques available in the marketplace which may be appropriate for their scheme.

44
Regulation 2(1) Occupational Pension Schemes (Investment) Regulations 2005.

45
Regulation 2(2) Occupational Pension Schemes (Investment) Regulations 2005.

46
Regulation 2A Occupational Pension Schemes (Investment) Regulations 2005.

47
Regulation 2A(2) Occupational Pension Schemes (Investment) Regulations 2005.

106. Where trustee boards are thinking about changing the scheme's investment funds or investment manager, we expect trustee boards to understand the transition options available and, having taken appropriate advice from a suitably qualified person, decide which is the most suitable and efficient for the scheme and membership.

Security and liquidity of assets

107. The law requires trustee boards, and any financial manager to whom any discretion has been delegated, to exercise their investment powers in a way that is intended to ensure the security, quality, reasonable liquidity and profitability of the portfolio as a whole[48]. The law also requires trustee boards to invest scheme assets predominantly in instruments admitted to trading on regulated markets[49]. Where investment options which are not admitted to trading on regulated markets are offered, we expect trustee boards to identify those as such in the SIP and explain why it was appropriate to include them in that form. This includes how such investment aligns with the objectives set out in the SIP.

108. The law requires trustees to give due consideration to asset protection and to understand what would happen in the event of a problem. Given the complexity of this area, we expect trustee boards to assess the extent to which, and in what circumstances, any loss of scheme assets might be covered by indemnity insurance or similar arrangement, or a compensation scheme such as the Financial Services Compensation Scheme, and to communicate the overall conclusion about the security of assets to members and employers.

Default arrangements

109. The law sets out how trustee boards can identify a 'default arrangement' in their schemes[50]. The definition may differ from what trustee boards traditionally think of as their scheme's default fund or strategy and they 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 should allow for a default arrangement being formed from a single investment fund or collection of funds in a relevant scheme.

110. Default arrangements in schemes which are being used by employers in order to comply with their duties under automatic enrolment legislation are subject to a legislative charge cap[51] (see the **Value for members** section on page 26).

48
Regulation 4(3) Occupational Pension Schemes (Investment) Regulations 2005.

49
Regulation 4(5) Occupational Pension Schemes (Investment) Regulations 2005.

50
Regulation 1(2) Occupational Pension Schemes (Investment) Regulations 2005.

51
Regulation 6 Occupational Pension Schemes (Charges and Governance) Regulations 2015.

111. Where scheme members have expressed a choice in the past about where their contributions are invested, but now those contributions are being paid into a different arrangement without members making a new choice, trustee boards need to consider whether the original choice extends to the new arrangement. This includes considering whether the choice related to a particular investment strategy where the possibility of changes to the underlying arrangements was disclosed, and whether members were informed in advance that changes to the arrangement were going to be made and were given the opportunity to actively choose to switch to the new arrangement as nominated by the trustees.

112. Where it is not immediately obvious whether arrangements within a scheme are default arrangements, we expect trustee boards to seek professional advice to understand how their scheme is affected.

Value for members

Assessing value for members

113. Poor value for members is a key risk that trustee boards need to manage.

114. The law requires trustee boards to calculate at least annually the charges and, insofar as they are able to, transaction costs (incurred as a result of buying, selling, lending or borrowing investments), to which members' funds are subject; and to assess the extent to which they represent good value for members[52]. Trustee boards must explain their assessment of value for members in the annual chair's statement (see the **Communicating and reporting** section on page 30)[53]. We expect this explanation to address how they have carried out the assessment, and the conclusions they have reached. We also expect the evidence trustee boards have used to arrive at their conclusions to be documented contemporaneously.

115. Value for members does not necessarily equate to 'low cost', notwithstanding that the law puts in place certain charge limits on some schemes (see paragraphs 125-130). A scheme which fully complies with the charge controls will not necessarily provide good value for members. In our view, charges and transaction costs are likely to represent good value for members where the combination of costs and what is provided for the costs is appropriate for the scheme membership as a whole, and when compared to other options available in the market.

