

North Yorkshire County Council

Pension Board

Minutes of the meeting of the Pension Board held on Thursday 12 October 2017 at County Hall, Northallerton commencing at 10.00 am.

Present:-

Members of the Board

David Portlock (Independent Chairman).

Employer Representatives:

County Councillor Mike Jordan, Councillor Ian Cutherbertson (City of York Council), Louise Branford-White (Hambleton District Council) and Phil MacDonald (Hull University).

Scheme Members:

Mandy Swithenbank (GMB), Gordon Gresty and Stella Smethurst (Unison).

In attendance:-

County Council Officers: Amanda Alderson, Phillippa Cockerill, Josie O'Dowd, Jo Wade; Rebecca Madden and Ian Morton (Veritau)

Copies of all documents considered are in the Minute Book

105. Apologies

There were no apologies for absence.

106. Vacancy for Scheme Member Representative

The Chairman, David Portlock, advised that Ben Drake had resigned from his position with the City of York Council and therefore from the Pension Board also. Appreciation and thanks were recorded for his contributions to both Pension Board and also the Pension Advisory Panel, previously. Stella Smethurst advised that Unison are seeking a replacement representative and are checking a potential nominee at the present time. Mandy Swithenbank advised that she had been in touch with her York Branch convenor on this matter. The advert for the vacancy had been published from August to 11 September, and unfortunately no applications were submitted. Therefore the vacancy for a Scheme Member Representative still exists – the Chairman David Portlock confirmed there is no presumption that this will be filled by a Unison Member. He advised that any appointment will follow the usual application and interview process. Stella Smethurst cautioned that achieving agreement from the employer of any potential candidate to release staff to attend meetings may be challenging.

107(a) Minutes

Resolved -

That the Minutes of the meeting held on 20 July 2017, having been printed and circulated, were taken as read and confirmed and signed by the Chairman as a correct record.

107(b) Progress on Issues raised by the Board

It was noted, by the Chairman, that the majority of issues highlighted were agenda items for this meeting and would be discussed at the relevant point.

In addition Scrutiny training at Selby was highlighted.

Resolved -

That the report be noted.

108. Declarations of Interest

There were no declarations of interest submitted.

109. Public Questions or Statements

There were no questions or statements from members of the public.

110. Draft Minutes of the Pension Fund Committee meeting held on 14 September 2017

- A query was raised regarding Minute 22 and Amanda Alderson confirmed that this is a difficult issue. She explained that NYCC is treated as a “professional client” regarding funds that are invested until 3 January 2018. After this local authorities can no longer be classed as professional clients and will be treated as a retail client. The implication of this will be that access to products for investment will be reduced. If an authority chooses to be treated as a “professional client” then access is available to a greater product range as before, rendering this a paper exercise. Regarding the cost implications of this, Amanda Alderson advised that this is mainly officer time and she stated that a response is awaited from all Fund Managers if they will automatically opt NYPF up to professional status from 3 January 2018- two have already done so. This is an interim arrangement pending accession to pooling. Amanda Alderson confirmed that there is a requirement to opt up for legacy arrangements and also to opt up with the pool. It was noted that opting up is necessary even to facilitate dialogue with Fund Managers on specific products and investments.
- It was noted that of the 12 Funds in the BCPP only two have a positive cashflow and the Member raising the issue hoped that this was not a time bomb which could impact adversely upon NYPF. It was explained that whilst the BCPP may turn negative overall, NYPF should remain positive for the foreseeable future. All parties are separately legally liable and it is only investments that are pooled. It was acknowledged that the whole of NYPF’s cashflow is supported by what is being paid in, a situation only few Funds find themselves in.

- A query was raised regarding Annual Benefit Statements and breaches which have occurred. It was noted that this issue is on the list for action, and incidents are being recorded. It was suggested that it would be helpful to ensure a consistency in the process regarding referrals. It was accepted that this may not be mandatory but it is good practice to do so. The benefit of the log is that this includes corrective action, linking to an improvement plan and audit trail. It was acknowledged that the guidance regarding treatment of breaches is vague and the causes can be very varied. The Chairman advised that the log had been discussed in detail at the Pension Fund Committee in September - with 4,000 incidents at that time, the position having improved since then. Phillippa Cockerill advised of the impending benefit statements review meeting to take place the following week and she assured Members that officers will continue to be vigilant in this regard. She advised that the breach log will be presented to a future Pension Fund Committee meeting and it will then come to Pension Board. She advised that the look and feel of this is being finalised presently. She advised that 90% of statements for active Members had now been issued.
- A query was raised regarding the new Chief Executive of BCPP, noting that they were not named in the Minutes. Amanda Alderson advised that the name could not be included at the time, as at the time of the meeting it was not public information.
- An issue was raised regarding Scheme Representatives and concern was expressed that none were sourced from Local Government, which the Member found surprising given local authorities are contributing such a lot financially. The Chairman, David Portlock, advised that he had raised this issue with the Chairman of the Pension Fund Committee County Councillor John Weighell. He stated that there was support for a Scheme member representative but there would be issues with the practicalities of finding and appointing a representative over the 12 Funds and one million or so members. It was also noted that the meetings that would be attended are held in the public domain where anyone can attend and speak. The Member raising the issue suggested that perhaps this could be overcome, even if it was spread across the 12 members and attendance was rotated. The Chairman confirmed that Pension Fund Committee Members supported this in principle but had reservations related to the mechanics of appointment. David Portlock confirmed that he is happy to revisit this with the Pension Fund Committee. Some disappointment was expressed at the finality of the resolution in (ii) on page 28.
- A concern was raised regarding Minute 24 concerning the GMP reconciliation. It was noted that scale is an issue which could lead to a financial threat to pensioners. The Chairman advised that both Pension Board and Pension Fund Committee concur on this issue and there is frustration that this has arisen. It was acknowledged that a contract has been placed with a third party to undertake this work and Pension Fund Committee are unable to determine the way forward until that information is received.

Resolved -

That the issues and points raised are noted and actions indicated are undertaken accordingly.

111. Annual Report of North Yorkshire Pension Fund

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) presenting for review the Annual Report and Accounts 2016/17 of the North Yorkshire Pension Fund (NYPF).

This was received without comment.

Resolved -

That the issues and points raised are noted.

112. Internal Audit Reports

Considered -

The report of Internal Audit providing an update on Internal Audit activity.

Ian Morton of Veritau introduced the report which seeks to keep Members apprised of activity, highlighting the four reports scheduled for 2016/17 - attached in the Appendices. Since the drafting of the report to Pension Board it was noted that the Pensions Expenditure report has now moved from 'draft' status to 'complete'. It was also noted that the Plan for 2017/18 has been agreed and includes pension income and expenditure, and also Pension Fund governance arrangements.

- A Member highlighted the key findings regarding Pension Fund income shown at page 74. Concern was expressed about the failing relating to the absence of sampling evidence, potentially undermining the validity of the results. Ian Morton confirmed that this will be addressed for the future.
- It was noted that for next year's plan Veritau will agree the best time to look at reviewing governance arrangements - given the challenges which come with pooling. It was acknowledged that both the Pension Fund Committee and Pension Board are keen to see robust arrangements in place. There was discussion of what is appropriate and the how to judge that the right provisions have been made. Also, in trying to judge performance in this regard, is the focus about the transfer of monies or how well the management of the Fund is undertaken compared to NYPF previously?
- It was acknowledged that the advantage of asset pooling should be the cheaper combined cost of auditing the 12 former Funds as one pool. It was stressed that the emphasis is very much about the internal organisation. Ian Morton commented that assurance would be sought about the appropriateness of internal operation of the pool and how it interacts with both the Pension Fund Committee and Pension Board. He advised that next year these assurances will be reviewed along with the information which is flowing back from the pool to satisfy the North Yorkshire Pension Fund. It will necessarily include a review of those governance arrangements.
- It was accepted that these are anxious times due to the paradigm shift which is underway. It was noted that the new Chief Executive will appoint an auditor and all the pool members will have to rely on that, including regarding assessments of the performance of the Fund. It was recognised that clarity is needed regarding Veritau's role going forward and who will be doing what.

- It was noted that NYPF will continue to have their own advisers looking at data received. It was acknowledged that NYPFC will retain responsibility for asset allocation and therefore will need to retain external advisers in relation to investment strategy. A Member asked if a summary would still be provided in future regarding how those assets are performing, and it was hoped that this will still be the case.
- A Member raised concerns regarding the Altair system and the problems identified regarding password requirements. Ian Morton advised that this reflects a theoretical weakness rather than an actual failing. There was discussion regarding the degree of security afforded and whether or not this should be ear marked as a development area to improve arrangements.
- An issue was raised regarding one employer and it was confirmed that this work had been completed.
- Regarding problems with the compulsory unpaid leave calculations encountered last year, Ian Morton advised that the issue had been addressed.
- A query was raised regarding over and underpayments on Altair and the rating of 'substantial assurance' awarded, when that aspect had not been audited. It was noted that it had been agreed to delay the review of this aspect as Employment Support Services which provide the information to the NYPF had been unable to accommodate the review within the timescales.

Resolved -

That the report and attached Internal Audit reports are noted.

113. External Audit Report

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) asking the Board to consider the External Auditor's (KPMG) report on its work in relation to the audit of the Pension Fund's 2016/17 Financial Statements.

The Chairman advised that this report was agreed by the Audit Committee on 7 September 2017 and therefore it is already signed off. He noted a typographical error in paragraph 3.1 of the report - "April 2016" should read "April 2017". There was discussion of the fees for the Pension Fund – see page 28 of KPMG's report. In addition to the fees noted in the report, an amount of £17,000 had been paid to KPMG for dealing with Withholding Tax claims. A query was raised regarding the istock photographs which had been used in the Pension Fund Annual report, which could place the Authority at risk of legal action. It was agreed that this issue would be resolved with the Print Unit. The revised format of the report was noted and the condensed timescales which will apply next year. It was also noted that the impact of revised format would be reviewed shortly.

Resolved -

That the contents of KPMG's report are noted.

114. Pension Board Projects

Considered -

The report of Legal and Democratic Services.

There was discussion of the need to identify Pension Board members to take the lead on each project and members volunteered for those areas of interest to them.

Phillippa Cockerill, Head of Pensions Administration, provided a presentation explaining the work she and her team were doing to seek to deliver the best possible outcome for scheme members and to achieve this they seek to standardise, simplify and share working practices and resources - with a focus on delivering best customer outcomes and reducing costs. She advised of the key timelines and actions, the project work and management of resources. She advised Members that she would provide regular progress reports and she hoped that the degree of scheme member satisfaction would consequently increase as a result of the actions taken. The imperative is the need to keep pace with increasing demand from Scheme members which has necessitated a review of ways of working to create additional capacity.

The proposals were welcomed and it was recognised that the Pension Board can provide a good sounding board for this work and progress reports will be shared with Pension Fund Committee also. Phillippa Cockerill advised that the availability of throughput statistics will help ensure the appropriate resources are allocated.

- A Member commented that the regular provision of useful information can help reduce significantly the number of queries received.
- The present complexity of statements and their layout was noted and the fact that many members do not understand the language used which gives rise to queries and confusion. It was accepted that there may be limited room for improvement in this regard but efforts will continue to be made.
- Regarding addressing the backlog of work, the sufficiency of resourcing was queried. Phillippa Cockerill advised that the situation was improving and she assured Members that it would be resolved before the end of 2017/18. She highlighted the additional strain which had been created as a result of academy conversions. It was acknowledged that the concern could be relayed to Gary Fielding, Corporate Director - Strategic Resources and Treasurer of the NY Pension Fund, however it was also recognised that in the climate of austerity it may not be possible to secure additional resources. It was accepted that this is an operational matter and not one for the Pension Board to become deeply involved with. Phillippa Cockerill reiterated that the project she had described should create more capacity to diminish the backlog. It was acknowledged that it may be possible to make a case for short term additional resources to help implement the required changes. Members were keen to be kept informed of progress against the timetable indicated.
- There was also discussion of the GMP reconciliation exercise and a query was raised regarding data security - it was explained that a secure site is

used for data upload which complies with the General Data Protection Regulations 2018. The third party being used is well versed in these requirements as it is their core business. Phillippa Cockerill confirmed that this requirement is covered in the contract which has been organised via the LGPS framework which provides extra reassurance.

In terms of the projects identified in the report: item 2.1 - the exercise of employer in administering authority discretion is to be deferred for the present time. Items 2.2, 2.3 and 2.4 will be progressed by the Members referred to below. For each of these a one page summary of the scope of the project, the likely impact upon Pension Fund officers, and timescales, is to be available for the next meeting.

Resolved -

(a) That the lead on each project is agreed as detailed below:

- Exercise of employer in administering authority discretion – deferred.
- Management, administration and governance process and procedure - Mandy Swithenbank to take the lead.
- Development of improved customer services - County Councillor Mike Jordan and Councillor Ian Cuthbertson to take the lead.
- Scheme member and employer communications - Councillor Ian Cuthbertson and County Councillor Mike Jordan to take the lead.

115. Pooling

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) providing an update on the progress made towards the LGPS Pooling arrangements.

Amanda Alderson, Senior Accountant Strategic Resources, introduced the report advising of the three workstreams being undertaken by officers and Members.

Governance workstream: it was noted that a Joint Committee comprising the Chair of each Pension Fund has been established of which County Councillor John Weighell has been appointed Chairman. The first meeting took place in June and the papers for this were published on the South Yorkshire Pension Fund website as they are providing the secretariat function. A dedicated BCPP website is being established and should be available later this month. The next meeting is scheduled to take place on 20 October 2017 to take place in County Hall. The papers for this meeting are due to be published shortly and Amanda Alderson would be able to provide that link for any public papers. Updates on progress will be submitted to the Joint Committee which is being used as a sounding board prior to the final sign off of arrangements. These meetings will be quarterly. Amanda Alderson advised that the draft staffing structure for the company has been produced and circulated to Section 151 Officers, and this will go to the next meeting for approval. She advised that the implementation budget is on track so far with a budgeted contribution of £350,000 from each partner.

People workstream: Amanda Alderson advised that County Councillor John Weighell is heavily involved in the recruitment. She advised that Chris Hitchin has been appointed Chairman, and he will work four days a week, and the CEO Rachel Elwell is due to start in December – she has previously worked for Royal London and PWC. The Chief Operating Officer has been appointed but their name remains

confidential as all 12 Fund Members have yet to ratify this. Also two Non-Executive Officers have been recruited but these details also remain confidential at this time.

- Queries were raised regarding the salary for the CEO and Members presumed that this is as advertised.

Adverts for the Chief Investment Officer and Risk Officer are presently out and selection is expected by the end of November.

Regarding TUPE implications it was noted that around 15 staff are due to come over from the three internally managed Funds.

- A Member expressed the hope that the draft structure, once published, may be used to help monitor any increase in staffing and therefore costs over time.
- Reference was made to the FCA regulations and Amanda Alderson advised of the submission to the FCA in November in readiness for completion in May. The requirement for staff to be FCA accredited was noted and Amanda Alderson advised that this will be reflected in the application.
- There was discussion of the terms and conditions for the TUPE staff and Deloitte are advising regarding their pension arrangements. Amanda Alderson confirmed that a full procurement process had been undertaken to appoint Deloitte.
- On the question of property Amanda Alderson advised that the options had been narrowed down to two options.

Operating model workstream: Amanda Alderson advised of the tendering process which was underway regarding the depository for the pool. She confirmed that the asset allocation template had been drafted and this would go to the Joint Committee for approval.

- A Member reiterated the desire to see a Scheme member appointed as a voting member of the pool.
- There was also discussion of the transition process including the question of giving notice to AON Hewitt. Amanda Alderson confirmed that there would be no need to give notice as this company will continue to provide Fund advice. The timelines for the procurement of sub-fund managers was also mentioned.
- There was discussion of the question of liquidating assets for transfer - this was not felt to be necessary at present, and also the possible impact of Brexit. It was recognised that there are still a number of unknown factors. It was acknowledged that every effort will be made to lock-in any gains whilst not acting in a way which is detrimental to or diminishes the assets.

Resolved -

That the report is noted.

116. Training

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) providing an update on Pension Board member training.

It was acknowledged it is not necessary for all eight Members to complete all of the TPR modules.

Two days of training recently undertaken at York were noted.

The Chairman David Portlock highlighted information circulated recently regarding a forthcoming half day of CIPFA training in Leeds (March 2018) or Liverpool (November 2017), and it was agreed that David Portlock and Mandy Swithenbank should attend. The information gleaned will be circulated and feedback given at a future meeting.

Resolved -

The update was noted.

117. Work Programme

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) providing details of areas of planned work by the Pension Board.

Resolved -

That the Work Programme will be revised following receipt of the scoping reports (see Minute 114 above) to the next meeting.

118. Any Other Business

David Portlock, Chairman, advised that he will be away for three weeks, returning in early November.

The meeting concluded at 12.30 pm

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North Yorkshire County Council

Pension Board

18 January 2017

Progress on issues raised by the Committee

Report of the Assistant Chief Executive (Legal and Democratic Services)

1.0 Purpose of the report

1.1 To advise Members of:-

- Progress on issues raised at previous meetings;
- Issues that may have arisen, relating to the work of the Board, since the previous meeting

2.0 Background

2.1 This report is submitted to each meeting listing the Board's previous Resolutions where further information is to be submitted to future meetings. The table below represents the list of issues which were identified at previous Pension Board meetings and which have not yet been resolved.

Date	Minute No and subject	Resolution	Comment/completed
20 April 2017 /12 October 2017	Minute no. 89 – LGPS Pooling update / Minute no. 110 Draft minutes of Pension Fund Committee – Scheme Member representation on the Joint Committee	To consider the appointment of Scheme Member representation, through a co-option process, to the Joint Committee.	This matter was considered at the Meeting of the Pension Fund Committee held on 14 September 2017 and details reported to the Pension Board (12 October 2017). Disappointment was expressed in respect of the PFC's stance on this matter. The Chairman of the Pension Board would re-visit the issue with PFC Members.
12 October 2017	Minute no. 110 Draft minutes of Pension Fund Committee	To consider the development of a breaches policy and log	Further update to be reported at this meeting.
12 October 2017	Minute No 106 – Vacancy for Scheme Member representative	Further attempts would be made to identify a suitable candidate to fill the vacancy following an unsuccessful recruitment exercise.	Further update to be reported at this meeting.

12 October 2017	Minute No 114 – Pension Board projects	Development by Members of the Pension Board of the following areas of work as detailed in in the work programme:- Management, administration and governance process and procedure; Development of improved customer services; Scheme Member and employer communications	Subject of scoping reports at today's meeting.
20 July 2017	Minute No 97 – Draft Annual Report	That the finalised report be circulated to the Treasurer of the Pension Fund, the Chairman of the Pension Fund Committee and the County Council's Monitoring Officer, with a view to this being submitted to the Pension Fund Committee and County Council before being published on the appropriate websites.	The finalised report was considered, and noted, at the Meeting of the Pension Fund Committee held on 14 September 2017. The report has also been considered by the County Council's Executive on 26 September 2017, with a recommendation that the report be submitted to the Full County Council, as Administering Authority, on 8 November 2017, for noting. The report will then be published on the NYPF website.
20 July 2017	Minute No 100 – Risk Register	That Pension Board Members be provided with the background documents/ information as detailed above, in relation to the risk around pooling	A structure is required to determine how the reports are to be provided, and over what time period, so as to minimise the impact that this has on the officers involved.
20 July 2017	Minute No 100 – Risk Register	That the Treasurer of the Pension Fund be invited, periodically, to attend Pension Board meetings to discuss relevant issues, previously identified, with Members of the Board	It is hoped that an initial meeting with the Treasurer will be undertaken at today's meeting.

3.0 **Recommendation**

3.1 That the report be noted and consideration given to where further action is required.

Barry Khan
Assistant Chief Executive (Legal and Democratic Services)
County Hall
Northallerton - January 2018

Background Documents – None

North Yorkshire County Council

Pension Fund Committee

Minutes of the meeting held on 23 November 2017 at County Hall, Northallerton commencing at 10.00 am.

Present:-

County Councillors John Weighell OBE (Chairman), Michael Chambers, MBE, Cliff Lunn, Patrick Mulligan and Helen Swiers.

David Portlock – Chair of the Pension Board.

Councillor Jim Clark - North Yorkshire District Councils.

Apologies were received from County Councillors John Blackie and Andy Solloway.

There were no members of the public present.

Copies of all documents considered are in the Minute Book

29. Exclusion of the Public and Press

Resolved -

That the public and press be excluded from the meeting during consideration of Minute No 37 on the grounds that this involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to Information)(Variation) Order 2006.

30. Minutes

Resolved -

That the Minutes of the meeting held on 14 September 2017, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

31. Declarations of Interest

There were no declarations of interest.

32. Public Questions or Statements

There were no questions or statements from members of the public.

33. Pension Fund Risk Management Policy

Considered -

The report of the Treasurer requesting Members to approve the North Yorkshire Pension Fund Risk Management Policy. A draft of the policy was attached to the report as an Appendix.

The policy had been produced following discussions at the Pension Fund Committee in July 2017 where it had been recognised that there was no formal risk management policy for the North Yorkshire Pension Fund.

It was expected that the policy would be reviewed every three years by the Risk Management Team, with details of the review brought to a meeting of the Pension Fund Committee.

Resolved -

That the NYPF Risk Management Policy be approved.

34. Administration Report - Member and Employer Issues

Considered -

The report of the Treasurer providing Members with information relating to the administration of the Fund, over the year, to date, and to provide an update on key issues and initiatives which impacted the Administration Team including:-

- ◆ Admission agreement and new academies.
- ◆ Membership statistics.
- ◆ Throughput statistics.
- ◆ Performance statistics.
- ◆ Annual Benefit Statements.
- ◆ GMP reconciliation.
- ◆ General Data Protection Regulations (GDPR) 2018.
- ◆ Efficiency initiatives.
- ◆ Complaints.
- ◆ Member training.
- ◆ Meeting timetable.

The following issues were highlighted in relation to the report:-

- ◆ A great deal of work had been generated for the Administration Section through the academisation of schools, with impacts on the work of the section. Additional resources were being sought to address the increased volume of work and to ensure that the Team was more resilient. It was noted that the Team were beginning to reduce the backlog of work highlighted in the report.
- ◆ A Member asked whether the situation in relation to the Wakefield academies had resulted in a knock-on effect for the Pensions' Team. It was noted that the previous minutes had indicated that a response would be sought from the Department for Education to determine whether they would be the guarantor for academies should a failure occur, in terms of agreements around pension funding and it was noted that details would be circulated to Members in relation to that.

- ◆ The GMP reconciliation had now commenced and the data had been provided to ITM Limited. An updated baseline was expected to be developed shortly and the project would be taken forward from there.
- ◆ An initial meeting had been held with NYCC representatives in relation to the General Data Project Regulations (GDPR) 2018, with further meetings planned to consider what action NYPF needs to take over and above that of the County Council.
- ◆ In terms of the efficiency initiatives a first template of the letters review had been created and a test had taken place to determine whether the concept was appropriate. Further feedback on these developments would be provided to subsequent meetings.
- ◆ A table of commendations and complaints was in the process of being developed and would be provided to future meetings of the Committee.
- ◆ The Chair of the Pension Board referred to the proposed breaches, policy and breaches' log, noting that these were in the process of being developed and wondered whether there was a timescale in relation to that. In response it was stated that these would be in place shortly and it was expected that details would be available for the next meeting of the Pension Board.
- ◆ The Chairman referred to a complaint that had been circulated to Members of the Committee and he noted that that issue was ongoing and the Treasurer would keep Members updated on that situation.
- ◆ Members noted that some of the details contained within the courses attended appendix were not up-to-date and it was asked that this be updated accordingly.

Resolved -

That the report be noted.

35. Budget/Statistics

Considered -

The report of the Treasurer highlighting:-

- (a) The expenditure/income position to date for 2017/18.
- (b) The cash deployment of the Fund.