116. We recognise that different members place different values on the various services provided by a scheme, and that there is no uniform approach to assessing value for members that is suitable for all schemes. We expect trustee boards to make efforts to understand the characteristics of their members and, where possible, their preferences and financial needs, and to take this into consideration when exercising their judgement about what represents value for members. This includes taking into account characteristics such as the demographic and, where possible, the salary profile of the membership.

117. Where direct member feedback is limited, we expect trustee boards to consider what alternative methods they can use to assess what represents value for their members. This might include using publicly available industry research reports to compare their scheme to similar schemes.

52 Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

53 Regulation 23(1)(c) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

118. There are four key areas that we expect trustee boards to consider as a minimum when they assess value for members:

- scheme management and governance
- administration
- investment governance
- communications.

119. The standards we expect trustee boards to meet in each of these areas are covered in this code, and we expect trustee boards to use these as a starting point when assessing value for members. This includes particular reference to those elements of scheme governance that they are required to report on in the annual chair's statement.

120. There may be other areas which trustee boards consider to provide material value for members, which might be taken into account in the assessment.

121. We expect trustee boards to focus on elements of scheme provision for which members bear the cost when they assess value for members. Where an employer covers the total cost of distinct services provided to the scheme, we expect trustee boards to consider only the extent to which the services for which members bear the cost offer good value relative to those costs. Where costs 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, we expect trustee boards to take into account all elements of services provided when carrying out their assessment. We expect trustee boards to clearly set out the basis of cost sharing in their explanation of the value for members assessment in the chair's statement.

122. Assessing value for members requires trustee boards to make arrangements to obtain information from relevant parties such as insurers, service providers, investment managers and other advisers. The parties holding the relevant information will vary from scheme to scheme and depend on the structure of the scheme. We expect trustee boards to be able to identify the various entities that hold the relevant information, and to have a record of the individual or department they use as a contact for each of those entities.

123. We expect trustee boards to engage early with these parties and establish the lead-in time that is required to provide information about transaction costs. We expect trustee boards to record any problems they encounter in obtaining the necessary information and the steps they are taking to obtain that information in the future.

124. Where trustee boards identify areas which do not provide good value for members, we expect them to document the issues and take steps to improve value for members in those areas. Where it is not possible for value for members to be improved, we expect trustee boards to document the reasons for this.

Restrictions on costs and charges

125. The law places certain restrictions on the amount that members can be charged in default arrangements used by employers to meet their duties under automatic enrolment legislation[54]. Some types of charge or cost are excluded and do not count against the charge cap – for example, transaction costs.

126. 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[55].

127. When calculating whether any default arrangements are compliant with the charge controls, we expect trustee boards to document their calculation process and, in all but the most straightforward cases, to seek professional advice. We also expect trustee boards to consider guidance which the government has produced and may update from time to time[56].

128. The law also bans the practice of charging more to non-contributing members than they would otherwise pay if they were contributing members (commonly known as active member discounts)[57]. This ban applies to all arrangements within a relevant scheme, not just the default arrangement.

129. Additionally, the law bans new member borne commission[58], and requires trustees to report to the regulator where its service providers have such commission arrangements in place. The ban applies to all arrangements within a 'specified scheme'.

130. The law requires the member borne costs and charges across all arrangements within a scheme to be disclosed in the annual chair's statement[59]. This includes transaction costs, insofar as trustee boards have been able to obtain that information. Where trustee boards have not been able to obtain information about transaction costs, the law also requires the chair's statement to indicate the information they have been unable to obtain and explain what steps are being taken to obtain the information in future. The costs (or range of costs) for default arrangements must be reported separately from the costs (or range of costs) for other arrangements in the scheme.