The Treasurer stated that the pensions payroll expenditure of £39.6m and retirement grant payments of £14.4m were lower than the forecast by £0.2m. Contributions income was currently forecast to exceed budget by £1.2m. In the six months to 30 September 2017 there had been much greater instances of both transfers in and out compared to previous years. The forecast for performance related fees had increased and investment management fees had also increased, as a consequence of the excellent Fund performance and, therefore, an increase in assets under management of the past 12 months. The underlying year 2017/18 cashflow forecast for the Pension Fund was estimated at an in-year surplus of £1.2m.

Details of the cash deployment for 2017/18 were outlined in the report.

The following issues were raised in relation to the report:-

- ◆ A Member referred to the 'in and out' cash transfers to and from Permira and wondered why this was taking place. In response it was stated that this issue was being addressed with a view to making quarterly payments rather than the frequent transfers in and out.
- ◆ Issues relating to the M&G transfer were also discussed and it was noted that the matter would be considered in greater depth during discussion of the Investment Strategy later in the meeting.
- ◆ The Chairman of the Pension Board noted that previous discussions at Pension Board meetings had considered the cash position of the Fund and whether North Yorkshire Pension Fund would be cash negative, going forward. In response it was stated that, currently, the Fund expected to remain cash positive, although, there was a potential for this situation to change by 2022. It was noted that a number of other LGPS now operated in a cash negative situation and the situation would continue to be carefully monitored.

Resolved -

That the report be noted.

36. Performance of the Fund's Portfolio

Considered -

The report of the Treasurer providing details of the investment performance of the overall Fund, and of the individual Fund Managers, for the period to 30 September 2017.

The report indicated that the absolute overall return for the quarter (+ 3.1%) was above the customised benchmark for the Fund (+1.5%) by +1.6%.

The 12 month absolute rolling return was +14%, 4.3% above the customised benchmark of 9.7%.

Absolute and relative returns of the rolling years to each of the last four quarter ends were provided by way of comparison.

The report provided details of individual Fund Managers' performance in respect of the following asset classes:-

- ◆ Overseas equities.
- ◆ Global equities.
- ◆ UK equities.
- ◆ Property.
- ◆ Diversified growth funds.
- ◆ Private debt.

Details relating to risk indicators, solvency, rebalancing, MIFID II and proxy voting were also provided.

The Fund's Investment Consultants, AON Hewitt, provided an analysis of the performance of the Fund during the quarter and the following issues were highlighted:-

- ◆ The Fund's investments had again performed very well during the quarter, with strong performance in equities from both Bailey Gifford and Standard Life.
- ◆ The overall value of the Fund had grown by 3% during the quarter.
- ◆ The markets continued to perform well currently and consideration was being given to the rebalancing of assets to take account of the increased funding levels of the Fund and try and protect those.
- ◆ Details of the performances of individual Fund Managers were highlighted, in particular, L&G and Newton.

Members discussed the reports and the following issues and points were raised:-

- ◆ Issues around L&G currently holding cash and the position regarding property investments were highlighted.
- ◆ Issues around the performance of diversified growth funds were highlighted.
- ◆ A discussion took place in respect of the performance of the bond market currently and it was noted that bond investments assisted with the diversification of the Fund.
- ◆ Issues around investments, transfers in and out of funds and diversification were discussed.
- ◆ The performance of Bluebay and Permira was considered, with specific reference to property investments and the current ratings of the Investment Managers by the Investment Consultants. It was explained why particular Investment Managers were not rated whilst others were.
- ◆ Details of the expected transfer into private debt investments were provided.
- ◆ An update was provided on the current situation relating to compliance with MIFID II by the Investment Managers.

Resolved -

That the report and issues raised be noted.

The following item was exempt from consideration by the public and press and the Minute in relation to that reflects that position

37. Investment Strategy Review

Considered -

The report of the Treasurer seeking approval from Members to make changes to the Investment Strategy, to de-risk the Fund, in light of the current funding level.

In view of commercial confidentiality this minute cannot be published at this time.

38. Pooling Arrangements

Considered -

The report of the Treasurer updating Members on progress towards the Government's announced proposal to pool the assets of LGPS Funds and requesting them to approve the creation of an NYPF Responsible Investment Policy and voting principles that would be aligned with BCPP policies.

It was noted that the most recent meeting of the Joint Committee had been held on 20 October 2017 and the Chairman provided an update on that and other BCPP developments including the ongoing recruitment process. He noted that, as yet, an appointment to the post of Chief Investment Officer had not taken place. He stated that a special meeting of the Pension Fund Committee was to be arranged to allow discussions with BCPP representatives to explore the proposals for the transition of Funds into BCPP in greater detail. It was expected that the special meeting would be convened prior to the next scheduled meeting of the Pension Fund Committee. Discussions on the sub-fund structure and the transition plan would be considered at that meeting.

Other issues outlined included:

- ◆ The relationship between the 12 Funds and the Pool. It was noted that the Pool was operating appropriately and on a professional basis.
- ◆ The need to ensure that the Joint Committee and Shareholder Board are operating separately and appropriately.
- ◆ Comparison of costs in terms of current arrangements and pooling arrangements and ensuring that comparative data was maintained so that these could be determined in future.
- ◆ It was noted that, at the last Joint Committee, Members were asked to approve the BCPP Responsible Investment Policy and corporate governance voting guidelines. These were attached as appendices to this report. Joint Committee Members were asked to recommend to their Committees that their Funds individual policies, in this regard, were aligned to BCPP policies so as to ensure all could comply with LGPS Investment Regulations.

In relation to this request it was noted that, should the North Yorkshire Pension Fund disagree significantly with the policies and guidelines, as detailed, then they did not have to adopt those, as a customer of BCPP, however, unless the 12 Funds were in agreement with these policies, then it could not be set as a policy of BCPP. There was some concern that adopting the policy could place restrictions on North Yorkshire Pension Fund, however, it was noted the position would be reviewed, annually, by North Yorkshire Pension Fund, as part of its governance arrangements and should any policy be found to be too restrictive, then this could be reviewed at that time. It was noted that the suite of governance documents relating to BCPP would be submitted to the Pension Fund Committee for agreement and suggested alterations could be developed at that time.

Resolved -

- (i) That the report be noted; and

- (ii) That the creation of an NYPF Responsible Investment Policy and voting guidelines, aligned to the BCPP policies attached as Appendices to the report, be approved, subject to Members being provided with an opportunity to submit any fundamental concerns to the Treasurer, following further consideration of those policies, outside the Meeting.

39. Pension Board - Draft Minutes of the Meeting held on 12 October 2017

Considered -

The draft Minutes of the Pension Board held on 12 October 2017.

The Chairman of the Pension Board noted that amendments had been made to the Minutes, following their initial publication, and a revised version had now been published alongside the Pension Fund Committee papers on the website.

The Chairman of the Pension Board highlighted the following significant issues that had been discussed at that meeting:-

- ◆ The current vacancy on the Pension Board for a Scheme Member representative and attempts to fill that - the Chairman stated that he would ensure that the Pension Fund Committee was kept up-to-date in relation to the filling of that vacancy.
- ◆ The continued concern of some of the Pension Board Members in relation to their not being a Scheme Member representative on the Joint Committee for BCPP.
- ◆ The following work-streams were to be developed and a one page summary regarding project scope provided:-
 - Management, administration and governance process and procedure
 - Development of improved customer services
 - Scheme member and employer communications.

Details for the development of these projects would be considered at the next meeting of the Pension Board.

The meeting concluded at 12.15 pm

SL/JR

North Yorkshire County Council**Pension Board****18 January 2018****Review of Terms of Reference****1.0 Purpose of the Report**

To provide Pension Board members with an opportunity to review the Board's Terms of Reference.

2.0 Background

2.1 At the inaugural Meeting of the Pension Board, held on 30th July 2015, Members adopted the Terms of Reference for the Board, as approved by County Council on 18th February 2015, detailed in **appendix 1**.

2.2 It was envisaged that Members would undertake a periodic review of the Terms of Reference to ensure that these remained relevant, going forward, and took account of any changes in legislation and working practices.

2.3 The Terms of Reference were previously reviewed on 20 April 2017.

3.0 LGPS guidance

3.1 To assist Members with their review of the Terms of Reference, attached is the LGPS guidance on the creation and operation of local Pension Boards in England and Wales (**Appendix 2**)

4.0 Review of Terms of Reference

4.1 Pension Board members are invited to make comments on the Terms of Reference and make recommendations for changes if appropriate. Any such changes to the Terms of Reference will need to be approved by the Council, as described in Section 17 of that document.

5.0 Recommendations

(i) Pension Board members make recommendations for changes to the Terms of Reference, to be considered by the County Council.

OR

(ii) Pension Board members re-affirm the Terms of Reference as detailed in **Appendix 1**.

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services)
County Hall
Northallerton

Background Documents:

Pension Board of the North Yorkshire Pension Fund

Terms of Reference and Delegated Authorities

1) Role of the Local Pension Board

The role of the local Pension Board as defined by sections 5 (1) and (2) of the Public Service Pensions Act 2013, is

- to assist North Yorkshire County Council (NYCC) as Administering Authority in its role as Scheme Manager
- to secure compliance with the Local Government Pension Scheme (LGPS) regulations and any other legislation relating to the governance and administration of the LGPS
- to secure compliance with the requirements imposed in relation to the LGPS by the Pensions Regulator
- to secure the effective and efficient governance and administration of the LGPS for the North Yorkshire Pension Fund (NYPF, or the Fund)
- in such other matters as the LGPS regulations may specify
- to provide the Scheme Manager with such information as it requires to ensure that any member of the Pension Board or person to be appointed to the Pension Board does not have a conflict of interest

The terms “Administering Authority” and “Scheme Manager” are used interchangeably in the Regulations but are separately defined in this document (see section 18). NYCC as the Administering Authority has ultimate responsibility for the Fund and has delegated powers to manage the Fund to the Pension Fund Committee (PFC).

These Regulations provide that the Pension Board has the general power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Pension Board will also help ensure that the NYPF is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator, with due regard to guidance issued by Government, the Pensions Regulator and the National Scheme Advisory Board.

The Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively, but not less than four times in any year.

The Pension Board will determine the precise timing of its own meetings, which will take place at suitable intervals between PFC meetings so that PFC activity relevant to the Board can be considered and responses to recommendations reviewed prior to the next meeting of the PFC.

2) Membership and Appointment Process

The Pension Board shall consist of 9 members and be constituted as follows:

- i) 4 scheme member representatives, of whom
 - a. 2 shall represent and be drawn from active members of the Fund
 - b. 1 shall represent and be drawn from pensioner and deferred pensioner members of the Fund

c. 1 shall represent and be drawn from either the active or deferred/pensioner members of the Fund
ii) 4 employer representatives, of whom

a. 1 shall be nominated by NYCC who shall meet the requirements of the relevant regulations in relation to avoidance of conflict with the County Council's role as Administering Authority

b. 1 shall be nominated by the City, Borough and District Councils, the Police and Fire bodies and the National Parks which are employers within the Fund

c. 1 shall be nominated by all other employers within the Fund

d. 1 shall be nominated by any employer other than NYCC

iii) 1 independent member, who shall be appointed as Chair of the Pension Board
Elected Members and officers involved in the management and administration of the Fund are not permitted to become Pension Board members.

The Administering Authority will contact employers and members of the Fund to inform them of the Pension Board arrangements and to canvass interest whenever appointments to the Pension Board are required. Active, pensioner and deferred pensioner members will be eligible to nominate themselves as "scheme member representatives". Individuals put forward by the Fund's employers, whether or not those individuals are members of the Fund, will be eligible to stand as "employer representatives".

The position of independent member will be advertised publically. The Administering Authority will seek an independently minded individual with a track record of dealing with governance issues. Following receipt of nominations/applications the Administering Authority will arrange an independent as possible appointment process. This process will include assessing information supplied by candidates in support of their nomination/application and may be supplemented by interviews as appropriate.

Members in all categories will only be appointed to the Pension Board by the Administering Authority if they either meet the knowledge and skills requirements set out in the relevant regulations and guidance (see Section 7) or commit to do so within 3 months of the appointment date.

Members of the Pension Board will serve for a term of 4 years following which they may either retire from the Board or seek nomination for an additional term. The term of office may otherwise come to an end

i. for scheme member representatives if they cease to be a member of the relevant group

ii. for employer representatives who are councillors if they cease to hold office as a councillor

iii. for employer representatives who are not councillors when they cease to be employed by their nominating employer

iv. for a councillor member who is appointed to the PFC

v. for a scheme member or employer representative who is appointed to a role with responsibility for the management or administration of the Fund

vi. where there is a conflict of interest which cannot be managed in accordance with the Pension Board's Conflicts of Interest Policy

vii. where a member fails to attend meetings, undertake training or otherwise comply with the requirements of being a Pension Board member

Each Pension Board member should endeavour to attend all Board meetings during the year and is expected to attend at least 3 meetings each year. The chair of the Board is also expected to attend the quarterly meetings of the PFC.

Given the nature of the Pension Board as a supervisory body and the need for appropriate knowledge and skills and the clear avoidance of conflicts of interest, substitute members are not permitted.

In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Administering Authority.

Other than by ceasing to be eligible as set out above, a Board member may also be removed from office during a term of appointment by the unanimous agreement of all of the other members. The removal of the independent member requires the consent of the Administering Authority.

3) Conflicts of Interest

The policy for identifying, monitoring and managing conflicts of interest is set out in a separate policy document, which should be regularly reviewed by the Pension Board.

4) Standards of Conduct

The role of Pension Board members requires the highest standards of conduct and therefore the “seven principles of public life” will be applied to all Pension Board members and embodied in their code of conduct.

These are:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership

5) Knowledge and Skills

A member of the Pension Board must be conversant with:

1. The legislation and associated guidance of the LGPS
2. Any document recording policy about the administration of the LGPS which is for the time being adopted by the NYPF

A member of the Pension Board must have knowledge and understanding of:

- a. the law relating to pensions, and
- b. any other matters which are prescribed in the regulations

Individual Pension Board members must satisfy themselves that they have the appropriate degree of local knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board. This includes being fully aware of all requirements detailed in these terms of reference for example on standards of conduct and conflicts of interest, and being conversant with the investment strategy of the Fund.

In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.

6) Board Review Process

The Board will undertake each year a formal review process to assess how well it and its members are performing with a view to seeking continuous improvement in the Board's performance.

7) Accountability

The Pension Board will be collectively and individually accountable to the Administering Authority.

8) Remit of the Board

The Pension Board must assist the Administering Authority with such matters as the scheme regulations may specify. It is for scheme regulations and the Administering Authority to determine precisely what the Pension Board's role entails. Examples of activity include, inter alia:

- reviewing the Fund's governance and policy documents, such as the Governance Compliance Statement and the Communications Policy Statement
- reviewing the Fund's Annual Report
- reviewing the administrative performance of the Fund
- reviewing shareholder voting and engagement arrangements
- reviewing the Fund's Risk Register
- reviewing the NYPF website
- supporting and challenging PFC actions as a critical friend

9) Decision making

Each Pension Board member who is a scheme member or employer representative will have an individual voting right but it is expected that the Pension Board will as far as possible reach a consensus. The Chair of the Pension Board will not be entitled to vote.

10) Quorum

The Board shall be quorate if the Chair, 1 scheme member representative and 1 employer representative are present.

11) Board Meetings – Notice, Minutes and Reporting

The Administering Authority shall give notice to all Pension Board members of every meeting of the Pension Board and shall ensure that a formal record of Pension Board proceedings is maintained. Following the approval of the minutes by the Chair of the Board, they shall be circulated to all Pension Board members.

The Pension Board is a committee of the Council and as such the Council's rules on notice of meetings, publishing agendas, reports and minutes and that meetings and papers (unless exempt) are open to the public will apply. At the discretion of the Administering Authority items may be edited or excluded on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

The Pension Board shall annually report to the Administering Authority on its nature and activities. The precise content of this report will be subject to consideration and agreement at a meeting of the Board but as a minimum should include

- a. details of members attendance at meetings of the Pension Board
- b. details of training and development activities made available to Pension Board members and attendance at such activities
- c. details of any recommendations made by the Pension Board to the Scheme Manager and the Scheme Manager's response to those recommendations
- d. details of costs incurred in the operation of the Pension Board
- e. a review of the effectiveness of the Board (see Section 6)

In consideration of items of business at its ordinary meetings the Pension Board shall determine whether it wishes to make recommendations to the Scheme Manager, to which the Scheme Manager shall respond at the subsequent meeting.

The Pension board shall also report as required by the regulations to the Pensions Regulator and the National Scheme Advisory Board.

12) Reporting Breaches

Any breach brought to the attention of the Pension Board, whether potential or actual, shall be dealt with in accordance with the procedure set out in the draft code of practice 14 issued by the Pensions Regulator, *Governance and Administration of Public Service Pension Schemes*.

13) Publication of Pension Board information

Scheme members and other interested parties will want to know that the NYPF is being efficiently and effectively managed. They will also want to be confident that the Pension Board is properly constituted, trained and competent in order to comply with scheme regulations, and to carry out its role in relation to the governance and administration of the scheme and requirements of the Pension Regulator.

Up to date information will be posted on the NYPF website showing:

- the names of the Pension Board members and other relevant information
- how the scheme members are represented on the Pension Board
- the responsibilities of the Pension Board as a whole
- the full terms of reference and policies of the Pension Board and how they operate
- the Pension Board appointment process
- any specific roles and responsibilities of individual Pension Board members

The Administering Authority will also consider requests for additional information to be published or made available to individual scheme members to encourage scheme member engagement and promote a culture of openness and transparency.

14) Advice to the Board

The Board will be supported in its role and responsibilities by the Administering Authority through advice and support as appropriate.

15) Expense Reimbursement, remuneration and allowances

The Administering Authority will determine remuneration and allowances to be paid to Pension Board members based on recommendations made by the Independent Panel on Members Remuneration. These arrangements are reviewed annually.

Expenses in connection with fulfilling Pension Board responsibilities will be met by the Fund based on the Council's Members Scheme of Allowances and officers Travel and Expenses Policy as appropriate. The costs of appropriate training will also be met by the Fund.

16) Insurance

The Council's Public Liability Insurance applies to members of the Pension Board.

17) Updating the Pension Board Terms of Reference

Approval for significant amendments must be pursued through the Council's Constitution Working Group. General updating or housekeeping can be carried out without the need to seek formal approval.

18) Definitions

The undernoted terms shall have the following meaning when used in this document:

<i>"Pension Board" or "Board"</i>	Means the Pension Board for the Council as the Administering Authority of the NYPF as required under the Public Service Pensions Act 2013
<i>"Administering Authority"</i>	Means the Council
<i>"Scheme Manager"</i>	Means the PFC of the Council
<i>"Chair"</i>	The individual responsible for chairing meetings of the Pension Board and guiding its debates
<i>"LGPS"</i>	The Local Government Pension Scheme as constituted by the Local Government Pension Scheme Regulations 2013, the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 and the The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009
<i>"Scheme"</i>	Means the Local Government Pension Scheme as defined under "LGPS"

Local Government Pension Scheme (LGPS)

Guidance on the creation and operation of Local Pension Boards in England and Wales

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1. Introduction

- 1.1 The LGPS is a common pension scheme throughout England and Wales, administered locally by 90 separate Administering Authorities.
- 1.2 In the context of the UK public service pension schemes, the LGPS is the largest funded occupational pension scheme in the UK.
- 1.3 Administering Authorities are required to establish a new body to be known as a Local Pension Board to assist the Administering Authority in its role as the Scheme Manager of its Fund in accordance with the requirements of the 2013 Act.
- 1.4 This Guidance is designed to assist Administering Authorities in the creation and operation of Local Pension Boards in line with relevant legislation and in particular the 2013 Act and the Regulations.
- 1.5 This Guidance should not be taken as a definitive interpretation of legislation and it should always be read in conjunction with the relevant legislation. Administering Authorities are advised to secure their own legal advice on the interpretation and application of the legal framework.
- 1.6 Unless otherwise stated, this Guidance is correct as at 28 January 2015.
- 1.7 The following is an explanation of defined terms used in this Guidance:

1972 Act	The Local Government Act 1972.
1989 Act	The Local Government & Housing Act 1989.
2000 Act	The Local Government Act 2000.
2004 Act	The Pensions Act 2004.
2011 Act	The Localism Act 2011.
2013 Act	The Public Service Pensions Act 2013.
Administering Authority	A body listed in Part 1 of Schedule 3 of the Regulations who maintains a fund within the LGPS.
Code of Practice	The Regulator's Code of Practice no. 14 entitled " <i>Governance and administration of public service</i> "

	<i>pension schemes”.</i>
DCLG	The Department for Communities and Local Government.
DPA	Data Protection Act 1998.
FOIA	Freedom of Information Act 2000.
Investment Regulations	The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009.
IPSPC	Independent Public Service Pensions Commission.
LGPS	The Local Government Pension Scheme - a scheme for the payment of pensions and other benefits to or in respect of persons working in local government service in England and Wales or for other bodies that participate in the LGPS.
Local Pension Board	The board established to assist the Administering Authority as the Scheme Manager for each Fund.
Pension Committee	A committee or sub-committee to which an Administering Authority has delegated its pension function.
Regulations	The Local Government Pension Scheme Regulations 2013 (as amended).
Regulator	The Pensions Regulator.
Responsible Authority	The Secretary of State for Communities and Local Government being the person who makes regulations for a pension scheme established under section 1 of the 2013 Act.
Rules of Procedure	The rules governing the decision making process of the Administering Authority as set out in its constitution.

Scheme Advisory Board	The Local Government Pension Scheme Advisory Board established under the Regulations.
Scheme Manager	A person or body responsible for managing or administering a pension scheme established under section 1 of the 2013 Act. In the case of the LGPS, each Fund has a Scheme Manager which is the Administering Authority.
Secretary of State	The Secretary of State for Communities and Local Government.
Transitional Regulations	The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.

2. Background

LGPS Governance Structure Prior to April 2015

- 2.1 The LGPS is a statutory funded public service pension scheme. It differs in legal status from trust based pension schemes in the private sector because it is established under statute and not set up under a trust. It also differs from most other statutory public service pension schemes which are unfunded schemes. Matters of governance in the LGPS therefore need to be considered on their own merits and with proper regard to the unique legal status of the LGPS.
- 2.2 Prior to 1 April 2015, the LGPS has had a relatively straightforward governance structure which includes the Secretary of State and the Administering Authority.
- 2.3 Each Administering Authority is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The Administering Authority is responsible for maintaining and investing its own Fund within the LGPS.
- 2.4 How an Administering Authority delegates its LGPS function is largely a matter for each Administering Authority. The majority of Administering Authorities are local authorities and therefore operate in accordance with local government law. However some Administering Authorities are not local authorities such as the Environment Agency, the London Pensions Fund Authority and the South Yorkshire Pensions Authority. Such bodies operate in accordance with their own legal constitutions.

The Road to Reform

- 2.5 June 2010: Lord Hutton of Furness is appointed by Government to chair the IPSPC and undertake a fundamental structural review of public service pension provision and to make recommendations to the Chancellor and Chief Secretary to the Treasury on future pension arrangements.
- 2.6 October 2010: The IPSPC produces its interim report.
- 2.7 March 2011: The IPSPC produces its final report making 27 recommendations for the reform of public service pension schemes including:

- properly constituted, trained and competent pension board with member nominees, responsible for meeting good standards of governance including effective and efficient administration;
- a pension policy group for each public service pension scheme at national level for considering major changes to scheme rules; and
- independent oversight of the governance, administration and data transparency of public service pension schemes.

- 2.8 December 2011: Following a meeting in November 2011, the Local Government Association and lead members and officials from GMB, UNISON and Unite conclude that discussions should be progressed with the aim of reaching agreement on a set of high level principles for the LGPS.
- 2.9 May 2012: The Local Government Association, GMB, UNISON and Unite announce the outcome of their negotiations on new LGPS proposals to take effect from 1 April 2014.
- 2.10 April 2013: The 2013 Act implementing most of the IPSPC's recommendations receives Royal Assent.
- 2.11 April 2014: The new career-average LGPS comes into force.
- 2.12 April 2015: The new governance structure for the LGPS and other public service pension schemes come into force.

3. Legislative background and structure of governance arrangements from 2015

Legislative requirements for governance in the LGPS

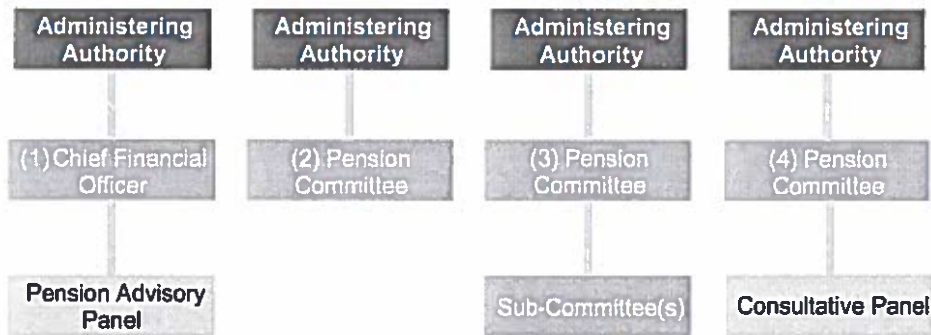
- 3.1 The Regulations require each Administering Authority to establish a Local Pension Board for the purposes of assisting the Administering Authority in line with the requirements set out in paragraph 3.27.
- 3.2 Local Pension Boards must be established no later than 1 April 2015. Established in this context means that the Administering Authority must have approved the establishment of the Local Pension Board, its composition and also the terms of reference, in accordance with its constitution. It does not necessarily mean that the Local Pension Board has to be fully operational by this date. However, it is anticipated that a Local Pension Board should be operational within a reasonably practicable period after 1 April 2015 (being no longer than 4 months).
- 3.3 The Regulations set out the requirements relating to the new Local Pension Boards.

Governance structure in the LGPS

- 3.4 Each Administering Authority is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The Administering Authority is responsible for maintaining and investing its own Fund for the LGPS.
- 3.5 Administering Authorities are defined in Part 1 of Schedule 3 of the Regulations.
- 3.6 The majority of Administering Authorities are local authorities and therefore operate in accordance with local government law requirements. However some Administering Authorities are not local authorities such as the Environment Agency, the London Pensions Fund Authority and the South Yorkshire Pensions Authority. Such bodies operate in accordance with their own legal constitutions.
- 3.7 In some instances, two or more Administering Authorities may share their administration function, for example through a shared service arrangement, or in other ways. However, where this happens each local authority still retains its own individual Administering Authority status and therefore legal responsibility for its own Fund.

- 3.8 The membership structure for the Local Pension Board required by regulation 107 of the Regulations does not fit neatly into the standard arrangements which exist for decision making on pensions issues and existing established governance arrangements for Administering Authorities. This section of the Guidance sets out the general legal provisions which will assist in placing the Local Pension Board in the context of decision making on wider pensions and financial matters.
- 3.9 For local authority Administering Authorities it is not permissible for decisions about pension allowances or the amount of pension to be paid to employees to be an executive decision (see The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001. This means that the executive (usually cabinet or the elected mayor) cannot make decisions in relation to LGPS matters, for example, how to exercise discretions under the Regulations.
- 3.10 This means in practice that decisions about pensions are delegated in accordance with Section 101 of the 1972 Act to:
- 3.10.1 committees or sub-committees made up of that Administering Authority's councillors from all the political groups and will be politically balanced (and some of these committees or sub-committees also have additional co-opted members such as employer and scheme member representatives); or
- 3.10.2 Administering Authority officers.
- Some decisions will be reserved for full council, for example decisions which have an impact on the budget.
- 3.11 Regulation 105 also provides that Administering Authorities may delegate functions under the Regulations. This confirms the authority in Section 101 of the 1972 Act.
- 3.12 The delegation of pension functions varies from Administering Authority to Administering Authority depending on local circumstances. The Regulations require an Administering Authority's governance compliance statement to set out whether the Authority delegates its functions and the detail of the delegation given. This includes the terms, structure and operation of the delegation, the frequency of meetings, membership and voting rights.

3.13 Examples of delegation structures used by Administering Authorities can be summarised as follows:



Governance compliance statements

3.14 To ascertain how an individual Administering Authority actually delegates its pension function it is necessary to review its governance compliance statement. Each Administering Authority must have in place a statement setting out whether the Administering Authority delegates its functions, or part of its functions under the Regulations to a committee, a sub-committee or an officer of the authority.

3.15 Where the Administering Authority does delegate its functions, the statement must include:

- 3.15.1 the terms, structure and operational procedures of the delegation;
- 3.15.2 the frequency of any committee or sub-committee meetings;
- 3.15.3 whether such a committee or sub-committee includes representatives of scheme employers or members, and if so, whether those representatives have voting rights;
- 3.15.4 the extent to which a delegation, or the absence of a delegation, complies with guidance given by the Secretary of State and, to the extent that it does not so comply, the reasons for not complying; and
- 3.15.5 details of the terms, structure and operational procedures relating to the Local Pension Board.

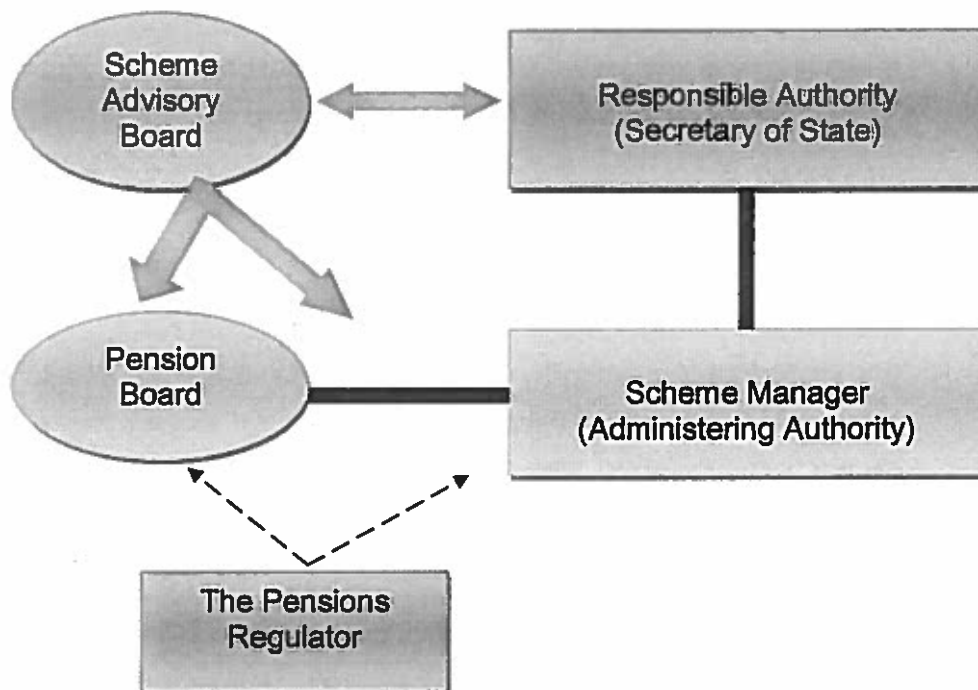
3.16 Current governance compliance statements will need to be revised to include the new information referred to in paragraph 3.15.5. The

Administering Authority will firstly need to consult with such persons as it thinks necessary about the revised statement and then publish it once it has been revised.

New governance structure in the LGPS

- 3.17 From 1 April 2015, the new governance structure of the LGPS can be summarised in the following diagram:

Post April 2015 LGPS Governance Structure



The Responsible Authority

- 3.18 In accordance with section 2 of the 2013 Act, each pension scheme established under section 1 of the 2013 Act must have a 'responsible authority' which is the person who may make regulations for that scheme.

- 3.19 In the case of the LGPS, the Responsible Authority is the Secretary of State.

Administering Authority/Scheme Manager

- 3.20 Section 4 of the 2013 Act requires that, in the case of a pension scheme established under section 1 of that Act, regulations must provide for a 'scheme manager'. The scheme manager is the person who is responsible for managing or administering the scheme.

- 3.21 The Regulations specify that the 'scheme manager' responsible for the local administration of pensions and other benefits payable under the LGPS shall be each Administering Authority.
- 3.22 In the case of the LGPS, each Fund therefore has a Scheme Manager which is the Administering Authority. This contrasts with other public service pension schemes administered on a national basis, such as the Teachers' Pension Scheme, where there is a single scheme manager for the whole scheme.
- 3.23 As noted at paragraph 3.4 an Administering Authority is responsible for managing and administering the LGPS in relation to any person for which it is the appropriate administering authority under the Regulations. The Administering Authority is responsible for maintaining and investing its own Fund for the LGPS. This means the Administering Authority is responsible for making all decisions relating to the operation of the Fund.
- 3.24 The creation of new Local Pension Boards does not change the core role of the Administering Authority or the way it delegates its pension functions. However, when establishing its Local Pension Board, the Administering Authority may wish to take the opportunity to review its current delegation structure to see if it remains fit for purpose.
- 3.25 For example, where there is an advisory panel advising a Pension Committee, the Administering Authority may wish to consider the extent to which the advisory panel's functions are superseded by the new Local Pension Board. An existing panel of this nature is not a Local Pension Board and should not be re-badged as such. A new Local Pension Board should be properly established and the existing arrangements then reviewed.

Local Pension Boards

- 3.26 Section 5 of the 2013 Act requires that, in the case of a pension scheme established under section 1 of that Act, regulations must provide for the establishment of a board with responsibility for assisting the scheme manager(s) in relation to specified matters. In turn, this has resulted in the requirement for Local Pension Boards for each Administering Authority in the LGPS under the Regulations.

3.27 Regulation 106(1) of the Regulations specifies that each Administering Authority shall establish its own Local Pension Board with responsibility for assisting the Administering Authority:

3.27.1 to secure compliance with:

3.27.1.1 the Regulations;

3.27.1.2 other legislation relating to the governance and administration of the LGPS; and

3.27.1.3 the requirements imposed by the Regulator in relation to the LGPS, and

3.27.2 to ensure the effective and efficient governance and administration of the LGPS.

3.28 Assisting the Administering Authority should be interpreted as helping the Administering Authority, including doing work requested by the Administering Authority. The role of the Local Pension Board should be interpreted as covering all aspects of governance and administration of the LGPS, including funding and investments. However, the Local Pension Board does not replace the Administering Authority or make decisions which are the responsibility of the Administering Authority under both the Regulations and other overriding legislation. The Administering Authority can choose to delegate duties to the Local Pension Board within the parameters of the Regulations.

3.29 The role and remit of a Local Pension Board is considered in more detail in Schedule A.

3.30 Regulation 106(9) of the Regulations specifies that the expenses of a Local Pension Board shall be regarded as part of the costs of administration of the Fund. This is considered in more detail in section 9, Resourcing and Funding.

Scheme Advisory Board

3.31 Section 7 of the 2013 Act requires that, in the case of a pension scheme established under section 1 of that Act, regulations must provide for the establishment of a board with responsibility for providing advice to the responsible authority, at the authority's request, on the desirability of

changes to the scheme. The responsible authority must have regard to such advice.

3.32 Where a scheme has more than one scheme manager (and accordingly there is more than one pension board for the scheme), regulations may also provide for the Scheme Advisory Board to provide advice (on request or otherwise) to the scheme managers or the scheme's pension boards in relation to the effective and efficient administration and management of the scheme or any pension fund of the scheme.

3.33 In turn, Section 7 has resulted in the requirement for the Scheme Advisory Board for the LGPS under the Regulations. The Scheme Advisory Board for the LGPS is established by the Regulations and is responsible for providing advice:

3.33.1 to the Secretary of State on the desirability of making changes to the LGPS; and

3.33.2 to the Administering Authorities and Local Pension Boards in relation to the effective and efficient administration and management of the LGPS and the Funds.

3.34 In both cases, the Secretary of State and Administering Authorities (including those with delegated responsibility, i.e. Pension Committees (or sub-committees) and Officers) or Local Pension Boards must have regard to advice issued by the Scheme Advisory Board in accordance with section 7(3) of the 2013 Act.

4. The Pensions Regulator

- 4.1 The regulatory powers of the Regulator were extended under section 17 and Schedule 4 of the 2013 Act to cover some aspects of public service pension schemes, including the LGPS.
- 4.2 The Regulator is an existing body corporate established by the 2004 Act. Prior to 1 April 2015, the Regulator regulated occupational and personal pension schemes provided primarily through private sector employers.
- 4.3 The Regulator has a number of statutory objectives including to:
- 4.3.1 protect the benefits of pension scheme members,
 - 4.3.2 promote, and improve understanding of, the good administration of work-based pension schemes,
 - 4.3.3 maximise compliance with the duties and safeguards of the Pensions Act 2008; and
 - 4.3.4 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 only).
- 4.4 The 2013 Act introduces a framework for the regulatory oversight of aspects of the governance and administration of public service pension schemes by the Regulator from 1 April 2015, through expanding its current role.
- 4.5 The Regulator has oversight in areas such as those listed in paragraph 4.6 below and may issue codes of practice for public service pension schemes in these areas.
- 4.6 The Regulator has issued the Code of Practice which covers:
- 4.6.1 knowledge and understanding required by pension board members (see paragraphs 33 to 60 of the Code of Practice);
 - 4.6.2 conflicts of interest and representation (see paragraphs 61 to 91 of the Code of Practice);
 - 4.6.3 reporting breaches of the law (see paragraphs 241 to 275 of the Code of Practice);
 - 4.6.4 publishing information about schemes (see paragraphs 92 to 99 of the Code of Practice);

- 4.6.5 internal controls (see paragraphs 101 to 120 of the Code of Practice);
 - 4.6.6 scheme record-keeping (see paragraphs 122 to 146 of the Code of Practice);
 - 4.6.7 maintaining contributions (see paragraphs 147 to 186 of the Code of Practice);
 - 4.6.8 providing information to members (see paragraphs 187 to 211 of the Code of Practice) ; and
 - 4.6.9 internal dispute resolution (see paragraphs 213 to 240 of the Code of Practice).
- 4.7 However, only the areas of knowledge and understanding, conflicts of interest and representation and reporting breaches of the law have direct application to Local Pension Boards. The other areas apply to Administering Authorities, although there are areas that a Local Pension Board will need to be aware of in order to assist the Administering Authority.
- 4.8 This Guidance takes into account the principles of the Code of Practice where relevant and applies them to the LGPS.
- 4.9 For the avoidance of doubt the powers of the Regulator were not extended to cover areas such as the funding and investment of Funds.

The Regulator's Powers

- 4.10 The Regulator will have a range of enforcement powers under the 2013 Act including:
- 4.10.1 the power to appoint a person to assist a Local Pension Board in the discharge of its functions if the Regulator considers it desirable for the purpose of ensuring compliance with relevant "pensions legislation";
 - 4.10.2 the power to issue an 'improvement notice' to an Administering Authority or to a member(s) of a Local Pension Board directing them to take, or refrain from taking, such steps as are specified in the notice in order to remedy or prevent a recurrence of a contravention of "pensions legislation";

- 4.10.3 the power to issue a 'third party notice' directing a third party to take, or refrain from taking, such steps as are specified in the notice in order to remedy or prevent a recurrence of a contravention of "pensions legislation";
- 4.10.4 the power to issue a 'report notice' to an Administering Authority or to a member(s) of a Local Pension Board requiring them to provide a report on a specified matter(s) which are relevant to the exercise of any of the Regulator's functions;
- 4.10.5 the power to require Administering Authorities and members of Local Pension Boards to produce documents and information;
- 4.10.6 the power to inspect premises;
- 4.10.7 the power to apply for an injunction;
- 4.10.8 the power to apply for restitution where there has been a misuse or misappropriation of any Fund assets;
- 4.10.9 the power to recover unpaid contributions on behalf of an Administering Authority; and
- 4.10.10 the power to impose civil penalties for breaches of certain pensions legislation including the duty for Administering Authorities and members of Local Pension Boards to report breaches of the law, the duty for Administering Authorities to report the late payment of employer contributions and the failure to comply with an 'improvement notice' or a 'report notice'.

4.11 As noted above, certain powers of the Regulator are limited to contravention of "pensions legislation". For this purpose, "pensions legislation" has a specific meaning and includes certain pieces of core pensions legislation which apply to both public and private sector schemes (the Pension Schemes Act 1993; parts of the Pensions Act 1995; the Pensions Act 2004; and statutory provisions on pension sharing on divorce). In terms of the legislation contained in the 2013 Act, "pensions legislation" only includes sections 5(4) (pension board: conflicts of interest and representation), 6 (pension board: information), 14 (information about benefits) and 16 (records).

- 4.12 Of the 2013 Act provisions, only section 5(4) (pension board: conflicts of interest and representation) has direct relevance to a Local Pension Board, as the other sections relate to Scheme Manager responsibilities.
- 4.13 The other listed statutory provisions are relevant to the extent that a Local Pension Board is responsible for assisting the Administering Authority to comply with legislation relating to the governance and administration of the LGPS (which will include certain elements of the listed statutes). In all cases, the term “pensions legislation” covers both the statutory provisions listed and any secondary legislation made under those provisions.

Reporting Local Pension Board Members to the Administering Authority

- 4.14 If the Regulator has reasonable grounds to suspect or believe that a member of a Local Pension Board:
- 4.14.1 has misappropriated any assets of the Fund or is likely to do so;
or
 - 4.14.2 has a conflict of interest in relation to the investment of assets of the Fund

the Regulator must report the matter to the Administering Authority. However, given that a member of Local Pension Board should not have access to Fund assets or be involved in the investment of Fund assets then the exercise of this duty should be rare in practice.

5. Constitution and Membership of a Local Pension Board

- 5.1 As noted at paragraph 3.2, Local Pension Boards must be established no later than 1 April 2015. Established in this context means that the Administering Authority must have approved the establishment of the Local Pension Board, its composition and also the terms of reference, in accordance with its constitution. It does not necessarily mean that the Local Pension Board has to be fully operational by this date. However, it is anticipated that a Local Pension Board should be operational within a reasonably practicable period after 1 April 2015 (being no longer than 4 months).
- 5.2 The responsibility for establishing a Local Pension Board rests with the Administering Authority of each Fund. This is something the Administering Authority must do; it is not optional.
- 5.3 For many Administering Authorities, all existing pension functions are likely to be delegated to a Pension Committee or an officer. However, it is open to an Administering Authority to exercise directly any function which it has delegated.
- 5.4 In light of the fact that the role of the Local Pension Board is to assist the Administering Authority, the Administering Authority will need to carefully consider the establishment of the Local Pension Board and the appointment of its members. It should therefore be a function undertaken by the Administering Authority (for example full council) rather than by the delegated Pension Committee or officer.
- 5.5 An Administering Authority is given power under regulation 106(6) of the Regulations to determine the procedures applicable to its Local Pension Board, including the establishment of sub-committees and the payment of expenses. When exercising this power (as provided for in the 2013 Act), the Administering Authority must do so in accordance with usual local government principles, acting reasonably and within the powers set out in the Regulations.
- 5.6 Regulation 106(2) of the Regulations provides that where a local authority Administering Authority delegates its pension functions to a Pensions Committee, then with Secretary of State approval, the Pensions Committee may also undertake the role of the Local Pension Board. Please see section 10 of this guidance for further details.

Membership of a Local Pension Board

- 5.7 A Local Pension Board must include an equal number of employer and member representatives with a minimum requirement of no fewer than four in total. In addition, the Regulations do not preclude that other members may also be appointed to the Board.
- 5.8 No officer or councillor of an Administering Authority who is responsible for the discharge of any function under the Regulations (apart from any function relating to Local Pension Boards or the Scheme Advisory Board) may be a member of the Local Pension Board of that authority.
- 5.9 The officers of the Administering Authority who would be precluded from being a member of the Local Pension Board would be any officer named in the scheme of delegation for that Administering Authority, for example the section 151 officer and the head of investments. It would also be appropriate to consider whether officers of the Fund at a senior level, who are not named in the formal scheme of delegation but who are responsible for discharging functions under the Regulations should also be precluded from being a member of the Local Pension Board.
- 5.10 Where an elected member of the Administering Authority is appointed as a member of the Local Pension Board this can only be as either an employer or member representative under the provisions of regulation 107(3)(b).
- 5.11 When determining the size of its Local Pension Board, the Administering Authority should consider the capacity of the Board to undertake its role in assisting the Administering Authority with the governance and administration of the scheme. The Administering Authority will need to consider a number of factors including (without limitation):
- 5.11.1 the number of scheme members, the number and size of employers;
 - 5.11.2 the breadth and diversity of scheme members and employers,
 - 5.11.3 the assets within the Fund and any collective arrangements in place for them to make decisions or provide input in relation to Fund matters;
 - 5.11.4 the cost of establishing and operating the Board;
 - 5.11.5 the existence or proposal to form any other advisory groups; and

5.11.6 the scope of the Board's remit and workplan.

- 5.12 As indicated in the Code of Practice the Administering Authority should consider providing high quality pre-appointment training to proposed members of the Local Pension Board.

Appointment of Local Pension Board Members

- 5.13 Each employer or member representative on a Local Pension Board will potentially represent a significant range of employers or members (as appropriate). It is therefore important that the methodology for appointment ensures that representative Board members are truly representative.
- 5.14 All employers and members within a Fund must have equal opportunity to be nominated for the role of employer or member representative through an open and transparent process.
- 5.15 The Regulations also allow for the appointment of other Local Pension Board members i.e. members who are not there to represent employers or scheme members, this would include for example where an Administering Authority wishes to appoint an independent chairperson to the Local Pension Board.

Capacity of Representative Members

- 5.16 Regulation 107 of the Regulations also requires that the Administering Authority must ensure that any person it wishes to appoint as an employer or member representative has the capacity to represent the employers or members (as appropriate) of the Fund.
- 5.17 It will be important to appoint members who have the time to commit to attend meetings, undertake training and effectively represent employers and members (as appropriate).
- 5.18 Whilst it is the responsibility of those members appointed to have the capacity to represent employers and members respectively consideration should also be given by employers to reasonable time off or 'facilities time' to allow employees who are members of the Local Pension Board to effectively carry out their role. Administering Authorities should highlight to employers the work needed to carry out the role to encourage employers to allow for reasonable time off for Local Pension Board members. Administering Authorities could for example reimburse employers who provide their employees (who are members of the Board) with paid time off

for and to attend Board meetings. See section 9 for more information on the resourcing of Local Pension Boards. In addition whilst no member of the Board should be better or worse off by undertaking a role on the Local Pension Board the Administering Authority should encourage policies which enable active participation on the Board and therefore help in developing an effective Board.

- 5.19 The Regulations specify a Local Pension Board member should not have a conflict of interest, and then go on to clarify that a financial or other conflict of interest will not arise merely by virtue of a member of a Local Pension Board being a member of the LGPS and/or Fund. The potential for conflicts of interest is considered in section 7 of this guidance.
- 5.20 An individual's ability to properly represent the interests of employers or members (as appropriate) and channel information back to those persons effectively should also be a key factor in selecting members of the Local Pension Board. This needs to take account of the wide range of membership of the Fund to ensure all employers and members are represented.