54
Regulation 6 Occupational Pension Schemes (Charges and Governance) Regulations 2015.

55
Regulation 5(1) Occupational Pension Schemes (Charges and Governance) Regulations 2015.

56
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/420215/charge-cap-guidance-apr-2015.pdf

57
Regulation 11 Occupational Pension Schemes (Charges and Governance) Regulations 2015.

58
Regulation 11A(2) Occupational Pension Schemes (Charges and Governance) Regulations 2015.

59
Regulation 23(1)(c) Occupational Pension Schemes (Scheme Administration) Regulations 1996.

The adjustment measure[60]

131. If, despite their best efforts, the trustee board concludes that it is unlikely to be able to comply with the charge cap for a particular default arrangement, the law permits use of the 'adjustment measure' which, if correctly implemented, means the charge cap does not apply to the affected default arrangement. This may only be used in exceptional circumstances which cause the scheme to incur costs over which the trustee board has no control.

132. The law sets out certain conditions that must be met for the adjustment measure to be effective. Failure to meet those conditions will result in the default arrangement continuing to be subject to the charge cap.

133. Some scheme rules may not permit the trustee board to take the steps set out in legislation. However, the law permits trustee boards to make amendments to their scheme where necessary, in order to implement the adjustment measure[61]. We expect trustee boards to take professional advice on the steps they need to take to use the adjustment measure.

60
Regulation 10 Occupational Pension Schemes (Charges and Governance) Regulations 2015.

61
Regulation 7B Occupational Pension Schemes (Modification of Schemes) Regulations 2006.

Communicating and reporting

Communicating with members

134. Good member communications, provided at the right time and in an accessible format are vital if members are to engage and make decisions that lead to good outcomes in retirement.

135. The law sets out some circumstances in which trustee boards must communicate with their members, the information they must provide and the timescales within which to provide the information[62]. These requirements range from information provided when a member joins the scheme, in ongoing communications throughout the membership period, when a member takes benefits from the scheme, and beyond. The law also sets out information that trustee boards must provide to certain parties, including members, on request.

136. We expect trustee boards to ensure that all communications sent to members are accurate, clear, relevant and provided in plain English.

137. We also expect trustee boards to regularly review member communications and, when deciding on the format of communications, to take account of innovations in technology that may be available to them and appropriate for their members.

138. Where the law requires certain information to be provided in a particular communication, we also expect trustee boards to consider what additional information or explanations members might need in order to make informed decisions about their benefits. For example, when issuing a statutory money purchase illustration (SMPI) which provides an illustration, based on assumptions, of the income a member might receive from an annuity, we would expect trustees to consider making the member aware of their rights in respect of options for accessing flexible benefits.

139. Similarly, we expect trustee boards to ensure that members are regularly informed that their level of contributions is a key factor in determining the overall size of their pension fund.

62 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

At retirement communications

140. Members of pension schemes providing money purchase benefits have a variety of options for taking retirement income and 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 or may not have all options to access flexible benefits available to them directly from the scheme. They may need to transfer to another arrangement to gain access to the full range of options.

141. We expect trustee boards to make members aware of their right to transfer their benefits to another scheme at any age, in order to access their benefits in a variety of different ways, other than by purchase of an annuity, regardless of whether or not the scheme itself offers flexible access to benefits. Trustee boards are required to inform members of their right to purchase an annuity on the open market.

142. To help people understand their retirement choices, the government, via a number of delivery partners, provides a free and impartial guidance service called Pension Wise. The law requires trustee boards to tell their members about Pension Wise in certain circumstances, including in communications as a member approaches retirement[63], or where contact is made by either the member or the trustee board about what the member may do with their flexible benefits[64]. In the latter of these two scenarios, additional statements may also need to be made which are set out in legislation[65].

143. This may mean providing the information to a member more than once. However, the law does not require the trustee board to mention Pension Wise if it is simply sending out annual benefit statements (unless doing so would come within the circumstances explained above).