Appointment of Other Members

- 5.21 As noted at paragraph 5.8, no officer or councillor of an Administering Authority who is responsible for the discharge of any function under the Regulations (apart from any function relating to Local Pension Boards or the Scheme Advisory Board) may be a member of the Local Pension Board of that authority.
- 5.22 The requirement for capacity does not explicitly apply to other (i.e. non-representative) members appointed by the Administering Authority. Nevertheless, the Administering Authority should have an open and transparent process for the appointment of such members.
- 5.23 As noted at paragraph 5.10 an elected member of the Administering Authority cannot be appointed to the Local Pension Board as an 'other member'.
- 5.24 Where an Administering Authority decides to appoint an independent chair to the Board, that chair would be considered an 'other member'.

The Process for Appointing Employer and Member Representatives

- 5.25 The methodology for appointing employer and member representatives is not prescribed by the Regulations. It will therefore fall to each Administering Authority to establish an appropriate process. Options may include (but are not limited to):

Direct Appointment Process

- 5.25.1 Selecting employer representatives through existing employer forums, for example nominations and voting at employer AGMs.
- 5.25.2 Selecting member representatives through existing representative organisations for example recognised trade unions, staff committees, member representative committees, pensioner organisations or nominations and voting at member AGMs (this could include active, deferred and pensioner members of the scheme).

Two Stage Nomination and Selection Process

- 5.25.3 Administering authorities may wish to consider methodologies used by private sector trust based schemes to appoint member-nominated trustees ("MNTs"). MNTs must be:
- 5.25.3.1 nominated as the result of a process which includes at least all the active and pensioner members of the scheme (or an organisation which adequately represents them); and
 - 5.25.3.2 selected as a result of a process which involves some or all of the members of the scheme.
- 5.25.4 Seeking nominations by advertising in local newspapers and on websites (including employer and member representative bodies websites).
- 5.25.5 Encouraging partner organisations or admission bodies to nominate members.
- 5.26 When selecting members, proper regard must be given to the obligations of the Administering Authority in relation to equal opportunities in any recruitment process. In practice, this means having an open and

transparent process, with a role specification. Depending on the appointment process used by the Administering Authority, it may also be necessary to have a formal interview process before appointments are made (if for example more nominations are received than available places on the Board). The interview process should assess the ability of the individual to meet the requirements of the role and make appointment on merit.

- 5.27 It is also important to ensure that those who are appointed have a range of experience so that there is a good balance and breadth of experience on the Local Pension Board.

Making Appointments

- 5.28 As noted in other sections, the appointment process provides an ideal opportunity for the Administering Authority to obtain confirmation from the appointee in the form of a written undertaking that they understand the requirements of the role and to commit to those requirements, for example by:

5.28.1 disclosing all interests and responsibilities which have the potential to become conflicts of interest (see paragraph 7.36);

5.28.2 committing to attend a minimum number of meetings a year;

5.28.3 committing to undertake and attend the necessary knowledge and understanding training (see paragraph 6.23); and

5.28.4 undertaking to abide by the Board's terms of reference and wider constitutional documents.

Term of Office

- 5.29 Consideration should be given to the term of office so that experience is retained on the Local Pension Board. This could be by a proportion of members retiring on a rolling basis so that the Local Pension Board has the benefit of gaining new members with new experience whilst also retaining existing experienced members and stability for the Local Pension Board.
- 5.30 The ability of members to seek re-appointment for a further term needs to be considered. Given the complexity of the subject matter there is a case for renewing membership over an extended period.

Termination

- 5.31 As well as dealing with the terms of appointment, the Administering Authority should also consider the circumstances in which a member of a Local Pension Board should cease to be a member.
- 5.32 Clearly this will arise at the expiry of a member's term of office, although there may well be other circumstances in which a member's term of office may end, for example the Administering Authority should consider suitable provisions if:
- 5.32.1 a member has a conflict of interest which cannot be managed in accordance with the Board's conflicts policy;
 - 5.32.2 a member dies or becomes incapable of acting;
 - 5.32.3 a member who is a councillor of the Administering Authority is appointed to a Pensions Committee;
 - 5.32.4 a member is appointed to the role of an officer of the Administering Authority with responsibility for the discharge of functions under the Regulations;
 - 5.32.5 a member wishes to resign, for example how much notice should be given and in what form;
 - 5.32.6 a representative member ceases to represent his constituency, for example if an employer representative leaves the employment of his employer and therefore ceases to have the capacity to represent the Fund's employers; and
 - 5.32.7 a member fails to attend meetings or otherwise comply with the requirements of being a Board member, for example fails to attend the necessary knowledge and understanding training. The Administering Authority should consider who would decide this, whether the member should be given an opportunity to change their behaviour and how much notice should be given and in what form. Where issues of this nature arise, the chair of the Local Pension Board should have lead responsibility for an initial informal discussion with the member about the concerns. It would be helpful for the chair of the Local Pension Board to be supported and advised by professional advisers with that discussion. This could be an Administering Authority officer provided there was no conflict

of interest. The matter could also be raised with any body which had nominated the individual for appointment.

- 5.33 Where a vacancy arises for a representative member mid-term, the Administering Authority should consider the process to be used to fill that vacancy.

Terms of Reference

- 5.34 The Administering Authority when establishing its Local Pension Board should create terms of reference for the Board on the basis that the Board is a stand-alone body. The terms of reference are the rules setting out how the Board will be constituted and operate on a day to day basis. The terms of reference for a Local Pension Board should be reviewed periodically and at each material change in regulations impacting on Local Pension Boards.

- 5.35 It is worth noting that under regulation 106(8) of the Regulations a Local Pension Board shall have the general power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. However, as a minimum a Board's terms of reference should include areas such as:

5.35.1 **Function of the Board** – The terms should set out the function of the Board to assist the Administering Authority to secure compliance and ensure the effective and efficient governance and administration of the LGPS in line with the requirements set out at paragraph 3.27 and Schedule A.

5.35.2 **Membership** – This should include the number of each category of Board member (including other representatives), the appointment and selection process, term of office and procedures for termination of office.

5.35.3 **Code of Conduct** – The terms of reference should refer to the requirement for the Local Pension Board to have a code of conduct for its members and that members of the Board should abide by the code (see paragraph 7.9).

5.35.4 **Voting Rights** – The terms should set out that employer and member representatives of the Board have equal voting rights. The terms should also indicate where the chair is from either the employer or member representatives whether the chair has a

casting vote. It should be noted that other members do not have voting rights on the Board.

- 5.35.5 **Conflict of Interests** – The terms should refer to the requirement for the Board to always act within the terms of reference. The Local Pension Board should have a conflicts policy for its members and that members should abide by the policy and provide information that the Administering Authority may reasonably require from time to time to ensure that members do not have a conflict of interest (see paragraph 7.40).
- 5.35.6 **Appointment of a Chair/Vice-Chair** – The terms should specify whether the Board is to have a chair and/or vice-chair and if so specify the roles of the chair and/or vice-chair, how they are appointed and whether the chair is to be given a casting vote (only where the chair is from the member or employer representatives on the Local Pension Board). This should include the leadership responsibilities of the chair to ensure that meetings are properly conducted, decision making is clear and professional advice is followed. It will also set out the role of the chair in agreeing the agenda and approving the minutes for each meeting.
- 5.35.7 **Role of Advisors** – The terms should set out the role of professional advisers, or other advisors to the Board and the process for their appointment and agreeing their fees. In addition the process for the Board accessing existing advisors to the Administering Authority should also be set out. Administering Authorities may wish to use a shared pool of potential advisors, for example having access to an agreed pool of senior pension fund officers from other (possibly neighbouring) authorities.
- 5.35.8 **Role of Officers** – The terms should set out the role of officers of the Administering Authority to the Board, for example in the provision of secretariat services to the Board or providing pension fund information to the Board.
- 5.35.9 **Administration, Papers, Communication and Obtaining Information** – The terms should specify the terms for notice of Board meetings, the circulation of papers in advance of meetings, how meetings are to be run, the decision making process, recording minutes of meetings, a procedure for dealing with urgent items of business and the publication of information if considered relevant.

In addition where specific information may be required by the Board details of where such information may be obtained from should be provided to the Board. As the Local Pension Board is considered a committee of the Administering Authority for certain overriding statutory purposes such as FOIA and the Administering Authority is a FOIA public authority, minutes should be carefully dealt with and separated as appropriate into open and closed business, so that open minutes (including agendas and relevant papers) can be promptly published in the Administering Authority's FOIA publication scheme (see paragraph 8.22 to 8.23).

5.35.10 Organisation of meetings: The terms should specify how meetings will be organised. It is anticipated that meetings will take place separately from those of the Pension Committee. Should both bodies choose to meet at the same time to consider the same agenda, the terms should specify how those concurrent meetings are chaired as well as acknowledging that the statutory roles and function of the Pension Committee and the Board are separate

5.35.11 Number of Meetings – The terms should specify whether there should be a minimum number of meetings in a year. The frequency of Pension Committee meetings may serve as a useful benchmark for how often the Board should meet. There should also be an ability for a specified number of Board members or the Administering Authority to require a special meeting to be convened on notice.

5.35.12 Location and time of meetings – The terms should specify any restrictions in relation to the time (for example, during working hours only), and location of meetings and whether the meetings are to be public or not. Decisions about the time and location of meetings should be made whilst also being aware of the capacity requirements placed upon Board members.

5.35.13 Quorum – The terms should specify a quorum for meetings and in particular whether the quorum should include a minimum number of employer and member representatives.

5.35.14 Attendance Requirements – The terms should specify the requirements for attending meetings and the consequences of continued failure to attend Board meetings.

- 5.35.15 Role of Substitutes** – The terms should specify whether members are allowed to send substitutes to meetings where they are unable to attend themselves. This may be more appropriate for employer and member representatives. Training requirements should also be considered where substitutes are permitted.
- 5.35.16 Creation of Working Groups/Sub-Committees** – The terms should specify whether the Board has the power to set up working groups or sub-committees and if so on what terms (including terms of reference for those working groups or sub-committees).
- 5.35.17 Allowances/Expenses** – The terms should specify the policy in relation to the payment of allowances and expenses to Board members (see section 9 of this guidance for further information).
- 5.35.18 Budget** – The terms of reference should also set out a process for the Local Pension Board to have access to a budget for specified purposes, for example seeking professional advice, training for members, accommodation costs or meeting the costs of any claim for expenses and the timetable for approving that Budget.
- 5.35.19 Knowledge and Understanding** – The terms should refer to the requirement for the Board to have a policy and framework to meet the knowledge and understanding requirements of the 2004 Act (see section 6 of this guidance).
- 5.35.20 Reporting** – The terms should include arrangements for the reporting of information to the Administering Authority, including direct reporting arrangements where the Board has material concerns (see section 8 of this guidance). In addition the methods used to communicate to scheme members and employers should be included.
- 5.35.21 Data Protection** – The terms should take account of the Administering Authority's role as a 'data controller' under data protection legislation and any policies, such as a data protection policy, with which it must comply as well as ensuring personal data processing by the Local Pension Board is within the Administering Authority's notification registered with the Information Commissioner from time to time (which should be reviewed and updated as necessary) – see paragraphs 8.17 to 8.21 for further details.

- 5.36 The terms of reference should be approved by the Administering Authority. The terms of reference should also be formally adopted by the Local Pension Board once it is established. This would normally be expected to occur at the Board's first meeting.

Chair of the Local Pension Board

- 5.37 As per 5.34.6 the appointment of a chair/vice chair should be detailed in the Local Pension Board's terms of reference.

- 5.38 A chair could be appointed in a number of ways including:

5.38.1 a chair may be appointed by the employer and member representatives of the Board from amongst their own number or on a rotating basis with the term of office shared between an employer and a member representative on an equal basis.

5.38.2 an independent chair may be appointed by the Administering Authority. Such a chair would count in the number of other representatives on the Board. An independent chair would have no pre-existing employment, financial or other material interest in either the Administering Authority or any scheme employer in a fund or funds administered by the Administering Authority or would not be a scheme member of the LGPS in a fund administered by the Administering Authority. The appointment of an independent chair should be subject to the passing of a motion to confirm this by a majority of the employer and member representatives of the Board.

- 5.39 In their role the Chair of the Board:

5.39.1 shall ensure the Board delivers its purpose as set out in the Board's terms of reference,

5.39.2 shall ensure that meetings are productive and effective and that opportunity is provided for the views of all Board members to be expressed and considered, and

5.39.3 shall seek to reach consensus and ensure that decisions are properly put to a vote when that cannot be reached ensuring that instances of a failure to reach a consensus position will be recorded and published.

- 5.40 Where an Administering Authority appoints an independent chair consideration should be given to a clause within their contract for the role where they must agree to treat any confidential information as such and not to use for any potential financial or material gains.

Other Constitutional Documents

- 5.41 In addition to the terms of reference a Board is likely to have other key documents which would be included in its wider constitution. These may include:

5.41.1 A code of conduct (see paragraphs 7.9 to 7.11);

5.41.2 A conflicts policy (see paragraphs 7.40 to 7.41);

5.41.3 A knowledge and understanding policy document (see paragraph 6.8) including a list of the core documents recording policy about the administration of the Fund; and

5.41.4 Policies dealing with data protection, information security, acceptable use (and monitoring) and subject access request (see paragraph 8.21).

Failure to Establish a Local Pension Board

- 5.42 If an Administering Authority fails to establish its Local Pension Board by 1 April 2015, or having done so the Board fails to exercise its role, the question then arises as to what steps might be taken and by whom to challenge the action or lack of action of the Administering Authority. There are a number of potential possibilities:

5.42.1 Intervention by the Regulator.

5.42.2 Intervention by legal action - In principle an action by way of judicial review could be launched to ensure compliance where there has been failure to comply with a statutory obligation. It will be necessary to consider who might have interest or standing to bring such an action. Potentially this could be a body or person who has been denied representation by the failure to establish the Local Pension Board.

5.42.3 Complaint to the Local Government Ombudsman or Pensions Ombudsman. A failure by the Administering Authority to establish a

Local Pension Board is likely to constitute maladministration on the part of the Administering Authority.

5.42.4 Adverse comment by the Administering Authority's external auditor in the context of the Annual Audit letter.

5.42.5 Adverse comment by the Scheme Advisory Board.

5.43 The Secretary of State has overarching responsibility for the Scheme as the Responsible Body - with a clear interest in the successful implementation of local pension boards.

Action Points:

- Administering Authority to have approved the establishment (including Terms of Reference) of the Local Pension Board by 1 April 2015.
- The Local Pension Board must be operational (i.e. had its first meeting no later than 4 months after the 1 April 2015).

6. Board Knowledge and Understanding

Legal requirements

6.1 In accordance with section 248A of the 2004 Act, every individual who is a member of a Local Pension Board must:

6.1.1 be conversant with:

6.1.1.1 the rules of the LGPS, in other words the Regulations and other regulations governing the LGPS (including the Transitional Regulations, earlier regulations and the Investment Regulations); and

6.1.1.2 any document recording policy about the administration of the Fund which is for the time being adopted in relation to the Fund, and

6.1.2 have knowledge and understanding of:

6.1.2.1 the law relating to pensions; and

6.1.2.2 such other matters as may be prescribed.

6.2 A Local Pension Board member should be aware that their legal responsibilities begin from the date they take up their role on the Board and so should immediately start to familiarise themselves with the documents as referred to in paragraph 6.1.1 and the law relating to pensions.

6.3 In accordance with section 248A, the knowledge and understanding requirement applies to every individual member of a Local Pension Board rather than to the members of a Local Pension Board as a collective group.

General Principles

6.4 Administering Authorities should also take account of this Guidance to support them in understanding the requirement and to enable them to help members of the Local Pension Board to meet their knowledge and understanding obligations.

6.5 Administering Authorities should make appropriate training available to Local Pension Board members to assist them in undertaking their role and where possible support all members of the Board in undertaking that training. Where Local Pension Board members do not demonstrate their

capacity to attend and complete training then the Administering Authority may need to consider whether that Local Pension Board member has the capacity to undertake their role on the Board. See paragraph 5.31.7 for further information.

- 6.6 Knowledge and understanding must be considered in light of the role of a Local Pension Board to assist the Administering Authority in line with the requirements set out at paragraph 3.27.
- 6.7 However, members of a Local Pension Board clearly need to understand the duties and obligations of the Administering Authority, including funding and investment matters, in order to be able to assist it.
- 6.8 Once created, a Local Pension Board should establish and maintain a policy and framework to address the knowledge and understanding requirements that apply to its members. Where the Pensions Committee has an existing knowledge and understanding policy already in place, it may be sensible to see if this could be incorporated to cover both the Pensions Committee and the Local Pension Board to avoid unnecessary duplication. However the knowledge and understanding requirements of a Local Pension Board and a Pension Committee may differ, especially given the former's statutory requirements.
- 6.9 The Local Pension Board may wish to designate a person to take responsibility for ensuring that the knowledge and understanding framework is developed and implemented. This could be a member of the Local Pension Board or an external person, for example an officer of the Administering Authority or a professional adviser.

Knowledge and Understanding for Pension Committee Members

- 6.10 The legal requirement for knowledge and understanding for members of a Local Pension Board does not apply to members of a Pension Committee. However, the requirement serves as a useful benchmark for the knowledge and understanding that a member of a decision-making Pension Committee should have.

The Regulator's Code of Practice

- 6.11 The issue of knowledge and understanding is dealt with in the Regulator's Code of Practice (see paragraphs 34 to 60 of the Code of Practice). This Guidance is intended to reflect the principles of the Code of Practice and apply them in a LGPS context.

Degree of Knowledge and Understanding

- 6.12 Being conversant with the rules of the LGPS and any document recording policy about the administration of the Fund means having a working knowledge (i.e. a sufficient level of familiarity) of them so that members of a Local Pension Board can use them effectively when carrying out their role of assisting the Administering Authority.
- 6.13 In particular members of a Local Pension Board should understand the rules and documents in enough detail to know where they are relevant to an issue and where a particular provision or policy may apply.
- 6.14 In order to assist the Administering Authority, it is implicit that members of a Local Pension Board understand the duties and obligations that apply to the Administering Authority as well as to themselves.
- 6.15 The rules of the LGPS would include:
- 6.15.1 the Regulations;
 - 6.15.2 the Investment Regulations; and
 - 6.15.3 the Transitional Regulations (including any earlier Regulations as defined in the Transitional Regulations to the extent they remain applicable),
- and any statutory guidance referred to in these regulations.
- 6.16 A Local Pension Board should prepare and keep updated a list of the core documents recording policy about the administration of the Fund and make sure that the list and documents (as well as the rules of the LGPS) are accessible to its members.
- 6.17 Part 1 of Schedule B of this Guidance contains a list of documents which are likely to be regarded as recording policy about the administration of a Fund. This list should not be relied upon as being definitive and actual lists are likely to vary from Fund to Fund. This Schedule has been added to this guidance to assist Administering Authorities and Local Pension Boards to quickly identify documents which record policy about the administration of a Fund.
- 6.18 Members of a Local Pension Board should also be aware of the range and extent of overriding law which applies to the LGPS and have sufficient

knowledge and understanding of the content and effect of that law to recognise when and how it impacts on their role, responsibilities and duties.

- 6.19 Part 2 of Schedule B of this Guidance contains a summary of some of the key areas of law relating to pensions generally and the LGPS in particular. This summary should not be relied upon as being a definitive list of all the areas of law that members of a Local Pension Board need to know about and understand. This Schedule been added to this guidance to assist Administering Authorities and Local Pension Boards to quickly identify key areas of law that may be relevant.
- 6.20 Given the role of the Local Pension Board to assist the Administering Authority, members of a Local Pension Board should have sufficient knowledge and understanding to challenge any failure by the Administering Authority to comply with the Regulations and other legislation relating to the governance and administration of the LGPS (which should be interpreted as including the Regulations and other legislation relating to investment and funding matters) and/or any failure to meet the standards and expectations set out the Code of Practice.
- 6.21 Members of a Local Pension Board should have a breadth of knowledge and understanding that is sufficient to allow them to understand fully any professional advice the Local Pension Board is given. Members should be able to challenge any information or advice they are given and understand how that information or advice impacts on any decision relating to the Local Pension Board's duty to assist the Administering Authority.

Acquiring, Reviewing and Updating Knowledge and Understanding

- 6.22 A Local Pension Board's knowledge and understanding policy and framework should provide for the acquisition and retention of knowledge and understanding for its members.
- 6.23 Members of the Local Pension Board should commit sufficient time in their learning and development alongside their other duties. Training is an important part of the individual's role and will help to ensure that they have the necessary knowledge and understanding to effectively meet their legal obligations to assist the Administering Authority.
- 6.24 Members of the Local Pension Board must be aware that their knowledge and understanding responsibilities technically begin from the date they take up their post. Therefore, members should immediately start to familiarise

themselves with the Regulations, key Fund documents and relevant pensions law.

- 6.25 The Administering Authority should offer high quality induction training and should provide relevant ongoing training for Board members. This could be included in the normal training programme for members of the Pensions Committee as well as a specific training programme for the Local Pension Board.
- 6.26 It may also be useful for the Local Pension Board to have shared training events with the Pensions Committee and/ or Pension Committees and Local Pension Boards from other Funds to share knowledge and experience.
- 6.27 There must be a practical recognition that it will take a newly appointed member a reasonable period to attain the required full level of knowledge and understanding (see paragraph 6.1). Consideration should also be given to permitting newly appointed Local Pension Board members to overlap with the outgoing member to allow them to shadow that Board member for at least one Board meeting (where possible) as well as providing them with high quality induction training.
- 6.28 A Local Pension Board's knowledge and understanding policy and framework should require its members to undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.
- 6.29 Part 2 of Schedule B contains examples of areas of knowledge and understanding that a member of a Local Pension Board might be expected to have. These examples may assist a Board member in undertaking a personal training needs analysis.
- 6.30 A personalised training plan should then be used to document and address these promptly. This would be supported by any person the Local Pension Board has designated to implement the knowledge and understanding policy and framework.
- 6.31 Learning programmes should be flexible, allowing members of the Local Pension Board to update particular areas of learning where required and acquire new areas of knowledge in the event of any change. For example, members of the Local Pension Board who take on new responsibilities in

their role will need to have knowledge and understanding which is relevant to carry out those new responsibilities.

- 6.32 Learning programmes should deliver the appropriate level of detail to ensure that Local Pension Board members have the required level of knowledge and understanding specific to the LGPS.
- 6.33 The Regulator will be providing an e-learning programme which has been developed to meet the needs of all members of public sector scheme pension boards, whether or not they have access to other learning. It is not anticipated that this e-learning module alone would provide the sufficient level of LGPS specific training required for Local Pension Board members.
- 6.34 Members of a Local Pension Board and the Administering Authority should investigate what other third party learning tools and courses are available both for initial training requirements and any ongoing training needs identified for members of the Local Pension Board. Administering Authorities and Local Pension Boards should contact relevant advisors to identify any training resources being made available. For example the LGPC Secretariat will be providing training events for Local Pension Board members with details available from their website.
- 6.35 Once a Local Pension Board is in operation and new appointments are made in the future, mentoring by existing members could also be considered. This could also help to ensure that historical and scheme specific knowledge is retained when members of a Local Pension Board change.

Demonstrating Knowledge and Understanding

- 6.36 The Local Pension Board should keep appropriate records of the learning activities of individual members and the Local Pension Board as a whole. This will assist members in demonstrating their compliance, if necessary, with the legal requirement and how they have mitigated risks associated with knowledge gaps. For example a good external learning programme will maintain records of the learning activities of individuals on the programme or of group activities, if these have taken place, which can be provided to the Local Pension Board.

Action Points:

- Once established a Local Pension Board should adopt a knowledge and understanding policy and framework (possibly in conjunction with the Pensions Committee if appropriate).
- A Local Pension Board should designate a person to take responsibility for ensuring that the knowledge and understanding policy and framework is developed and implemented.
- The Administering Authority should offer access to high quality induction training and provide relevant ongoing training to the appointed members of the Local Pension Board.
- A Local Pension Board should prepare (and keep updated) a list of the core documents recording policy about the administration of the Fund and make the list and documents (as well as the rules of the LGPS) accessible to its members.
- Members of a Local Pension Board should undertake a personal training needs analysis and put in place a personalised training plan.

7. Conduct of Members and Conflicts of Interest

Introduction

- 7.1 There are various legal requirements which need to be considered to make sure that sound governance principles are followed, and in particular that conflicts of interest are properly managed. These include:
- 7.1.1 Section 5(5) of the 2013 Act, which defines “conflict of interest” for the purpose of a Local Pension Board;
 - 7.1.2 Regulation 108 of the Regulations, which places duties on the Administering Authority to satisfy itself that Local Pension Board members do not have conflicts of interest on appointment or whilst they are members of the Board;
 - 7.1.3 The 2011 Act, which requires councillors to comply with the code of conduct of their local authority and to disclose interests;
 - 7.1.4 The ‘Seven Principles of Public Life’, also known as the ‘Nolan Principles’, with which any holder of public office is also expected to comply; and
 - 7.1.5 The expectations contained in the Code of Practice.
- 7.2 This section of the Guidance takes account of the above requirements and gives guidance on how the different duties can be reconciled in a practical way.
- 7.3 The importance of following these requirements needs to be clearly appreciated at the outset. Failure to follow applicable codes of conduct or declare a conflict of interest can impact on good governance in various ways. For example, such failure may result in a Local Pension Board actually acting improperly, may lead to a perception that the Local Pension Board has acted improperly, or may result in a challenge to the work carried out by the Board.

Codes of Conduct and Disclosure of Interests for Councillors

- 7.4 The elected and co-opted members of a local authority (referred to as “councillors” for the purposes of this section of the Guidance) are governed by their local authority’s code of conduct for councillors. This code is required of every local authority by the 2011 Act and sets out the standards of behaviour expected of individuals in their capacity as councillors.

7.5 In addition, there is a legal obligation for councillors to disclose, in a register maintained by the authority's monitoring officer, certain pecuniary interests, as defined in regulations made under the 2011 Act.

7.6 Both of these requirements will apply to any members of a Local Pension Board who are also councillors of a local authority (whether that is the Administering Authority or another local authority). They will not apply to members of a Local Pension Board who are not councillors unless they are specifically adopted in terms of reference or other policy document to apply to the other members of the Local Pension Board.

Seven Principles of Public Life

7.7 The members of a Local Pension Board should have regard to the 'Seven Principles of Public Life' (known as the Nolan Principles), which are:

7.7.1 **Selflessness** - Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.

7.7.2 **Integrity** - Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

7.7.3 **Objectivity** - In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

7.7.4 **Accountability** - Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

7.7.5 **Openness** - Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands it.

7.7.6 **Honesty** - Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to

resolve any conflicts arising in a way that protects the public interest.

7.7.7 Leadership - Holders of public office should promote and support these principles by leadership and example.

7.8 As members of a publicly-funded body involved in the discharge of public business, all members of a Local Pension Board should comply with these principles in the exercise of their functions. They require the highest standards of conduct.

Code of Conduct for Local Pension Boards

7.9 When establishing its Local Pension Board, the Administering Authority should prepare and approve a code of conduct for the Board to adopt. The code of conduct should set out the standards of behaviour expected of members, incorporating the Seven Principles. An Administering Authority may wish to effectively adopt some or all of an existing Code of Conduct for the Local Pension Board. Once adopted, the Local Pension Board should keep this code of conduct under regular review.

7.10 The code of conduct should also make reference to the need for members of the Local Pension Board who are councillors to comply with any separate code of conduct and disclosure requirements which apply to them in their capacity as councillors (in other words, the Local Pension Board's code should make it clear that it is not an exhaustive statement of the standards of behaviour required of Board members).

7.11 It is important that individual members of the Local Pension Board are familiar with and understand the importance of following the principles in the Board's code of conduct, and the Board should arrange appropriate training for members on this issue.

Conflicts of Interest – General Comments

7.12 As an introductory point, although there is a requirement for Local Pension Board members not to have a conflict of interest, it is important to note that the issue of conflicts of interest must be considered in light of the Local Pension Board's role, which is to assist the Administering Authority. The Local Pension Board does not make decisions in relation to the administration and management of the Fund: these rest with the Administering Authority. As a result, it is not anticipated that significant conflicts will arise in the same way as would be the case if the Board were

making decisions on a regular basis (compared, for example, to a Pensions Committee). Nevertheless, steps need to be taken to identify, monitor and manage conflicts effectively.

The Regulator's Code of Practice on Conflicts of Interest

- 7.13 The Regulator has a particular role in relation to members of a Local Pension Board and conflicts of interest. Whilst members of a Local Pension Board may be subject to other legal requirements, when exercising functions as a member of a Local Pension Board, the Regulator expects the requirements which specifically apply by virtue of the 2013 Act to be met and the standards of conduct and practice set out in its Code of Practice to be complied with.
- 7.14 The Code of Practice offers guidance about managing potential conflicts and the identification, monitoring and management of actual conflicts. This Guidance is intended to reflect the principles of the Code of Practice and apply them in a LGPS context.

What is a Conflict of Interest?

- 7.15 For the purposes of a member of a Local Pension Board, a 'conflict of interest' is defined in section 5(5) of the 2013 Act as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of a Local Pension Board.
- 7.16 The 2013 Act also specifies that a conflict does not include a financial or other interest arising merely by virtue of that person being a member of the LGPS and/or Fund (or any connected scheme).
- 7.17 Therefore, a conflict of interest may arise when a member of a Local Pension Board:
- 7.17.1 must fulfil their legal duty to assist the Administering Authority;
and
 - 7.17.2 at the same time they have:
 - 7.17.2.1 a separate personal interest (financial or otherwise); or
 - 7.17.2.2 another responsibility in relation to that matter,
giving rise to a possible conflict with their first responsibility as a Local Pension Board member.

Examples of Conflicts of Interest

7.18 Some examples of potential conflicts in this context would include:

7.18.1 A finance officer appointed as a member of a Local Pension Board may, from time to time, be required to review a decision which may be, or appear to be, in opposition to another interest or responsibility. For example, they may be required as a member of the Local Pension Board to review a decision which involves the use of departmental resources to improve scheme administration, whilst at the same time being tasked, by virtue of their employment, with reducing departmental spending.

7.18.2 A member representative who works in the Administering Authority's internal audit department may be required as part of his work to audit the Fund. For example, the employee may become aware of confidential breaches of law by the Fund which have not yet been brought to the attention of the Local Pension Board.

7.18.3 An employer representative from the private sector may also have a conflict of interest as a decision-maker in their own workplace. For example, if an employer representative is drawn from a company to which the Administering Authority has outsourced its pension administration services and the Board are reviewing the standards of service provided by it.

Identifying, Monitoring and Managing Conflicts – The Role of the Administering Authority

7.19 The Regulations place a duty on the Administering Authority to satisfy itself that those appointed to its Local Pension Board do not have an actual conflict of interest prior to appointment and "from time to time" thereafter.

7.20 There is a corresponding duty on any person who is proposed to be appointed to a Local Pension Board, and on an appointed member of a Local Pension Board, to provide the Administering Authority with such information as the Administering Authority reasonably requires to satisfy itself that such person has no conflicts of interest.

7.21 To comply with its duty in relation to conflicts, the Administering Authority needs to put procedures in place in respect of the appointment of members and establish policies to be included in the Board's constitution to ensure

that interests are declared, potential conflicts are identified and members of the Board are trained and receive advice on conflicts. In doing so, the Administering Authority may wish to delegate its duty in relation to conflicts to a particular officer or officers, for example, the monitoring officer.

- 7.22 Looking first at the process of appointments, the Administering Authority should ensure that members of a Local Pension Board are appointed under procedures that require them to disclose any interests or responsibilities, which could become conflicts of interest and which may adversely affect their suitability for the role, before they are appointed. The appointment process should facilitate scrutiny of potential areas of difficulty by eliciting relevant information. The fact an individual could potentially have a conflict of interest at some point in the future should not preclude an individual being appointed provided he or she does not have an actual conflict of interest when appointed.
- 7.23 All terms of engagement (for example, appointment letters and any contracts for services) should include a clause requiring disclosure of all interests and responsibilities which have the potential to become conflicts of interest, as soon as they arise. All interests and responsibilities disclosed should be recorded.
- 7.24 As regards the Administering Authority's ongoing obligation to ensure that members of the Local Pension Board do not have a conflict of interest, the Administering Authority will need to keep appointments under review and also monitor whether appointed members have potential conflicts of interest and are declaring them appropriately. This could be achieved by requesting reports from the Local Pension Board, perhaps annually.

Identifying, Monitoring and Managing Conflicts – The Role of the Local Pension Board

- 7.25 Local Pension Boards should cultivate a culture of openness and transparency. The need for continual consideration of conflicts should be recognised. Disclosure of interests and responsibilities, which have the potential to become conflicts of interest, should not be ignored.
- 7.26 The Local Pension Board should ensure that its members have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest, and should know how potential conflicts should be managed. Many Local Pension Board members are likely to be familiar with the concept of a conflict of interests

and it should not be difficult to adapt established procedures to meet the obligations in the 2013 Act and the Regulations.

- 7.27 Local Pension Boards should identify, monitor and manage dual interests and responsibilities which are or have the potential to become conflicts of interest.
- 7.28 Local Pension Boards should evaluate the nature of any dual interests and responsibilities and assess the impact on their operations and good governance were a conflict of interest to materialise.
- 7.29 When seeking to prevent a potential conflict of interest becoming detrimental to the conduct or decisions of a Local Pension Board, the Board should consider obtaining professional legal advice when assessing any option.
- 7.30 A register of interests should provide a simple and effective means of recording and monitoring dual interests and responsibilities.
- 7.31 Local Pension Boards should also capture decisions about how any identified potential conflicts of interest should be managed – ideally, in their register of interests.
- 7.32 Options for managing a potential conflict of interest from becoming an actual conflict of interest, include:
 - 7.32.1 a member withdrawing from the discussion and any decision-making process;
 - 7.32.2 the Board establishing a sub-board to review the issue (where the terms of reference give the power to do so); or
 - 7.32.3 a member resigning from the Board if the conflict is so fundamental that it cannot be managed in any other way.
- 7.33 The Local Pension Board's register of interests should be circulated to the Local Pension Board for ongoing review it should be made available to the Administering Authority and it should be published (for example, on the Fund's website). The Local Pension Board should report any concerns to the Administering Authority and include in an annual report a section on good governance and management of conflicts.
- 7.34 Conflicts of interest should be included as an opening agenda item at Local Pension Board meetings, and revisited during the meeting where

necessary. This provides an opportunity for those present, including non-Board members, to declare any dual interests and responsibilities, which have the potential to become conflicts of interest, and to minute discussions about how they will be managed so as to prevent an actual conflict arising.

- 7.35 Local Pension Boards should take time to consider what key decisions are likely to be made during, for example, the year ahead and identify and consider any conflicts of interest that may arise in respect of these future decisions.

Considering Conflicts of Interest – Responsibilities of Board Members

- 7.36 It is important that individual members of the Local Pension Board know how to identify when they have a potential conflict of interest which needs to be declared and which may also restrict their ability to participate in meetings or decision-making. They also need to appreciate that they have a legal duty under the Regulations to provide information to the Administering Authority in respect of conflicts of interest.

- 7.37 Individual Local Pension Board members should seek professional advice from a nominated officer (for example, the monitoring officer or the chief finance officer) or external advisers where necessary and the importance of doing so should be emphasised in the Local Pension Board's conflicts policy.

Managing Adviser and Officer Conflicts

- 7.38 A Local Pension Board may need to seek specialist advice or support, for example legal advice. The Board may use an officer of the Administering Authority or a third party adviser. However, in both cases the Board should be confident that such advice is independent and any potential or actual conflicts are disclosed by the officer or adviser on a timely basis to the Board. For example, an adviser may have a conflict of interest if he or she (or the same firm) is also advising the Administering Authority.

- 7.39 The risk to the Local Pension Board is that the adviser does not provide, or is not seen to provide, independent advice. Where there is likely to be a conflict of interest in giving advice, the Board should consider carefully whether it is appropriate to appoint the adviser in the first place. It may also be necessary to consider carefully whether they should take steps to remove an adviser who has already been appointed.

Conflicts Policy

- 7.40 When establishing its Local Pension Board, the Administering Authority should prepare and approve a conflicts policy for the Board to adopt. The conflicts policy should cover the points discussed in the preceding paragraphs relating to the identification, monitoring and management of potential conflicts of interest (including adviser conflicts). Once adopted, the Local Pension Board should keep this policy under regular review.
- 7.41 The conflicts policy should include as a minimum:
- 7.41.1 examples of scenarios giving rise to conflicts of interest (which may include those set out at paragraph 7.18 above);
 - 7.41.2 how a conflict might arise specifically in relation to a member of a Local Pension Board; and
 - 7.41.3 the process to be followed by members of a Local Pension Board and the Administering Authority to address a situation where members are subject to a potential or actual conflict of interest.

Action Points:

- An Administering Authority should prepare a code of conduct and a conflicts policy for its Local Pension Board for approval in accordance with the Administering Authority's constitution and at the first meeting of the Local Pension Board. The Local Pension Board should keep these under regular review.
- Training should be arranged for officers and members of a Local Pension Board on conduct and conflicts.
- A Local Pension Board should establish and maintain a register of interests for its members.

8. Reporting

Internal Reporting

- 8.1 Each Administering Authority has the prime responsibility for establishing its Local Pension Board and it is therefore appropriate and consistent with good governance for the Local Pension Board to report to the Administering Authority.
- 8.2 The reporting requirements will be for each Administering Authority to determine and could include reporting and communicating with a range of individuals and decision making bodies. This could include communication with internal and external audit as well as reporting to the audit committee, scrutiny or a corporate resources committee, as well as full council or equivalent where appropriate. The agreed reporting requirements should be reflected in the Local Pension Board's terms of reference.
- 8.3 There should also be more frequent reporting (perhaps quarterly or after the Local Pension Board meets) to the Administering Authority/Pension Committee and the chief finance officer and/or monitoring officer for example, this could be achieved through sharing the minutes of Board meetings in a timely manner.
- 8.4 The Local Pension Board should take responsibility in conjunction with the Administering Authority for ensuring the necessary reports are prepared and delivered.
- 8.5 Whilst the process for internal reporting will need to be determined locally, the following examples may assist Administering Authorities and Local Pension Boards when formalising their reporting lines:
- 8.5.1 The Local Pension Board should in the first instance report its requests, recommendations or concerns to the Administering Authority/Pension Committee based on the remit of the Board (see paragraph 3.27 and Schedule A).
 - 8.5.2 The Local Pension Board could report any concerns over a decision made by the Pension Committee to that Committee within a reasonable period of the decision coming to the Board's attention.

- 8.5.3 On receipt of a report from the Local Pension Board the Pension Committee should consider and respond to it within a reasonable period.
 - 8.5.4 The Local Pension Board could report any concerns over a decision made by the Pension Committee to that Committee and where it considers that a decision was in breach of the Regulations (or overriding legislation) they may seek to challenge that decision. Such requests for a motion to review or challenge a decision must be subject to the agreement of the majority of the voting Board members.
 - 8.5.5 The Pension Committee should within a reasonable period, consider and respond to a motion to review or in the case of a motion to challenge to revisit the original decision.
 - 8.5.6 Where the Local Pension Board is satisfied that there has been a breach of the Regulations which has been reported to the Pension Committee which has not been rectified within a reasonable period of time the Local Pension Board is under an obligation to escalate the breach using the appropriate route for reporting breaches within that Administering Authority.
 - 8.5.7 In addition where the Board fail to reach consensus on a decision this should be recorded as such and noted in the minutes of the meeting.
- 8.6 A report to full council (or equivalent) or another committee/officer the Administering Authority has delegated to receive it, could include:
- 8.6.1 a summary of the work of the Local Pension Board;
 - 8.6.2 details of areas reported to the Board to be investigated by the Local Pension Board and how they have been dealt with;
 - 8.6.3 details of any conflicts of interest that have arisen in respect of individual Local Pension Board members and how these have been managed;
 - 8.6.4 whether there are any risks or other areas of potential concern which the Board wishes to raise with the Administering Authority (although legal advice to the Local Pension Board should not be shared with a full council meeting and nor should a summary of

it, since once legal advice goes beyond the intended 'client' and / or confidentiality is lost, privilege will be waived and this would also have an impact on the availability of the FOIA exemption for legally privileged information);

8.6.5 details of training received and future training needs;

8.6.6 the work plan for the last year and a draft of the work plan for the following year; and

8.6.7 details of any expenses and other costs incurred by the Local Pension Board and anticipated expenses for the forthcoming financial year. These costs will be met as part of the administration costs of the Fund.

8.7 The above topics should also form the basis of ongoing regular reports to the Administering Authority/Pension Committee who should be asked to comment on the draft work plan, for views on how complaints and risks reported to the Board have been managed and confirm that the Local Pension Board is acting within its terms of reference and in accordance with good governance principles.

8.8 Information being reported from the Local Pension Board should also be communicated to members and employers of the scheme to encourage engagement and promote a culture of transparency.

Escalation by the Local Pension Board of more serious concerns

8.9 The terms of reference for the Local Pension Board should include procedures for the Local Pension Board to report concerns which are sufficiently serious to be reported directly at a higher level, or where a concern has been raised with the Pension Committee and the Local Pension Board consider the Pension Committee have not taken appropriate action to rectify the issue (or appropriate action within a reasonable time period). Such concerns may include a fundamental breach of the Regulations or a fundamental failure by the Administering Authority to ensure the effective governance of the Fund.

8.10 The terms of reference would need to identify to whom such concerns are reported to. This could be to named officer(s), a sub-committee or Council (or equivalent), or combination of these to avoid issues having to be reported immediately to full Council.

- 8.11 Escalation via the Scheme Advisory Board or the Responsible Authority where internal channels are not appropriate or considered to have failed may also be an option used by the Local Pension Board. In addition it may be appropriate to report serious concerns to the Regulator.

Internal Reporting - Conflicts of interest

- 8.12 All members of the Local Pension Board must provide the Administering Authority with such information it reasonably requires for the purposes of satisfying itself that none of the members of the Local Pension Board has a conflict of interest. This is considered in more detail in section 7 of this guidance.

Internal Reporting - Record-keeping

- 8.13 Where the Local Pension Board is established as a local authority committee with the Secretary of States consent, in accordance with regulation 106(2) of the Regulations, the usual provisions about transparency in respect of access to information and reports will apply. In that case, the terms of reference for the Local Pension Board should include provisions dealing with the provision of agendas and reports in advance of Local Pension Board meetings and making those publically available (with the exception of confidential or personal information).
- 8.14 As a Local Pension Board is considered a committee of local government it should consider publishing information as would be required by committees of local government. The Regulator's Code of Practice advises that the Local Pension Board should consider publishing reports, agendas, papers and minutes, see paragraph 97 of that Code for further information. Any confidential or personal information should not be published.
- 8.15 Minutes of meetings should also be available and published in accordance with procedures for other meetings, for example on the website of the Administering Authority.
- 8.16 All papers and records should be prepared to minimise personal data, to separate all general confidential information and should be drafted wherever possible as if they may be made public (whether directly or, if received by the Administering Authority, through them).

Data Protection

- 8.17 For legal purposes a Local Pension Board is considered a committee of and part of the Administering Authority legal entity (but a Local Pension Board is not a committee created under section 101 of the 1972 Act). The Administering Authority is and remains the data controller responsible for DPA compliance, including for processing carried out by the Local Pension Board, where processing is carried out as a data controller, or where personal data use by the Local Pension Board is not carried out for and on behalf of any other separate legal entity.
- 8.18 Since the Local Pension Board is not a separate legal entity processing personal data, it cannot be a data controller itself under the DPA (even to the extent that the Local Pension Board independently uses personal data of its Board members, processes information about its relationships with other individuals and scrutinises records containing personal data of Fund members from the Administering Authority).
- 8.19 The Administering Authority must already comply with DPA data protection principles and must (amongst other requirements):
- 8.19.1 **Notification** – notify the DPA regulator, the Information Commissioner’s Office (“ICO”), of all of the purposes for which they may be using personal data (including Local Pension Board purposes) and renew this annually (unless exempt).
 - 8.19.2 **Fair and lawful processing** – provide privacy notices to individuals whose personal data is processed (including by the Local Pension Board) in most but not all cases.
 - 8.19.3 **Disclosures** – if using data processors (service providers using personal data on behalf of the Local Pension Board), have an appropriate written contract in place containing legally required and ICO recommended provisions to protect personal data.
 - 8.19.4 **Transfers** – not directly or indirectly ‘export’ personal data to a country outside the European Economic Area and European Commission’s ‘white list’ countries unless “adequate safeguards” have been put in place (such as entering into a data transfer agreement on the basis of the EU Commission’s model clauses).
- 8.20 To better comply with the ICO’s expectations and evidence compliance with data protection principles, it is recommended that (to the extent not yet done)

the Administering Authority implement additional measures (also covering their Local Pension Board and their staff and operations), including:

- 8.20.1 adopting policies such as a data protection policy, information security policy, acceptable use (and monitoring) policy and subject access request policy; and
- 8.20.2 training on key DPA issues, requirements and policy compliance. This should form part of the knowledge and understanding requirements (see paragraph 6.1 for further information).

8.21 Given that the Local Pension Board is not considered a separate legal entity, the Administering Authority remains the responsible data controller. Accordingly:

- 8.21.1 the Administering Authority's notification registered with the Information Commissioner should be reviewed and, if necessary amended to cover proposed personal data processing by the Local Pension Board (failure to have a current up to date notification being a criminal offence);
- 8.21.2 the Local Pension Board and Administering Authority should liaise to understand the Authority's requirements and controls and policies for data protection compliance so that the Local Pension Board is aware of them and can comply with them (avoiding duplication and inconsistency of approach) and where necessary so that appropriate changes can be made to such requirements, controls and policies before adoption and implementation by the Local Pension Board;
- 8.21.3 the Local Pension Board and Administering Authority should be able to discuss and agree appropriate procedures for dealing with material data protection compliance issues, such as a potential security breach.

Freedom of Information

- 8.22 To be bound by the FOIA a body must be a FOIA public authority. Administering Authorities are already FOIA public authorities.
- 8.23 Local Pension Boards are not legal entities in their own right and so cannot be FOIA public authorities in their own right (and do not meet any of the FOIA public authority criteria as a Local Pension Board at present). However, Local

Pension Boards will be part of that same legal entity as the Administering Authority, and so the Local Pension Board will already be part of that FOIA public authority. Accordingly, information records created or obtained by the Local Pension Board will be accessible from it, or any part of its Administering Authority under FOIA. The Local Pension Board must liaise with the Administering Authority to:

- 8.23.1 understand the Authority's requirements and controls and policies for FOIA compliance so that the Local Pension Board is aware of them and can comply with them (avoiding duplication and inconsistency of approach) and, where necessary so that appropriate changes can be made to such requirements, controls and policies before adoption and implementation by the Local Pension Board;
- 8.23.2 agree what details are made available through the Administering Authority's publication scheme and so that it can be updated as necessary;
- 8.23.3 agree what procedure applies in relation to FOIA information requests received by the Local Pension Board and / or received by the Administering Authority about the Local Pension Board to ensure proper and consistent consultation, action and response within applicable time limits.

External Reporting - Breaches of Law

- 8.24 In accordance with section 70 of the 2004 Act, certain individuals must report to the Regulator as soon as reasonably practicable where that individual has reasonable cause to believe that:
 - 8.24.1 a duty which is relevant to the administration of the LGPS, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with; and
 - 8.24.2 the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions.
- 8.25 This obligation directly applies to each individual who is a member of the Local Pension Board. In addition, it also extends to the Administering Authority, participating employers in the LGPS, any person who is otherwise involved in the administration of the LGPS, any person who is otherwise

involved in advising the Administering Authority and, in some circumstances, professional advisors of the Administering Authority.