144. To signpost to Pension Wise, trustee boards can either use the standard letter developed by government and available online[66], plus a separate statement that the member should consider independent advice, or it can develop its own statement which must contain certain information as set out in legislation.

63
Regulations 18A to 20 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

64
Part 1, Schedule 10 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

65
Regulation 18B Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

66
www.pensionwise.gov.uk/signposting/assets.zip

145. Where contact is made by either the member or the trustee board about what the member may do with their flexible benefits, the trustee board may have the option to provide the information about Pension Wise (and any additional statements where required) verbally unless requested in writing[67]. However, whatever the format used, we expect all communications issued to members about their retirement options to clearly set out the steps a member should consider taking in order to help them make an informed decision about their benefits.

146. There are circumstances where trustee boards are not required to provide information on Pension Wise, or elements of this information. There are also circumstances where there is a requirement to provide the information to individuals other than the member (eg beneficiaries). We expect trustee boards to establish where these circumstances apply in relation to their scheme, and to take any professional advice they may need in order to do so.

147. Retirement wake-up packs are provided to scheme members when they approach retirement. They set out the options available to members when they access their retirement savings within the scheme. Trustee boards are required to include in the retirement wake-up pack either[68]:

- the Money Advice Service guide 'Your pension: it's time to choose' (or any replacement of that guide which is prepared or approved by The Pensions Regulator)
- a statement that gives materially the same information.

148. The guide contains important information about the options that are available to members and the risks that each option carries.

149. The law requires trustee boards to provide certain 'risk warnings' to members at the time the trustee board provides members with an application form or another way to access their benefits (some exceptions apply)[69], whether this is provided with information about the retirement options or subsequently. The risk warning statement must contain information about the options available to members in respect of their benefits and the risks associated with each[70]. As an alternative, trustee boards can choose to give personalised risk warnings, which must be provided at the time they provide members with a way to access their benefits, and before any member request to access their benefits is processed.

67
Regulation 18B(3) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

68
Paragraph 14, Part 3, Schedule 7 Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

69
Regulation 19A Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

70
Regulation 19A(6) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

150. The law also requires that the risk warning statement highlights the importance of reading the warnings and accessing pensions guidance or independent advice[71]. We expect trustee boards to 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.'

151. Where members remain in the scheme having flexibly accessed some or all of their pension using options offered by the scheme, we expect the trustee board to continue to communicate with those members as relevant and appropriate.

Pension scams

152. When members wish to transfer out of a scheme, we expect the trustee board to carry out due diligence on the scheme to which the member wishes to transfer, to check whether it can legally be paid a transfer value. This includes checking whether the scheme is registered with HM Revenue & Customs for tax purposes. We also expect trustee boards to consider whether any characteristics are present in the receiving scheme that could indicate a pension scam.

153. We expect trustee boards to include 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.

Reporting

154. Reporting accurately on how a DC scheme is governed and on material breaches of legal requirements is a core duty for trustee boards.

Annual chair's statement

155. The law requires trustee boards of relevant schemes to prepare an annual chair's statement within seven months of the end of each scheme year. In this statement, trustee boards must describe and explain how they have met certain legislative governance standards[72]. They must make this information available on request to members and others as part of the scheme's annual report and accounts which must also be prepared and signed off within seven months of the scheme year end[73].

156. We expect the statement to be written in such a way as to provide a meaningful narrative of how, and the extent to which, the governance standards have been complied with. We expect trustee boards to clearly set out the measures they have taken to achieve compliance and the details of how they reached their conclusions on the extent of compliance.

71 Regulation 19A(4) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

72 Regulation 23 Occupational Pension Schemes (Scheme Administration) Regulations 1996.

73 Regulation 12(1) Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

157. We expect trustee boards to contemporaneously document and be able to evidence the actions described and explained in the statement, though we do not consider it necessary for that documentation and evidence to be included as part of the statement.

158. The law requires the chair of trustees to sign the statement on behalf of the trustee board and for compliance with the requirement to be declared on the regulator's scheme return (see below). Failure to produce a statement, signed by the chair, which meets the requirements set out in the legislation, attracts an automatic penalty of between £500 and £2,000[74].

Statement of investment principles (SIP)

159. The law requires trustee boards of schemes to produce a statement of investment principles (SIP) for the scheme, including any default arrangement(s) and all other investment options (unless they fall within an exemption)[75] and to disclose it to members upon request.

160. The law requires relevant schemes to produce a SIP for default arrangements and to make it available on request to members as part of the chair's annual statement and the scheme's annual report and accounts.

161. The Investment governance section of this code sets out further information on factors to take into account when producing a SIP.

Reporting to the regulator

Registrable information and the scheme return

162. The law requires trustee boards to provide certain 'registrable information' to us, and for that information to be kept up to date[76]. Where there is a change in any of the registrable information, trustee boards must tell us as soon as reasonably practicable, which they can generally do via our online Exchange service (**https://exchange.thepensionsregulator.gov.uk**).

163. The law also requires trustee boards to complete a 'scheme return' either annually or triennially depending on the size of the scheme[77]. The scheme return includes items of registrable information, as well as additional items of information that we require. It is important that the information provided on the scheme return is accurate. In some cases the information provided will inform whether or not we open an investigation or take enforcement action, for example in relation to the chair's statement or charge controls.

74
Regulation 28(4)(b) Occupational Pension Schemes (Charges and Governance) Regulations 2015.

75
Section 35 Pensions Act 1995.

76
Section 62 Pensions Act 2004.

77
Section 64(1) Pensions Act 2004.

164. Trustee boards are accountable for the information provided on the scheme return, though often they delegate the completion of the scheme return to one or more of their advisers. We expect trustee boards to review the information on the scheme return, including the declaration at the end, and be comfortable that the information provided is accurate. Failing to complete and submit the scheme return, or providing false or misleading information, may carry a penalty[78].

Whistleblowing

165. In addition to breaches that must be reported via the scheme return, there are some circumstances in which, when a breach of the law occurs, whistleblowing duties apply. In assessing whether or not to report a breach, we expect trustee boards to take account of how quickly the breach is identified, the timeliness of action the trustee board takes to remedy the breach, and the how severe the impact is on members.

166. We have published **Code of practice 1: Reporting breaches of the law**[79], and expect trustee boards to refer to this.

78
Section 64(2)
Pensions Act 2004.

79
www.tpr.gov.uk/code1

Appendix: Corresponding Northern Ireland legislation

GB legislation	NI legislation
Pensions Act 1995 (c. 26)	Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
▸ section 3(1) ▸ section 29(1) ▸ section 35 ▸ section 35(1) ▸ section 36(1) ▸ section 36(3) ▸ section 47 ▸ section 47(2)	▸ Article 3(1) ▸ Article 29(1) ▸ Article 35 ▸ Article 35(1) ▸ Article 36(1) ▸ Article 36(3) ▸ Article 47 ▸ Article 47(2)
Pensions Act 2004 (c. 35)	Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
▸ section 62 ▸ section 64(1) ▸ section 64(2) ▸ section 70 ▸ section 90 ▸ section 90(4) ▸ section 90(5) ▸ Part 3 ▸ sections 241 to 243 ▸ section 241(1) ▸ sections 247 to 248 ▸ section 249A ▸ section 249A(1)	▸ Article 57 ▸ Article 59(1) ▸ Article 59(2) ▸ Article 65 ▸ Article 85 ▸ Article 85(4) ▸ Article 85(5) ▸ Part IV ▸ Articles 218 to 220 ▸ Article 218(1) ▸ Articles 224 to 225 ▸ Article 226A ▸ Article 226A(1)
Pensions Act 2008 (c. 30)	Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))