Implementing adequate arrangements

- 8.26 The Local Pension Board should have effective arrangements in place to meet its duty to report breaches of law. Please refer to paragraphs 245 to 246 of the Code of Practice as to the procedures that should be established and operated to ensure that members of the Local Pension Board are able to meet their legal obligations.

Judging whether a breach must be reported

- 8.27 The decision whether to report requires two key judgments:
- 8.27.1 Is there reasonable cause to believe there has been a breach of law?
 - 8.27.2 If so, is the breach likely to be of material significance to the Regulator?
- 8.28 Paragraphs 248 to 262 of the Code of Practice provides guidance as to what is meant by 'reasonable cause' and how to judge whether a breach is likely to be of 'material significance' to the Regulator.

Submitting a report to the Regulator

- 8.29 Reports must be submitted in writing. Paragraphs 263 to 271 of the Code of Practice specifies how and the format in which a report should be submitted.
- 8.30 The requirement to report applies to all those subject to the reporting duty who become aware of a breach that is likely to be of material significance to the Regulator; it is not automatically discharged by another party reporting the breach. However, in practice, where the Local Pension Board considers there has been a breach it may be appropriate to inform and review this with the Administering Authority and (where appropriate) the Fund advisor(s) so that a collective report can be submitted. Details on how such a report should be submitted can be found in the Regulator's Code of Practice (paragraphs 263 to 271). An exception to this arrangement will apply in cases where there is a suspicion or dishonesty or other serious wrongdoing by the Administering Authority and/or the Fund advisor(s).

Non-compliance

- 8.31 Failure to comply with the obligation imposed to report breaches of law without 'reasonable excuse' is a civil offence under section 10 of the Pensions Act 1995. An individual member of a Local Pension Board could be fined up to £5,000.

External Reporting - Annual Report

- 8.32 It would be good practice for the Local Pension Board to consider publishing an annual report of the Local Pension Board's activities for that year.
- 8.33 The Local Pension Board should consider with the Administering Authority whether it would be appropriate to detail these activities as part of the Fund's annual report.

External Reporting - Governance Compliance Statement

- 8.34 Section 6 of the 2013 Act requires a scheme manager to publish information about its pension board.
- 8.35 In terms of the LGPS, this requirement is dealt with under regulation 55 of the Regulations which requires the Administering Authority to include within its governance compliance statement details of the terms, structure and operational procedures relating to its Local Pension Board. This Governance Compliance Statement must be published by the Administering Authority.
- 8.36 Current governance compliance statements will need to be revised to include this new information. The Administering Authority will firstly need to consult with such persons as it thinks necessary about the revised statement and then publish it once it has been revised.

External Reporting - The Regulator

- 8.37 If the Regulator has reasonable grounds to suspect or believe that a member of a Local Pension Board:
- 8.37.1 has misappropriated any assets of the Fund or is likely to do so;
or
 - 8.37.2 has a conflict of interest in relation to the investment of assets of the Fund,

the Regulator must report the matter to the Administering Authority. However, given that a Board member should not have access to Fund assets or be involved in the investment of Fund assets then the exercise of this duty should be rare in practice.

Action Points:

- An Administering Authority should agree the ongoing reporting arrangements between the Local Pension Board and the Administering Authority.
- A Local Pension Board should understand the Administering Authority's requirements, controls and policies for FOIA compliance so that the Local Pension Board is aware of them and can comply with them.
- A Local Pension Board should put in place arrangements to meet the duty of its members to report breaches of law.
- A Local Pension Board should consider (with its Administering Authority) the need to publish an annual report of its activities.
- An Administering Authority should consult on, revise and publish its governance compliance statement to include details of the terms, structure and operational procedures relating to its Local Pension Board.

9. Resourcing and Funding

Resourcing of Local Pension Boards

- 9.1 It is appropriate that a Local Pension Board is given adequate resources to fulfil its task, in the same way that statutory officers of the Administering Authority and scrutiny committees are entitled.
- 9.2 As a minimum, the Board will require:
- 9.2.1 allowances and expenses for Board members (where this has been agreed and confirmed in the Board's terms of reference);
 - 9.2.2 accommodation and administrative support to conduct its meetings and other business;
 - 9.2.3 training; and
 - 9.2.4 legal, technical and other professional advice (where required).
- 9.3 Regulation 106(8) provides that the Board has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions. In line with the provisions of this regulation when determining its budget, consideration will need to be given to whether the Board requires an allocation for using advisors. Advisors, if used may be called upon on an adhoc or ongoing basis to assist in areas of technical, legal or policy matters. Such advisors would not be members of the Local Pension Board.
- 9.4 Given the role of a Local Pension Board to assist the Administering Authority to secure compliance with legal and regulatory matters and to ensure the effective and efficient governance and administration of the LGPS, the need for the Local Pension Board to seek its own legal, technical and other professional advice cannot be discounted.

Funding of Local Pension Boards

- 9.5 Regulation 106(9) of the Regulations specifies that the expenses of a Local Pension Board shall be regarded as part of the costs of administration of the Fund.
- 9.6 These expenses will include (but are not limited to) the cost of secretarial support and any necessary advisory support, overheads attaching to the arranging of meetings and, if the Administering Authority makes provision,

payment of allowances and/or expenses to members of the Local Pension Board (see paragraph 5.34.17).

9.7 The Administering Authority will also need to give early consideration to how the arrangements for meeting the Local Pension Board's expenditure will be administered. The options include:

9.7.1 allocating a budget which is managed by the Local Pension Board; or

9.7.2 requiring the Local Pension Board to seek approval from the Administering Authority for expenditure.

9.8 Given the statutory responsibilities of the Local Pension Board and its relationship with the Administering Authority, it will be a matter for early consideration by the Local Pension Board as to compiling its budget.

9.9 In considering the budget for a Local Pension Board that budget should also set out to whom the Local Pension Board will be financially accountable to. This would be expected to be the Administering Authority (rather than the Pensions Committee). In addition a timetable for approving the Local Pension Board's budget should be set out in the Board's terms of reference.

9.10 Consideration should be given by the Administering Authority to whether or not members of the Local Pension Board are paid allowances or reimbursed expenses. One option would be to set levels of allowance in a similar way to the elected members allowances scheme, perhaps with regard to allowances for co-opted members, and in accordance with established processes for declaring allowances which have been received in an open and transparent way. In deciding whether to award an allowance, and if so how much, the Administering Authority may wish to consider some or all of the following matters:

- whether the Board members are carrying out duties (including preparation and/or training) during personal time or whether it is during a period of authorised paid absence,
- whether a Board member who has taken on the role of Chair is carrying out a range of additional responsibilities that merit additional payment,

- whether an annual or per meeting allowance is more appropriate, and how a per meeting allowance should be extended to attendance at training and
- whether employers whose staff sit on a Local Pension Board and spend work time on Local Pension Board matters wish to reclaim that cost from the Local Pension Board through allowances/expenses.

10. Other possible structures

Combining a Local Pension Board and a Pension Committee

- 10.1 Where an Administering Authority discharges its pensions functions through a committee, it can, with the approval of the Secretary of State, appoint the existing committee as the Local Pension Board.
- 10.2 Where an Administering Authority chooses to use an existing committee (subject to the approval of the Secretary of State) careful consideration will need to be given to the membership of the committee so that it complies with the requirement in regulation 107 of the Regulations, to designate an equal number of employer and member representatives and to include at least two employer and two member representatives. These individuals must have the capacity to represent members and employers, as appropriate. It is likely that the employee representatives will be co-opted members.
- 10.3 As well as complying with the Regulations, a Local Pension Board which is established as a local authority Pensions Committee will be subject to general requirements in the 1972 Act and the 1989 Act. We have summarised in Schedule C the key legal requirements which need to be considered where an authority wishes to seek approval from the Secretary of State to use an existing committee. This is a complex area and any authority intending to follow this route will need to take legal advice from their monitoring officer to make sure the plans comply with the different legal duties and their own Constitution.
- 10.4 At first sight it might seem attractive to combine the functions of a Local Pension Board and a Pension Committee to enable the Board to be included in existing decision making processes, including delegation to officers and publication of agendas and minutes. However, in practice it may be difficult to meet the requirements of the 1972 Act, the 1989 Act, the 2013 Act and the Regulations when combining a Local Pension Board and a local authority Pension Committee.
- 10.5 Firstly, if the Local Pension Board is to be a Pension Committee this can only be where written approval has been obtained from the Secretary of State.
- 10.6 Secretary of State approval may be given subject to such conditions as the Secretary of State thinks fit and equally may be withdrawn if such conditions

are not met. The Secretary of State may also withdraw approval if in his or her opinion it is no longer appropriate for the Local Pension Board to be the Pension Committee.

- 10.7 Where an Administering Authority has delegated pension functions to more than one committee and it does not wish to create a separate Local Pension Board, it will be necessary to determine which of its committees is most appropriate to undertake the function of the Board.
- 10.8 It will also be necessary to review the membership of the existing Pension Committee as regulation 107 of the Regulations says that the Pension Committee must designate at least two employer and two member representatives to act as Local Pension Board members.
- 10.9 If the Local Pension Board is to be a Pension Committee, it is difficult to see how the Local Pension Board can effectively and objectively fulfil its statutory function of assisting itself (as the Pensions Committee) to secure compliance with legal and regulatory matters and to ensure the effective and efficient governance and administration of the LGPS (which is the prime responsibility of the Pension Committee).

Joint Pension Boards

- 10.10 Where the administration and management of a scheme is wholly or mainly shared by two or more Administering Authorities, those Administering Authorities may establish a joint local pension board, with the approval of the Secretary of State.
- 10.11 In practice there are no current situations which meet the requirement of regulation 106(3).
- 10.12 In order to meet the regulation two or more Administering Authorities will have to demonstrate to the Secretary of State that either the entirety or the significant elements of the management and administration (including investments) are formally delegated (with appropriate legal arrangements) to a single body. For example, this could be best evidenced by the existence of a joint committee established under section 102 of the 1972 Act which exercises the functions on behalf of constituent authorities.
- 10.13 In support of the above the Administering Authorities will need to provide documentary evidence of the existence of and the delegations to the joint committee. Such evidence should also include details of how such a joint pension board fully represents the members and employers of all the

constituent Administering Authorities as well as the structure of the reporting lines necessary to ensure that all relevant stakeholders fully aware of the work of the Joint Pension Board.

- 10.14 Where the Secretary of State is satisfied by this evidence then approval for the formation of a Joint Pension Board to cover the functions of the constituent Administering Authorities may be granted.
- 10.15 Secretary of State approval may be given subject to such conditions as the Secretary of State thinks fit and equally may be withdrawn if such conditions are not met. The Secretary of State may also withdraw approval if in his or her opinion it is no longer appropriate for the Local Pension Board to be a Joint Pension Board.

11. Other guidance

- The Pensions Regulator's Code of Practice no. 14 Governance and Administration of public service pension schemes.

<http://www.thepensionsregulator.gov.uk/public-service-schemes/regulating-public-service-pension-schemes.aspx>

- The Pensions Regulator's website:

www.thepensionsregulator.gov.uk

- Dedicated Public Service Pension Scheme area on the Pensions Regulator's website:

www.thepensionsregulator.gov.uk/public-service-schemes.aspx

- The Pensions Regulator's Pension Board member toolkit:

www.trusteetoolkit.com/arena/index.dfm

SCHEDULE A

Example of a remit of a Local Pension Board

Administering Authorities should remember that the Local Pension Board does not replace the Administering Authority or make decisions or carry out other duties which are the responsibility of the Administering Authority.

The first core function of the Board is to assist the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- a) Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations by the Committee.
- b) Review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code of Practice.
- c) Review the compliance of scheme employers with their duties under the Regulations and relevant legislation.
- d) Assist with the development of and continually review such documentation as is required by the Regulations including Governance Compliance Statement, Funding Strategy Statement and Statement of Investment Principles.
- e) Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.
- f) Monitor complaints and performance on the administration and governance of the scheme.
- g) Assist with the application of the Internal Dispute Resolution Process.
- h) Review the complete and proper exercise of Pensions Ombudsman cases.

- i) Review the implementation of revised policies and procedures following changes to the Scheme.
- j) Review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme.
- k) Review the complete and proper exercise of employer and administering authority discretions.
- l) Review the outcome of internal and external audit reports.
- m) Review draft accounts and scheme annual report.
- n) Review the compliance of particular cases, projects or process on request of the Committee.
- o) Any other area within the core function (i.e. assisting the Administering Authority) the Board deems appropriate.

The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- a) Assist with the development of improved customer services.
- b) Monitor performance of administration, governance and investments against key performance targets and indicators.
- c) Review the effectiveness of processes for the appointment of advisors and suppliers to the Administering Authority.
- d) Monitor investment costs including custodian and transaction costs.
- e) Monitor internal and external audit reports.
- f) Review the risk register as it relates to the scheme manager function of the authority.
- g) Assist with the development of improved management, administration and governance structures and policies.
- h) Review the outcome of actuarial reporting and valuations.

- i) Assist in the development and monitoring of process improvements on request of Committee.
- j) Assist in the development of asset voting and engagement processes and compliance with the UK Stewardship Code.
- k) Any other area within the core function (i.e. ensuring effective and efficient governance of the Scheme) the Board deems appropriate.

In support of its core functions the Local Pension Board may make a request for information to Committee with regard to any aspect of the Administering Authority function. Any such request should be reasonably complied with in both scope and timing.

In support of its core functions the Local Pension Board may make recommendations to Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

***Schedule A has been added as an example only - it should not be considered an exhaustive list and full consideration should be given locally to the remit of the Local Pension Board.**

Schedule B

PART 1

Examples of documents recording policy about the administration of the scheme (please read in conjunction with paragraphs 6.16 and 6.17)

1.	Member booklets, announcements and other key member and employer communications, which describe the Fund's policies and procedures (including any separate AVC guides) including documents available on the Fund's website	
2.	Any relevant policies of the Administering Authority and/or Pension Committee, for example policies on: <ul style="list-style-type: none"> • conflicts of interests • record-keeping • data protection and freedom of information • internal dispute resolution procedure 	

	<ul style="list-style-type: none"> reporting breaches 	
3.	The Administering Authority's governance compliance statement (as required by regulation 55 of the Regulations)	
4.	The Administering Authority's funding strategy statement (as required by regulation 58 of the Regulations)	
5.	The Administering Authority's pension administration statement (as required by regulation 59 of the Regulations)	
6.	The Administering Authority's discretionary policy statement (as required by regulation 60 of the Regulations)	
7.	The Administering Authority's communications policy statement (as required by regulation 61 of the Regulations)	
8.	The Administering Authority's statement of investment principles (as required by regulation 12 of the Investment Regulations)	
9.	The Administering Authority's internal controls risk register (for the purposes of section 249B of the 2013 Act)	
10.	The Fund's actuarial valuation report and rates and adjustment certificate (as required by regulation 62 of the Regulations)	
11.	The Fund's annual report and accounts (as required by regulation 57 of the Regulations) including any summary report (as required by regulation 56 of the Regulations)	
12.	Any accounting requirements relevant to the Fund	
13.	Any third party contracts and service level agreements	
14.	Any internal control report produced by third party service providers and investment managers	
15.	The Fund's standard form of admission agreement and bond and related policies and guidance	

PART 2

**Examples of knowledge and understanding of the law relating to pensions
(please read in conjunction with paragraphs 6.18 and 6.19)**

1.	<p>Background and Understanding of the Legislative Framework of the LGPS</p>	
	<ul style="list-style-type: none"> • Differences between public service pension schemes like the LGPS and private sector trust-based schemes • Role of the IPSPC and its recommendations • Key provisions of the 2013 Act • The structure of the LGPS and the main bodies involved including the Responsible Authority, the Administering Authority, the Scheme Advisory Board, the Local Pension Board and the LGPS employers • An overview of local authority law and how Administering Authorities are constituted and operate • LGPS rules overview (including the Regulations, the Transitional Regulations and the Investment Regulations) 	
2.	<p>General pensions legislation applicable to the LGPS</p>	
	<p>An overview of wider legislation relevant to the LGPS including:</p> <ul style="list-style-type: none"> • Automatic Enrolment (Pensions Act 2008) • Contracting out (Pension Schemes Act 1993) • Data protection (Data Protection Act 1998) • Employment legislation including anti-discrimination, equal treatment, family related leave and redundancy rights • Freedom of Information (Freedom of Information Act 2000) • Pensions sharing on divorce (Welfare Reform and Pensions Act 1999) • Tax (Finance Act 2004) 	

	<ul style="list-style-type: none"> • IORP Directive 	
3.	Role and responsibilities of the Local Pension Board	
	<ul style="list-style-type: none"> • Role of the Local Pension Board • Conduct and conflicts • Reporting of breaches • Knowledge and understanding • Data protection 	
4.	Role and responsibilities of the Administering Authority	
	<ul style="list-style-type: none"> • Membership and eligibility • Benefits and the payment of benefits • Decisions and discretions • Disclosure of information • Record keeping • Internal controls • Internal dispute resolution • Reporting of breaches • Statements, reports and accounts 	
5.	Funding and Investment	
	<ul style="list-style-type: none"> • Requirement for triennial and other valuations • Rates and adjustments certificate • Funding strategy statement • Bulk transfers • Permitted investments 	

	<ul style="list-style-type: none"> • Restrictions on investments • Statement of investment principles • CIPFA guidance • Appointment of investment managers • Role of the custodian 	
6.	Role and responsibilities of Scheme Employers	
	<ul style="list-style-type: none"> • Explanation of different types of employers • Additional requirements for admission bodies • Automatic Enrolment • Deduction and payment of contributions • Special contributions • Employer decisions and discretions • Redundancies and restructuring (including the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006) • TUPE and outsourcing (including Fair Deal and the Best Value Authorities Staff Transfers (Pensions) Direction 2007) 	
7.	Tax and Contracting Out	
	<ul style="list-style-type: none"> • Finance Act 2004 • Role of HMRC • Registration • Role of 'scheme administrator' • Tax relief on contributions • Taxation of benefits 	

	<ul style="list-style-type: none"> • Annual and lifetime allowances • Member protections • National Insurance • Contracting out (Pensions Scheme Act 1993) • Impact of abolition of contracting out in 2016 • VAT and investments 	
8.	Role of advisors and key persons	
	<ul style="list-style-type: none"> • Officers of the Administering Authority • Fund actuary • Auditor • Lawyers • Investment managers • Custodians • Administrators – in house v. third party • Procurement of services • Contracts with third parties 	
9.	Key Bodies connected to the LGPS	
	<p>An understanding of the roles and powers of:</p> <ul style="list-style-type: none"> • Courts • Financial Services Authority • HMRC • Information Commissioner • Pensions Advisory Service 	

	<ul style="list-style-type: none">• Pensions Ombudsman• The Pensions Regulator (including powers in relation to Local Pension Boards)	
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SCHEDULE C

Summary of Legal Provisions to consider where an Administering Authority wishes to use an existing pensions committee as its Local Pension Board

If you wish to use your existing pensions committee as the Local Pension Board you should take legal advice to ensure that the following provisions are complied with:

1. The provisions of Section 101 – Section 107 of the Local Government Act (the 1972 Act) which provides for the arrangements for the discharge of functions by local authorities. This enables non-executive functions to be discharged by a committee, a sub-committee, a joint committee, another local authority or delegated to officers.
2. Section 102 (3) of the 1972 Act allows for people other than elected members to be co-opted to a committee. This is not permitted where a committee is responsible for regulating or controlling the finances of a local authority.
3. Section 102 (4) allows a local authority to appoint an advisory committee.
4. Section 106 provides for the procedures and quorum of meetings to be determined in Standing Orders or where provisions are not made in Standing Orders for the committee to determine its procedures.
5. Section 13 of the Local Government and Housing Act 1989 describes the voting rights for co-opted members of committees and gives rights of voting to co-opted members in specified circumstances. The general proposition is that co-opted members do not have voting rights. The provisions in section 13 which make exceptions to this rule are complex and their application will differ depending on whether functions are discharged by a committee or sub committee and whether a committee is decision making or advisory. There are exceptions for advisory committees and also where committees are established in accordance with regulations under the Superannuation Act 1972 (i.e. co-opted members have voting rights on these committees) and the Public Service Pensions Act 2013.
6. The provisions of regulation 106 (establishment) and regulation 107 (membership) of the LGPS Regulations 2013 (as amended) relating to Local Pension Boards.

North Yorkshire County Council**Pension Board****18 January 2018****Administration Report****1. Purpose of the Report**

To provide Pension Board members with an update on key initiatives undertaken by the administration team of the North Yorkshire Pension Fund.

2. Breaches Policy & Log**2.1 Background**

The Pensions Regulator's Governance & Administration of public service pension schemes code of practice states that identifying and assessing a breach of the law is important in reducing risk and providing an early warning of possible malpractice in public service pension schemes.

Those people with a responsibility to report breaches, including scheme managers and pension board members, should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations. Procedures should enable people to raise concerns and facilitate the objective consideration of those matters. It is important that procedures allow reporters to decide within an appropriate timescale whether they must report a breach. Reporters should not rely on waiting for others to report.

Procedures should include the following features:

- a process for obtaining clarification of the law around the suspected breach where needed
- a process for clarifying the facts around the suspected breach where they are not known
- a process for consideration of the material significance of the breach by taking into account its cause, effect, the reaction to it, and its wider implications, including (where appropriate) dialogue with the scheme manager or pension board
- a clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the regulator
- an established procedure for dealing with difficult cases
- a timeframe for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practical
- a system to record breaches even if they are not reported to the regulator (the record of past breaches may be relevant in deciding whether to report future breaches, for example it may reveal a systemic issue), and
- a process for identifying promptly any breaches that are so serious they must always be reported.

2.2 Breaches Policy and Log

Included at Appendix 1 is the North Yorkshire Pension Fund's Breaches Policy and Log as created by the Head of Pensions Administration. The Policy and Log are in draft form awaiting formal approval at the Pension Fund Committee meeting on 22 February 2018.

3. Annual Benefit Statements

Following feedback received from pension fund members and the last Pension Board meeting work has commenced on revamping and updating the Annual Benefit Statements. We have included at Appendix 2 samples of the latest version of the statements and welcome feedback from the Board regarding layout, content, ease of understanding and plain English.

4. Altair Security

Further to the last Pension Board meeting and the audit report presented by Veritau regarding the password security settings in Altair, the Fund's administration system, further investigation was undertaken. I can confirm the current security settings are:

- The password expiry period is set to 2 months – this means a user has to change their password every 2 months
- The password retry count is set to 3 attempts – this means a user gets 3 attempts to login and then gets locked out if the password is still incorrect
- Stored historic passwords are set to 50 – this means a user cannot reuse a previous password if it is within the last 50 ones used
- Minimum password strength is set to strong – this means it has to meet a minimum of 5 out of 7 conditions relating to the format of the actual password i.e. alphanumeric, capitals, special character, etc.

These settings are for access to Altair alone and in conjunction with the overarching NYCC security measures in place form a formidable barrier to ensure the safety of members' data.

5. Recommendation

1. That Pension Board members note the contents of the Breaches Policy & Log.
2. That Pension Board members review and provide feedback on the Annual Benefit Statement templates.
3. That Pension Board members note the response on Altair Security.

Phillippa Cockerill
Head of Pensions Administration
County Hall
Northallerton

January 2018

Background Papers - Nil



North Yorkshire Pension Fund

Breaches Policy 2017

If you require this information in an alternative language or another format such as large type, audio cassette or Braille, please contact the Pensions Help & Information Line on 01609 536335



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Breaches of the law

Background

North Yorkshire Pension Fund has prepared this document to set out its policy and procedures on identifying, managing and where necessary reporting breaches of the law as covered in paragraphs 241 to 275 of The Pensions Regulator's Code of Practice no 14 (Governance and administration of public service pension schemes) – "the Code of Practice".