Occupational Pension Schemes (Scheme Administration) Regulations 1996 (S.I. 1996/1715)	Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 94)
▶ regulation 1(2)	▶ regulation 1(2)
▶ regulation 6A	▶ regulation 6A
▶ regulation 16	▶ regulation 16
▶ regulation 22(1)	▶ regulation 22(1)
▶ regulation 22(2)	▶ regulation 22(2)
▶ regulation 22(4) to (6)	▶ regulation 22(4) to (6)
▶ regulation 23	▶ regulation 23
▶ regulation 23(1)(a)	▶ regulation 23(1)(a)
▶ regulation 23(1)(c)	▶ regulation 23(1)(c)
▶ regulation 23(1)(d)	▶ regulation 23(1)(d)
▶ regulations 23(1)(e)	▶ regulations 23(1)(e)
▶ regulation 24(1)	▶ regulation 24(1)
▶ regulation 25(1)	▶ regulation 25(1)
▶ regulations 27 to 28	▶ regulations 27 to 28
▶ regulation 27(1)	▶ regulation 27(1)
▶ regulation 28(1)	▶ regulation 28(1)
▶ regulation 29	▶ regulation 29
Register of Occupational and Personal Pension Schemes Regulations 2005 (S.I. 2005/597)	**Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005 (S.R. 2005 No. 93)**
▶ regulation 3(1)(da)	▶ regulation 3(1)(da)

Occupational Pension Schemes (Investment) Regulations 2005 (S.I. 2005/3378)	Occupational Pension Schemes (Investment) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 569)
▶ regulation 1(2)	▶ regulation 1(2)
▶ regulation 2(1)	▶ regulation 2(1)
▶ regulation 2(2)	▶ regulation 2(2)
▶ regulation 2A	▶ regulation 2A
▶ regulation 2A(1)	▶ regulation 2A(1)
▶ regulation 2A(2)	▶ regulation 2A(2)
▶ regulations 4 and 4A	▶ regulations 4 and 4A
▶ regulation 4(3)	▶ regulation 4(3)
▶ regulation 4(5)	▶ regulation 4(5)
Occupational Pension Schemes (Trustees' Knowledge and Understanding) Regulations 2006 (S.I. 2006/686)	**Occupational Pension Schemes (Trustees' Knowledge and Understanding) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 120)**
▶ regulations 3 to 4	▶ regulations 3 to 4
Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (S.I. 2006/759)	**Occupational Pension Scheme (Modification of Schemes) Regulations (Northern Ireland) 2006 (S.R. 2006 No. 149)**
▶ regulation 7B	▶ regulation 7B

Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734)	Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 (S.R. 2014 No. 79)
▶ regulation 12(1)	▶ regulation 12(1)
▶ regulations 18A to 20	▶ regulations 18A to 20
▶ regulation 18B	▶ regulation 18B
▶ regulation 18B(3)	▶ regulation 18B(3)
▶ regulation 19A	▶ regulation 19A
▶ regulation 19A(4)	▶ regulation 19A(4)
▶ regulation 19A(6)	▶ regulation 19A(6)
▶ Schedule 7, Part 3, paragraph 14	▶ Schedule 7, Part 3, paragraph 14
▶ Schedule 10, Part 1	▶ Schedule 9A, Part 1
Occupational Pension Schemes (Charges and Governance) Regulations 2015 (S.I. 2015/879)	**Occupational Pension Schemes (Charges and Governance) Regulations (Northern Ireland) 2015 (S.R. 2015 No. 309)**
▶ regulation 2(1)	▶ regulation 2(1)
▶ regulation 2(2)	▶ regulation 2(2)
▶ regulation 5(1)	▶ regulation 5(1)
▶ regulation 6	▶ regulation 6
▶ regulation 10	▶ regulation 10
▶ regulation 11	▶ regulation 11
▶ regulation 11A(2)	▶ regulation 11A(2)
▶ regulation 28(4)(b)	▶ regulation 28(4)(b)

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