This policy sets out the responsibility of elected members, officers of the North Yorkshire Pension Fund ("the Fund") and the Local Pension Board in identifying, managing and where necessary reporting breaches of the law as they apply to the management and administration of the Fund.

This policy does not cover the responsibility of other "reporters" (described later in this policy) in relation to their obligation to report breaches in accordance with the Code of Practice where they relate to the management and administration of the Fund. Where a breach of the law is identified both the Fund and the Local Pension Board will take all necessary steps to consider the breach and report it to The Regulator, rather than having the breach reported by any of the other "reporters".

This policy will be reviewed by the Fund at least annually. The Fund will monitor all breaches and will ensure that adequate resources are allocated to managing and administering this process.

The Administering Authority Monitoring Officer will be responsible for the management and execution of this breaches policy.

The Head of Pensions Administration will ensure that training on breaches of the law and this policy is conducted for all relevant officers and elected members, as well as members of the Local Pension Board at induction and on an ongoing basis.

Overview

The identification, management and reporting of breaches is important. It is a requirement of the Code of Practice; failure to report a breach without "reasonable excuse" is a civil offence that can result in civil penalties.

At the same time, in addition to identifying, rectifying and where necessary reporting a breach it provides an opportunity to learn from mistakes and review and improve processes in the areas where the breach occurred. All staff are required to take a pro-active approach to the identification, management and reporting of all breaches that have occurred, or are likely to occur.

The Fund will maintain a log of all breaches under the LGPS regulations and wider pension law, statutory guidance or codes of practice under the remit of The Pensions Regulator in accordance with the 2004 Pension Act.

Where a breach has occurred it should be identified as either an area of non-compliance under the LGPS regulations, a breach under Pension Law as defined within section 13 of the 2004 Pension Act or The Pensions Regulator's code of practice 14.

The definition of pension law under the jurisdiction of the Pensions Regulator is any enactment contained in or made by virtue of:

- a) The Pension Schemes Act 1993 (c. 48)
- b) Part 1 of the Pensions Act 1995 (c. 26), other than sections 62 to 66A of that Act (equal treatment)
- c) Part 1 or section 33 of the Welfare Reform and Pensions Act 1999 (c. 30), or
- d) This Act
- e) Section 5(4) (Pension Board: conflicts of interest and representation), 6 (Pension Board: information), 14 (information about benefits) or 16 (records) of the Public Service Pensions Act 2013
- f) Paragraph 2 of Schedule 18 to the Pensions Act 2014 (c 19)
- g) The Pension Schemes Act 2015

Therefore as the LGPS Regulations are made under the Superannuation Act 1972, The Pensions Regulator views the provisions as being similar to a private pension scheme's rules which are the preserve of trustees and not of The Regulator.

As such in the event of non-compliance under the LGPS Regulations the failings should be documented in an internal log specifying the corrective action to be undertaken to strengthen operational procedures and controls in order to prevent or mitigate the impact of any future re-occurrences.

Alternatively where the failure is identified by the Fund or Local Pension Board as a breach of pension law under the jurisdiction of The Pensions Regulator, or the code, it should be recorded, assessed and where defined to be of material significance to The Pensions Regulator, must be reported as soon as reasonably practical.

The Fund and the Local Pension Board cannot rely on waiting for other reporters to report a breach.

What is a breach of the law?

A breach of the law is “*an act of breaking or failing to observe a law, agreement, or code of conduct.*” It can encompass many aspects of the management and administration of the scheme, including failure:

- to do anything required under overriding legislation, applicable statutory guidance or codes of practice
- to maintain accurate records
- to act on any fraudulent act or omission that is identified
- of an employer to pay over member and employer contributions on time
- to pay member benefits either accurately or in a timely manner
- to issue annual benefit statements on time or non-compliance with The Regulator’s Code of Practice No 14.

What is Non-compliance under the LGPS Regulations?

Non-compliance with the LGPS regulations can encompass many aspects of the management and administration of the scheme, including failure:

- to do anything required under the LGPS regulations
- to comply with policies and procedures (e.g. the Fund’s Investment Strategy Statement, Funding Strategy Statement, discretionary policies, etc.);

Responsibilities in relation to breaches

Responsibility to report identified breaches of the law in relation to the Code of Practice falls on the following (known as “reporters”):

- Members and officers of the Fund, as the Scheme Manager
- Members of the Local Pension Board
- Scheme employers
- Professional advisers (including the Fund’s actuary, investment advisers, legal advisers)
- Third party providers (where employed)
- any other person involved in advising the scheme manager in relation to the scheme

This policy applies only to members and officers of the Fund and members of the Local Pension Board. It is for the other reporters to ensure adequate procedures and policies are put in place in order to identify, assess and where necessary report breaches. Both the Fund and the Local Pension Board will take all necessary steps to consider the breach and report to The Regulator, rather than having the breach reported by any of the other “reporters”.

Requirement to report a breach of the Law

Breaches of the law which affect pension schemes should be considered for reporting to The Pensions Regulator.

The decision whether to report an identified breach depends on whether:

- there is reasonable cause to believe there has been a breach of the law
- and if so, is the breach likely to be of material significance to The Regulator?

It is important to understand that not every breach that is identified needs to be reported to The Regulator. For example, where it can be demonstrated that appropriate action is being taken to rectify the breach, or the breach has occurred due to teething problems with new or revised systems or processes, it may not be necessary to report the incident to The Regulator. All incidents of breaches identified should be recorded in the

Fund's breaches log. This log will be reviewed on an on-going basis to determine any trends in the breaches log that might indicate any serious failings or fraudulent behaviour.

Where such failings or fraudulent behaviour are identified immediate action will be taken to agree a plan of action to rectify the matter and prevent such an occurrence in the future.

Examples of potential breaches, including when they should and should not be reported to The Pensions Regulator are included in Appendix A.

When should a breach be reported to The Regulator?

The Code of Practice requires that a breach should be notified to The Regulator as soon as is reasonably practical once there is reasonable cause to believe that a breach has occurred and that it is of material significance to The Regulator. In any event, where a breach is considered to be of material significance it must be reported to The Regulator no later than one month after becoming aware of the breach or likely breach.

Where it is considered that a breach is of such significance that The Regulator is required to intervene as a matter of urgency (for example, serious fraud) the matter should be brought to the attention of The Regulator immediately (e.g. by calling them direct). A formal report should then be submitted to The Regulator, marked as "urgent" in order to draw The Regulator's attention to it.

Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, The Regulator will not normally consider this to be materially significant.

A breach is likely to be of concern and material significance to The Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence
- are not pursuing corrective action to a proper conclusion
- fail to notify affected scheme members where it would have been appropriate to do so.

Assessing "reasonable cause"

It is important that the Fund and the Local Pension Board are satisfied that a breach has actually occurred, rather than acting on a suspicion of such an event.

It will be necessary, therefore, for robust checks to be made by members and officers when acting on any suspicion of a breach having occurred. Where necessary this will involve taking legal advice from Legal Services (who may recommend specialist external legal advice if necessary) as well as other advisers (e.g. auditors, the Fund's actuary or investment advisers).

Deciding if a breach is "materially significant" and should be reported to The Regulator

The Regulator has produced a decision tree to assist schemes in identifying the severity of a breach and whether it should be reported. When determining materiality of any breach or likely breach the Fund and Local Pension Board will in all cases consider the following:

- **cause** – e.g. dishonesty, poor governance, incomplete or inaccurate information, acting or failing to act in contravention of the law
- **effect** – e.g. ineffective internal controls, lack of knowledge and understanding, inaccurate records, potential for further breaches occurring
- **reaction** – e.g. taking prompt and effective action to resolve a breach, notifying scheme members where appropriate; and
- **wider implications** – e.g. where a breach has occurred due to lack of knowledge or poor systems and processes making it more likely that other breaches will emerge in the future

The decision tree provides a “traffic light” system of categorising an identified breach and is shown at Appendix A:

- **Green** – not caused by dishonesty, poor governance or a deliberate contravention of the law and its effect is not significant and a plan is in place to rectify the situation. In such cases the breach may not be reported to The Regulator, but should be recorded in the Fund’s breaches log
- **Amber** – does not fall easily into either green or red and requires further investigation in order to determine what action to take. Consideration of other recorded breaches may also be relevant in determining the most appropriate course of action
- **Red** - caused by dishonesty, poor governance or a deliberate contravention of the law and having a significant impact, even where a plan is in place to rectify the situation. The Fund or Local Pension Board must report all such breaches to The Regulator in all cases

If it is unclear as to whether the breach or likely breach is significant, in the first instance full details should always be reported to the Board to determine the appropriate course of action.

It should be noted that failure to report a significant breach or likely breach is likely, in itself, to be a significant breach.

The Fund will use The Regulator’s decision tree as a means of identifying whether any breach is to be considered as materially significant and so reported to The Regulator.

Any failure of a scheme employer to pass over employee contributions that are considered to be of material significance must be reported to The Regulator immediately.

In order to determine whether failure to pay over employee contributions is materially significant or not the Fund will seek from the employer:

- the cause and circumstances of the payment failure
- what action the employer has taken as a result of the payment failure, and
- the wider implications or impact of the payment failure

Where a payment plan is agreed with the employer to recover outstanding contributions and it is being adhered to or there are circumstances of infrequent one-off late payments or administrative failures the late payment will not be considered to be of material significance.

All incidences resulting from the unwillingness or inability of the employer to pay over the employee contributions, dishonesty, fraudulent behaviour or misuse of employee contributions, poor administrative procedures or the failure to pay over employee contributions within 90 days from the due date will be considered to be of material significance and reported to The Regulator.

Once a breach or likely breach has been identified, regardless of whether it needs to be reported to The Regulator, the relevant manager in consultation with the Monitoring Officer, must review the circumstances of the breach in order to understand why it occurred, the consequences of the breach and agree the corrective measures required to prevent re-occurrence, including an action plan where necessary. All breaches must be recorded in the Fund’s breaches log.

Process for reporting breaches

All relevant officers and elected members of the Fund, as well as all members of the Local Pension Board have a responsibility to:

- identify and assess the severity of any breach or likely breach
- report all breaches or likely breaches to the Monitoring Officer
- in conjunction with relevant officers agree a proposed course of action to rectify the breach and put in place measures to ensure the breach does not re-occur, obtaining appropriate legal or other advice where necessary
- ensure that the appropriate corrective action has been taken to rectify the breach or likely breach and to prevent it from recurring; and
- co-operate with, and assist in, the reporting of breaches and likely breaches to the Pension Fund Committee, Local Pension Board and where necessary The Regulator

Responsibilities of the Monitoring Officer

The Fund will appoint one of the administering authority's senior officers to be responsible for the management and execution of this breaches policy. That officer will be the Monitoring Officer and will be the Head of Pensions Administration.

The Monitoring Officer will be responsible for recording and reporting breaches and likely breaches as follows:

- record all identified breaches and likely breaches of which they are aware in the Fund's breaches log
- investigate the circumstances of all reported breaches and likely breaches
- ensure, where necessary that an action plan is put in place and acted on to correct the identified breach and also ensure further breaches of a similar nature do not re-occur
- report to the Pension Fund Committee and Local Pension Board:
 - all materially significant breaches or likely breaches that will require reporting to The Regulator as soon as practical, but no later than one month after becoming aware of the breach or likely breach; and
 - all other breaches at least quarterly as part of the Committee cycle
- report all materially significant breaches to The Regulator as soon as practical but not later than one month after becoming aware of the breach

The Monitoring Officer will determine whether any breach or likely breach is materially significant, having regard to the guidance set out in the Code of Practice and after consultation where considered appropriate with the Pension Fund Committee and Local Pension Board.

Where uncertainty exists as to the materiality of any identified breach the Fund or Local Pension Board will be required to informally notify The Regulator of the issue and the steps being taken to resolve the issue.

How should a breach be reported to The Regulator?

All materially significant breaches must be reported to The Regulator in writing. This can be via post or electronically. The Regulator encourages the use of its standard reporting facility via its on-line Exchange service.

The Fund will report all material breaches to The Regulator via the online Exchange function.

How are records of breaches maintained?

All breaches and likely breaches are to be reported to the Monitoring Officer as soon as they are identified. The Monitoring Officer will log all breaches on the Fund's breaches log, including the following information:

- date the breach or likely breach was identified
- the pension scheme's registry number (if available)
- name of the employer (where appropriate)
- any relevant dates
- a description of the breach, its cause and effect, including the reasons it is, or is not, believed to be of material significance
- whether the breach is considered to be red, amber or green
- a description of the actions taken to rectify the breach
- whether the concern has been reported before, and
- a brief description of any longer term implications and actions required to prevent similar types of breaches recurring in the future.

The Monitoring Officer will be responsible for ensuring the effective management and rectification of any breach identified. The Head of Pensions Administration will be responsible for submission of any report to The Regulator. Any documentation supporting the breach will be maintained by the Head of Pensions Administration.

Whistleblowing

It is a statutory duty to report breaches of the law. In rare cases this may involve a duty to whistleblow on the part of an employee of the Fund or a member of the Local Pension Board. The duty to report does not override any other duties a “reporter” may have, such as confidentiality. Any such duty is not breached by reporting to The Regulator. Given the statutory duty that exists, in exercising this breaches policy the Fund will ensure it adheres to the requirements of the Employment Rights Act 1996 in protecting an employee making a whistleblowing disclosure to The Regulator.

The duty to report, however, does not override ‘legal privilege’, so oral and written communications between the Fund or Local Pension Board and a professional legal adviser do not have to be disclosed.

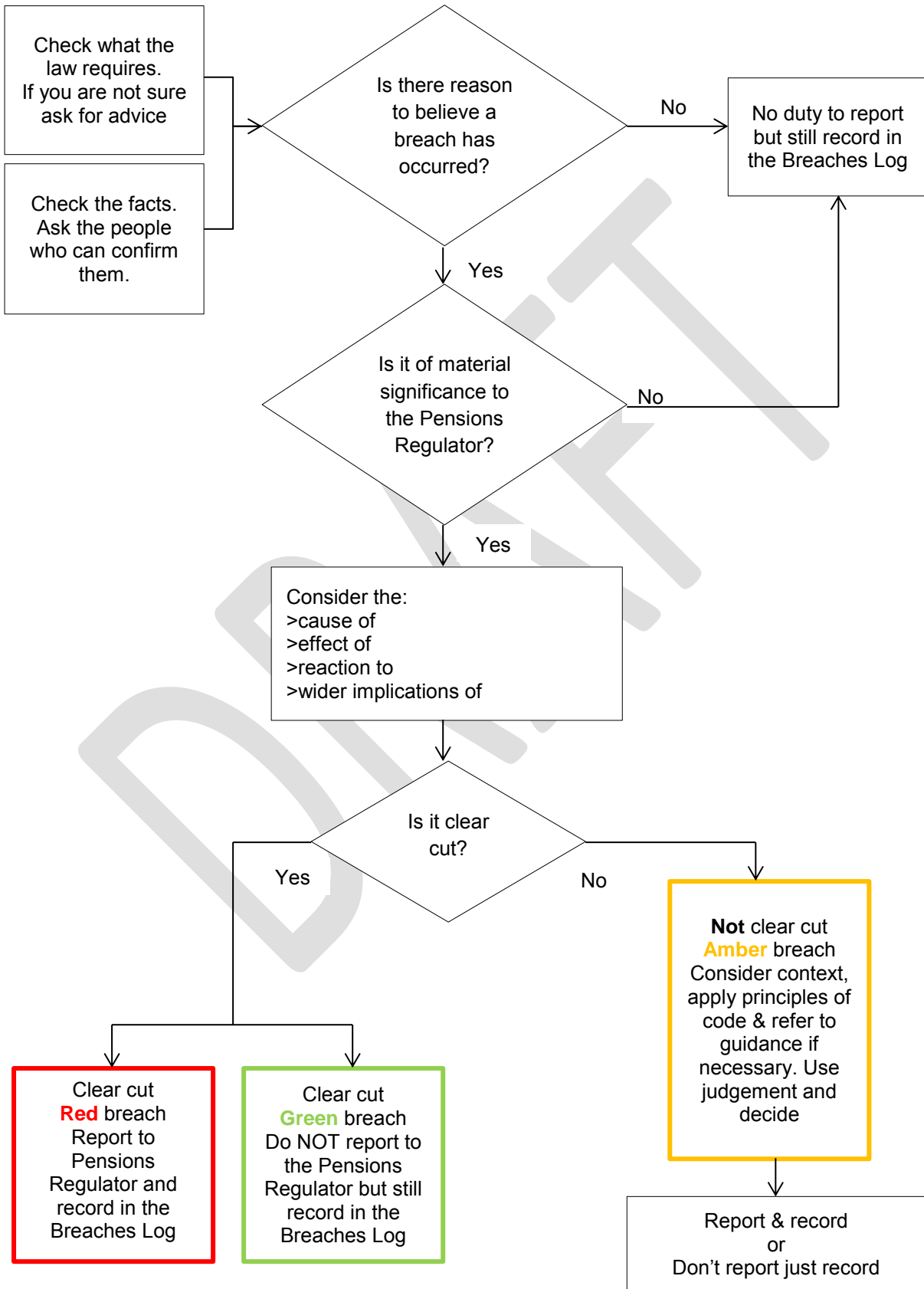
Training

The Head of Pensions Administration will ensure that all relevant members and officers, as well as members of the Local Pension Board receive appropriate training on this policy at the commencement of their employment or appointment to the Local Pension Board as appropriate and on an ongoing basis.

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Appendix A

Deciding if a breach is “materially significant” and should be reported to The Regulator



Appendix B

Examples of breaches

Example 1

An employer is late in paying over employee and employer contributions and is in breach of the statutory period for making such payments. The employer is contacted by officers from the administering authority, it immediately pays the moneys that are overdue, and improves its procedures so that in future contributions are paid over on time. In this instance there has been a breach but members have not been adversely affected and the employer has put its house in order regarding future payments. The breach is therefore not material to The Regulator and need not be reported.

Example 2

An employer is late in paying over employee and employer contributions, and is in breach of the statutory period for making such payments. It is also late in paying AVCs to the AVC provider. It is contacted by officers from the administering authority, and the employer eventually pays the monies that are overdue, including AVCs to the AVC provider. This has happened before, and there is no evidence that the employer is putting its house in order. In this instance there has been a breach that is relevant to The Regulator, in part because of the employer's repeated failures, and also because those members paying AVCs will typically be adversely affected by the delay in investing their AVCs.

Example 3

An employer is late in submitting its statutory year-end return of pay and contributions in respect of each of its active members and as such it is in breach. Despite repeated reminders it still does not supply its year-end return. Because the administering authority does not have the year-end data it is unable to provide annual benefit statements to the employer's members by 31 August. In this instance there has been a breach which is relevant to The Regulator, in part because of the employer's failures, in part because of the enforced breach by the administering authority, and also because members are being denied their annual benefits statements.

Example 4

A pension overpayment is discovered. The administering authority has failed to pay the right amounts to the right person at the right time and a breach has therefore occurred. The overpayment is however, for a modest amount and the pensioner could not have known that they were being overpaid. The overpayment is therefore waived. In this case there is no need to report the breach as it is not material.

Appendix C

Form to report a breach to the Monitoring Officer

Name of Reporter:	
Position:	
Telephone number	
Email address	
Address	
Description of the breach (please include any relevant dates)	
Do you believe that the breach is of material significance to The Pensions Regulator?	
Please give your reasons	
Have you reported the breach to The Pensions Regulator?	
Please give your reasons	

Please send the completed form by email or post to:
Phillippa Cockerill
Monitoring Officer
North Yorkshire Pension Fund
County Hall
Northallerton
North Yorkshire
DL7 8AL
Telephone: 01609 535879
E-mail: Phillippa.cockerill@northyorks.gov.uk

Appendix D

Example Record of Breaches

Date	Category	Description of Breach	Cause of Breach	Effect of Breach & Wider Implications	Response to Breach	Referred to PFC	Outcome of Referral	Reported to Regulator	Progress Review 1	Progress Review 2
30/9/2015	Contributions	No employer or employee contributions paid by employer for two months (June and July) Queried with employer on 23/8/215	Employer advised Fund on 26/8/2015 that late payment of contribution due to installation of new payroll system and outstanding contribution will be paid without delay	Where contributions remain outstanding for more than 90 days, then likely to be of material significance to The Regulator	Investigations showed that the employer had not previously been late in paying contributions. Not reported as outstanding contribution paid over on 31/08/2015 and therefore not of material significance as paid within 90 days of the due date	Y	Position noted. As contributions were received within a reasonable timeframe it was confirmed no requirement to report	N	Contributions for August paid on 19/09/2015	Monitor payments on 19/10/2015 to ensure that late payment was a one off failure
1/12/2017	Regulations	Regulation 40 Death Grant payments	Failure to Identify beneficiaries of estate of deceased. Correct procedure not followed.	Where a member died in service without completing an expression of wish form, but Fund did not identify correct dependents, leading to possible 2 nd payment of death grant. Dependent, a long term partner of	Investigations showed that the Probate office was limited by their regulations which pre-judged against a partner and Fund had failed to recognise this.	Y	Position noted. As staff training is being provided and policy updated no further action taken. Overpaid death grant written off by Fund.	N	Ensure all staff trained and policy updated.	Procedure documented and incorporated into system

				deceased appealed the decision to pay on strength of letters of administration.						
--	--	--	--	--	--	--	--	--	--	--

				Recipient Relative identified by probate office refused to replay death grant.						
--	--	--	--	--	--	--	--	--	--	--

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North Yorkshire Pension Fund

Annual Benefit Statement at «EVENT_DATE_DMYX2L»

Our records show that you have benefits in the North Yorkshire Pension Fund (NYPF).

If you work or have worked in any other posts which are regarded as separate periods of pensionable service, you will have other online pension records. Each record will only show the Annual Benefit Statement relevant to the service held on that record.

The benefits quoted in this statement have been calculated as at «EVENT_DATE_DMYX2L» based on current regulations. Please check all your personal details carefully and contact NYPF if any of the information is incorrect.

If you have any Pension Sharing Orders, the figures shown in this statement have been reduced by the Pension Debit amounts resulting from your Orders. ONLY FOR PSO MEMBERS

Please note that you should not retire on the basis of this statement alone. Before retiring you should ask for a more detailed breakdown of your pension benefits as this statement is provided for guidance only.

Don't forget to tell us if you move address, contact details are shown on the last page.

Guidance notes explaining the information provided in this document are available by selecting the following link

Section 1: Personal Details

Payroll Reference Number:	«IDENT2»
Date of Birth:	«DOB»
Partnership Status:	«MAR_STATUS»
Post Number:	«IDENT3»
Date Joined Scheme in this Employment:	«DJF»
Employer:	«LOCNAT3103»

Section 2: Summary of Total Benefits at «EVENT_DATE_DMYX2L»

Annual Pension accrued at «EVENT_DATE_DMYX2L»:	£«BE_PV_PEN»
Automatic Tax Free Lump Sum accrued at «EVENT_DATE_DMYX2L»:	£«BE_PV_LSUM»
Death in Service Lump Sum payable on your death:	£«BE_DTH_LS»
Annual Survivor's Pension payable on your death:	£«BE_DTH_LTP»

A breakdown of the calculation of your current pension benefits is shown in sections 5 and 6

Section 3: Projections if you remain contributing to the Scheme until «NPD» i.e. to your Normal Pension Age (NPA): «NPA»

Pension at NPA:	£«BE_NPA_XPN»
Automatic Tax Free Lump Sum at NPA:	£«BE_NPA_XLS»
Survivor's Annual Pension at NPA:	£«BE_NPA_XWP»

A breakdown of the calculation of your projected pension benefits is shown in section 7

Section 4: Pay Figures used to calculate your benefits at «EVENT_DATE_DMYX2L»

The benefits shown in this statement are based on the pay figures provided by your employer (below). It is important that you check these are accurate and contact your employer immediately with any queries

Pensionable Pay for year ending «EVENT_DATE_DMYX2L» (used to calculate Career Average pension built up in «YEAR_1»/«YEAR_2», as shown in Section 5) : £«CARE_PAYYR»

Final Salary Pay for year ending «EVENT_DATE_DMYX2L» (used to calculate Final Salary pension benefits accrued to «CARE_EVEDT» as shown in Section 6): £«PEN_PS_REM»

Section 5: Career Average Pension Benefits as at «EVENT_DATE_DMYX2L» (payable from «NPD»)

Pensionable Pay for year ending «EVENT_DATE_DMYX2L» in Main Section:	£«CARE_100PF»
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Pensionable Pay for year ending «EVENT_DATE_DMYX2L» in 50/50 section:	£«CARE_50PF»
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Amount of pension built up in «YEAR_1»/«YEAR_2»:

Main Section Pay / 49:	£«CARE_100YB»
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50/50 Section Pay / 98:	£«CARE_50YB»
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Additional Pension bought:	£«CARE_APCYR»
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Transfers in:	£«CARE_TVYR»
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Total Career Average Pension built up in «YEAR_1»/«YEAR_2»=	£«CARE_TOTYR»
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Total Career Average Pension at «EVENT_DATE_DMYX2L»:

Career Average Pension built up from 1 April 2014 to 31 March 2017:	£«CARE_TOTPY»
---	---------------

Increase/Decrease for the cost of living (added/deducted 1 April 2017):	£«CARE_REVPY»
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Total Career Average Pension built up in «YEAR_1»/«YEAR_2»:	£«CARE_TOTYR»
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Total value of your Career Average Pension as at 31/03/2018:	£«CARE_ACSCR»
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Section 6: Value of Final Salary Pension Benefits as at «EVENT_DATE_DMYX2L» (payable from «NPD»)

Final Salary Pay:	£«PEN_PS_REM»
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Annual Pension (for pre 1 April 2014 membership):	£«BE_PV_FSPN»
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Automatic Tax Free Lump Sum:	«BE_PV_LSUM_U72»
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Section 7: A breakdown of your projected benefits if you remain contributing to the Scheme until «NPD»

Pension at NPA:	£«BE_NPA_XPN»
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Includes projected Career Average Pension to NPA of:	£«CARE_PROJD»
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Includes projected Final Salary Pension to NPA of:	£«BE_NPA_FSP»
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Survivor's Annual Pension at NPA:	£«BE_NPA_XWP»
Includes projected Career Average Survivor's Annual Pension to NPA of:	£«CARE_WIDPR»
Includes projected Final Salary Survivor's Annual Pension to NPA of:	£«BE_NPA_FSW»

Section 8: Current Nomination for Lump Sum Death Benefit

Name of Nominee	% of Benefit
«SP_NAME»	«SP_GENERAL»
«DE_NAME__1»	«DE_GENERAL__1»
«DE_NAME__2»	«DE_GENERAL__2»
«DE_NAME__3»	«DE_GENERAL__3»
«DE_NAME__4»	«DE_GENERAL__4»
«CH_NAME__1»	«CH_GENERAL__1»
«CH_NAME__2»	«CH_GENERAL__2»
«CH_NAME__3»	«CH_GENERAL__3»
«CH_NAME__4»	«CH_GENERAL__4»

If the above is blank, you have not made a nomination and any payment would therefore form part of your estate and may be subject to Inheritance Tax. To register a nominee(s) or to change your nomination details, please download a form from the NYPF website at www.nypf.org.uk > Forms/Guides > Useful Forms.

Section 9: Annual Allowance at «EVENT_DATE_DMYX2L»

Annual Allowance for Pension Input Period (PIP) of «YEAR_1»/«YEAR_2» is a maximum of £40,000 (please read the explanatory notes for further information).

Pension Input Amount (PIA) for the «YEAR_1»/«YEAR_2» PIP:	£«AAL_TOTPIA»
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Section 10: Contact Us (Opening Times: 8:30am to 5pm (4:30pm on Friday))

Email	pensions@northyorks.gov.uk	Post	North Yorkshire Pension Fund
Website	www.nypf.org.uk		County Hall, Northallerton
Telephone	Pensions help and information line 01609 536335		DL7 8AL

Other Formats
 If you require this statement in a different format such as large print, Braille, audio or you need help understanding it in your first language, please call (01609) 536335 or email pensions@northyorks.gov.uk

Data Protection
 The General Data Protection Regulations 2018 requires us to keep information about you securely. It also requires us to keep accurate information and keep it up to date. You can help us to do this by telling us when the details we hold about you change. *We also have a duty to protect the public purse; in order to do so we share information with other public organisations to tackle fraud. **Needed?***

North Yorkshire Pension Fund

Deferred Annual Benefit Statement at «EVENT_DATE_DMYX2L»

Our records show that you have benefits in the North Yorkshire Pension Fund (NYPF).

Your benefits are deferred in the NYPF as you have either left employment (although you may still be employed in other posts), you have transferred to a post with a lower graded salary or you have opted out of the Local Government Pension Scheme (LGPS). This statement shows the current value of your deferred benefits including the cost of living increases that have been applied since you left the scheme. If you work or have worked in any other posts which are regarded as separate periods of pensionable service, you will have other online pension records. Each record will only show the Annual Benefit Statement relevant to the service held on that record.

If you have chosen to opt out of the LGPS you will not be able to receive payment of your pension benefits until you leave the employment of the post you opted out on.

The benefits quoted in this statement have been calculated as at «EVENT_DATE_DMYX2L» based on current regulations. Please check all your personal details carefully and contact NYPF if any of the information is incorrect.

Please note that you should not retire on the basis of this statement alone. Before retiring you should ask for a more detailed breakdown of your pension benefits as this statement is provided for guidance only.

Don't forget to tell us if you move address, contact details are shown on the last page.

Section 1: Personal Details

Date of Birth:	«DOB»
Date of Leaving:	«DATE_LEFT»
Date Benefits Payable From:	«DEF_DUE»

Conditional paragraph on DOL:

As you left or opted out of the Scheme before 1 April 2014

The earliest date that you can draw your pension benefits without having a reduction applied is shown above. You may be able to draw your benefits from age 60 but your benefits may be subject to actuarial reductions.

As you left or opted out of the Scheme after 31 March 2014

The earliest date that you can draw your pension benefits without having a reduction applied is shown above. If this is linked to your State Pension Age and your State Pension Age changes, the 'Date Benefits Payable From' will also change to that date. You may be able to draw your benefits from age 55 but your benefits will be subject to an actuarial reduction for early payment.

Section 2: Summary of Total Benefits at «EVENT_DATE_DMYX2L»

Current Value of Annual Pension at «EVENT_DATE_DMYX2L»:	£«DEF_TOT_CP»
Current Value of Automatic Tax Free Lump Sum at «EVENT_DATE_DMYX2L»:	£«DEF_EX_PI»
Current Value of Lump Sum Death Benefit payable on your death:	£«DTH_GRAT»
Current Value of Survivor's Annual Pension payable on your death:	£«DEF_TOT_CW»

If you were paying Added Years, Additional Regular Contributions or Additional Pension Contributions, these are included in the figures above.

Section 3: Current Nomination for Lump Sum Death Benefit

Name of Nominee	% of Benefit
«SP_NAME»	«SP_GENERAL»
«DE_NAME__1»	«DE_GENERAL__1»
«DE_NAME__2»	«DE_GENERAL__2»
«DE_NAME__3»	«DE_GENERAL__3»
«DE_NAME__4»	«DE_GENERAL__4»
«CH_NAME__1»	«CH_GENERAL__1»
«CH_NAME__2»	«CH_GENERAL__2»
«CH_NAME__3»	«CH_GENERAL__3»
«CH_NAME__4»	«CH_GENERAL__4»

If the above is blank, you have not made a nomination and any payment would therefore form part of your estate and may be subject to Inheritance Tax. To register a nominee(s) or to change your nomination details, please download a form from the NYPF [website](#).

A lump sum death benefit of **3 or 5 (Conditional based on DOL)** times your pension is payable if you die before receiving your pension. If you are also an active member of the scheme (when you die) the lump sum death benefit payable would be the greater of the death benefit from your deferred benefits or 3 times your (assumed) pensionable pay.

Section 4: Rejoining the Local Government Pension Scheme (LGPS)

As a deferred member of the NYPF, if you re-join, or have re-joined the LGPS in another Fund in England or Wales you must (if you have not already done so):

- a) tell the Fund in which you are an active member that you have a deferred benefit in another LGPS Fund in England or Wales. You should also tell them about any intervening service in any other public service pension scheme (even if a refund of contributions has been received in respect of that service).
- b) tell the Fund in which the deferred benefit is held that you are an active member in another LGPS Fund in England or Wales.

It is important that you tell the relevant Funds the above information so that you are given the appropriate options regarding aggregation of your benefits. Failure to do so could lead to certain statutory rights that may apply to you being missed.

Section 5: Frequently Asked Questions

What does the statement tell me?

This statement shows the current value of your benefits in the NYPF. It also shows any lump sum death benefit payable if you die whilst your benefits are deferred and any survivor's pension that may be payable. It includes the pension increase (the cost of living increases applied each April) that has been applied to your benefits since leaving.

Is my partner entitled to a pension? **CONDITIONAL PARA BASED ON DOL**

As you left the Scheme before 31 March 2008, a survivor's pension is automatically payable to a spouse, registered civil partner and any eligible children.

As you left the Scheme after 1 April 2008, a survivor's pension is payable to a spouse, registered civil partner or a cohabiting partner provided that certain criteria are met. It is advisable to complete a cohabiting partner's form which you can download from the NYPF [website](#). A child's pension may also be payable to any eligible children.

Can I transfer my benefits to a new scheme?

Yes, you can, provided that:

- You elect to transfer at least 12 months before your normal pension age.
- You have not already drawn benefits from the LGPS (either in this employment or any other employment).
- The receiving scheme is willing and able to accept transfers.

Please seek independent financial advice before proceeding with a transfer.

I paid Additional Voluntary Contributions (AVCs) when I was employed, are these contributions included in this statement?

No. You will receive a separate statement from the Prudential showing the value of your AVC fund. For further information please contact the Prudential on 0800 032 6674.

Section 6: Contact Us (Opening Times: 8:30am to 5pm (4:30pm on Friday))

Email pensions@northyorks.gov.uk
Website www.nypf.org.uk
Telephone Pensions help and information line 01609 536335

Post
North Yorkshire Pension Fund
County Hall, Northallerton
DL7 8AL

Other Formats

If you require this statement in a different format such as large print, Braille, audio or you need help understanding it in your first language, please call (01609) 536335 or email pensions@northyorks.gov.uk

Data Protection

The General Data Protection Regulations 2018 requires us to keep information about you securely. It also requires us to keep accurate information and keep it up to date. You can help us to do this by telling us when the details we hold about you change. *We also have a duty to protect the public purse; in order to do so we share information with other public organisations to tackle fraud. **Needed?***

North Yorkshire County Council

Pension Board

18 January 2018

Internal Audit Plan

Purpose of Report

To provide the Pension Board with an update on internal audit activity

Audit Plan 2016/17

Details of the planned audits for 2016/17 are shown in the table below

Audit	Status	Assurance level
Pension Investments	Complete	High Assurance
Pensions Income	Complete	Substantial Assurance
Pensions Expenditure	Complete	Reasonable Assurance
Altair IT System	Complete	Substantial Assurance

A copy of the Pensions Expenditure final report is attached as **Appendix 1**

Audit Plan 2017/18

The Internal Audit Plan for 2017/18 was approved at the Board meeting on 20 July 2017. The current progress of work for the 2017/18 plan is detailed below

Audit	Days	Status
<p>Pension Fund Governance Arrangement</p> <p>The audit will review the governance arrangements for the pension's fund, including compliance with CIPFA guidance and pensions fund regulations. This will include a review of the Annual report, and the issue of Benefits statements to scheme members.</p>	15	Discussion draft issued
<p>Pension Fund Income</p> <p>The audit will review the processes in place for the collection of income from member organisations and the information provided to enable the calculation of benefits under the various schemes. This will include a follow up of previous years audit work on the quality of data provided by scheme employers</p>	15	In progress

<p>Pension Fund Expenditure</p> <p>The audit will review the processes for paying pensions, in particular reviewing payment of new pensions and changes to pension entitlement.</p>	<p>15</p>	<p>In progress</p>
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Recommendation

Pension Board Members are asked to note this report and the attached Internal Audit Report

Ian Morton,

Audit Manager,

Veritau Ltd.



Pension Fund Expenditure

North Yorkshire County Council

Internal Audit Report 2016/17

Business Unit: Central Services
 Responsible Officer: Corporate Director – Strategic Resources
 Service Managers: Head of Pensions Administration
 Date Issued: 9 October 2017
 Status: Final
 Reference: 32220/010

	P1	P2	P3
Actions	0	2	1
Overall Audit Opinion	Reasonable Assurance		

Summary and Overall Conclusions

Introduction

The Local Government Pension Scheme is a statutory scheme for local authority employees, operated under the Local Government Pension Scheme Regulations under regulations issued by the Central Government Department, Communities and Local Government. The Scheme is administered on a local basis and the County Council is responsible for the Scheme within the geographical areas of North Yorkshire and the City of York. In addition to employees working in local government, a number of other public, education and voluntary sector employees are also members of the LGPS. Private contractors engaged in local authority work are also able to participate in the scheme.

The North Yorkshire Pension Fund uses the Altair system for administration purposes. This system has the means of providing a payroll function however these are made on their behalf by the North Yorkshire County Council Employment Support Service through ResourceLink.

Objectives and Scope of the Audit

The purpose of this audit was to provide assurance to management that procedures and controls within the system ensured that:

- appropriate processes were in place so that once notified of the death of a pensioner payments were stopped promptly and overpayments recovered;
- PP1 amendment forms (a form requesting amendments to be made to a pensioner's payroll record within ResourceLink) sent to Employment Support Services were actioned in a timely manner; and
- prior to the pensioners payroll being finalised and payments made there was a process of validation.

Key Findings

The key findings identified in this audit include:

- for those responsible for checking exception reports there is no guidance explaining what needs to be checked and why;
- the NYPF are not always providing ESS with copies of death certificates and Tell Us Once Notifications to enable them to end a deceased pensioner's record and as such make the correct payment to the estate or recoup any overpayment; and
- the present arrangements in the NYPF for monitoring the pensions of dependants are not sufficient to prevent overpayments from being made.

It was identified in the previous audit that there is no reconciliation process between the NYPF Altair system and the NYCC ESS ResourceLink system for record management purposes. An action was agreed that that was due for implementation by 31 May 2017.

ESS will not end a record until they have received a copy of the death certificate, but will suspend the record until they receive clarification. In some cases the NYPF is unable to obtain a death certificate particularly in cases where they receive information from other sources and are not notified of the death directly from the next of kin or a solicitor. It was previously reported that for cases where a death certificate cannot be obtained the NYPF and ESS need to establish a protocol to process and end records so that they can be ended promptly and are not suspended for periods of time. There is an action plan in place to address this issue which has yet to be fully implemented. A further case was identified during the review this year 3501386101 who died on 11 November 2016. The NYPF requested a copy of the death certificate however the next of kin has failed to provide one. The latest case note on the pensioner's Altair record dated 13 March 2017 states "Still no reply, allow a further four weeks". Documentation was sent to ESS on 31 January 2017 and as per procedures they suspended the record to prevent further payments from being made. However £181.20 had been overpaid for the period up to 31 December 2016 which can be recovered. The longer it takes to end the record then there is less likelihood that the overpayment could be recovered from the estate.

Overall Conclusions

It was found that the arrangements for managing risk were satisfactory with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. Our overall opinion of the controls within the system at the time of the audit was that they provided Reasonable Assurance.

1 Exception reports

Issue/Control Weakness

Without documented guidance detailing specifically what needs to be checked and why there is the possibility that records may be omitted from the sample reviewed that actually may warrant special attention.

Risk

Financial loss to the NYPF.

Findings

Six exception reports are downloaded each month from ResourceLink for the pensioners payroll:

- net pay advance recovery;
- calc NYCC pen (reporting upon NI categories that have changed or are not categorised correctly);
- high net pay (net pay above £1,500);
- low net pay (net pay less than £1.00);
- rejections; and
- court orders.

These are reviewed by members of the dedicated ESS pensioner's payroll team who undertake a random 10% check from each report. Each report is highlighted with those checked. It was advised by the ESS Administrator that as part of the checking process the previous three payroll payments are also reviewed to ensure there are no large discrepancies between each of the payments.

The reports for October and November were reviewed. The High Net Pay report returned 447 and 459 records respectively. A number of these records were on going payments and appeared on both reports whereas others were new and did not appear on the previous report, a 10% sample had been reviewed from each. On further examination it was noted that there were 29 records that appeared on the exception report for November that did not appear on the exception report for October. Of these records only 8 had been highlighted as checked. The Low Net Pay exception report returned 59 and 63 records respectively many of which were on going payments and appeared on both reports, a sample of 20% had been reviewed from each. In the majority of instances different records had been checked each month.

The Calc NYCC Pen exception report for October returned 44 records mainly associated with those in receipt of a dependant pension. Here their age did not correlate with that of a pensioner and as such were highlighted on this report as "Employee between 16 and 21 on an incorrect NI Category" some 40 records. It was reported in the previous audit report that this exception report is not made available to the NYPF Team Leader so that they can check these records against the monthly download from the Altair system for dependant pensioners. This situation remains as before in that it is not forwarded to the NYPF nor has the NYPF Team Leader requested it.

Exception reports are produced for a reason and clear documented guidance needs to be maintained that details the purpose for running these

reports, detailing specifically what needs to be checked and why. Through having such guidance those involved in the review of these reports can make informed decisions as to how many records and which records should be checked.

Agreed Action 1.1

Agreed. The following will be implemented:

1. Ensure ESS Manager has implemented clear documented guidance detailing purpose of the exception reports and the checking required on each.
2. Establish process for provision of the monthly “Employee between 16 and 21 on an incorrect NI Category” exceptions to the Administration Team via the shared area.

Priority

2

Responsible Officer

Head of Pensions
Administration

Timescale

31 March 2018

2 Processing deceased pensioner records.

Issue/Control Weakness

The NYPF are not providing ESS with all the information they require to end a deceased pensioner's record.

Risk

Financial loss to the NYPF.

Findings

Deceased pensioner records are ended on ResourceLink by a member of the ESS pensioner's payroll team based upon information provided by the NYPF. From the sample of ten deceased pensioner records reviewed there were issues with three. In two cases the NYPF had received copies of the death certificate and in one case had received information from the Tell Us Once Notifications website however in none of these cases had they passed that information onto ESS. The case notes on the Altair record for each pensioner had been updated to say that this information had been received yet there was no record that this documentation had been passed to ESS. On reviewing the information received by ESS through the Lagan system it was evident that this documentation had not been provided to them.

Based upon procedures ESS had suspended each record to prevent further payments being made and recalled any Bacs payments due to be made however in the case of:

- 3510860534 who died on 22 September 2016 £961.59 is due to the estate as the Bacs payment for September was recalled;
- 3702383758 who died on 19 October 2016 £67.76 has been overpaid which can be recovered as procedures allow for any payment over £50 to be recovered; and
- 3571837173 who died on 19 December 2016 £436.59 is due to the estate as the Bacs payment for December was recalled.

In the above cases had the NYPF provided ESS with the required documentation these pensioner records could have been ended promptly and invoices raised to recoup overpayments or make the necessary payment to the estate. As it is no further payments have been made and the outstanding balances have not been dealt with.

The Administrator within ESS responsible for processing deceased pensioner records maintains a spreadsheet that she updates and forward to the NYPF each month. As at March 2017 there were 77 pensioner records including the three identified above listed as waiting for death certificates from the NYPF before ESS could proceed further to end the record. The oldest entry was for a pensioner who was recorded as having died on 27 January 2015. The NYPF needs to ensure it provides all the necessary information to ESS to enable them to end a record and make the correct payment or recoup any overpayment.

Agreed Action 2.1

Agreed. The following will be implemented:

Priority

2

1. ESS has been provided with access to Altair so they can find the death certificates themselves. Need to re-establish this as part of agreed death process.
2. Clear up of outstanding death certificate backlog is underway.
3. Review of process to take place to ensure administration keep on top of certificate requests.

Responsible Officer

Timescale

Head of Pensions
Administration

31 March 2018

3 Dependant pensions

Issue/Control Weakness

The present arrangements for monitoring the pensions of dependants are not sufficient to prevent overpayments from being made.

Risk

Financial loss to the NYPF.

Findings

It was previously reported that dependant pensions were monitored within the NYPF on a monthly basis by one designated member of staff, the NYPF Team Leader, using a spreadsheet and that the whole process was manual with no automated safeguards in place should monitoring not be undertaken. This was found to still be the case however there is an action plan which when fully implemented will introduce more automation into the process.

As part of the review this year a sample of recently ceased or on going dependant pensions was reviewed and testing undertaken to ensure there was a completed NYPF Supplementary Application Form For Payment Of A Child's Pension on file authorised by the university/training provider and providing start and end dates for the respective courses. These courses generally last for either three or four years. For those where the pension had recently ended each had been paid up to the end date of the respective course as identified on the authorised form.

For those where the pension was in payment in all but one instance there was a form on file indicating the dependant was attending a course that was on going. For one the form that had been received on 7 May 2015 indicated that the dependant had been offered a place at university to commence September 2015 to summer 2019. It had not been certified by the university as the form had been completed too early. There was no follow up to establish whether or not they went there or actually continued in further education after the age of 18. In this case a dependant pension was being paid where there was no evidence held on file by the NYPF that they were in further education through the completion of the appropriate form authorised by the university.

Agreed Action 3.1

Agreed. The following will be implemented:

1. A full review of all processes within the administration function will take place in due course to establish areas of weakness and make the necessary improvements.
2. Cross training of other members of the team will ensure cover is available for the Team Leader.
3. Document the existing process to identify areas for improvement.
4. Stricter monitoring of dependant children's pension.

Priority

3

Responsible Officer

Head of Pensions
Administration

Timescale

31 March 2018

Audit Opinions and Priorities for Actions

Audit Opinions

Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.

Our overall audit opinion is based on 5 grades of opinion, as set out below.

Opinion	Assessment of internal control
High Assurance	Overall, very good management of risk. An effective control environment appears to be in operation.
Substantial Assurance	Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified.
Reasonable Assurance	Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made.
Limited Assurance	Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation.
No Assurance	Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse.

Priorities for Actions

Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management.
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

Where information resulting from audit work is made public or is provided to a third party by the client or by Veritau then this must be done on the understanding that any third party will rely on the information at its own risk. Veritau will not owe a duty of care or assume any responsibility towards anyone other than the client in relation to the information supplied. Equally, no third party may assert any rights or bring any claims against Veritau in connection with the information. Where information is provided to a named third party, the third party will keep the information confidential.

NORTH YORKSHIRE COUNTY COUNCIL

PENSION BOARD

18 JANUARY 2018

PENSION FUND RISK REGISTER

1.0 PURPOSE OF THE REPORT

- 1.1 To provide Pension Board members with the opportunity to comment on the Pension Fund risk register.

2.0 BACKGROUND

- 2.1 The risk register for the Pension Fund describes the key risks faced by the Fund. It is updated every six months and is formally approved annually by the Pension Fund Committee. It is also reviewed by the Pension Board after each six monthly update.
- 2.2 There are two risks ranked as red, three as amber and four as green on the latest version of the risk register. The assessment of the highest ranked risks is primarily driven by the financial impact each could have, if each risk actually occurred.
- 2.3 One of the red risks is on the LGPS Pooling Arrangements; this is currently considered the key risk of the Pension Fund. It is a major change to the way in which the assets of the Pension Fund are managed with a potential risk that the Fund is no longer able to effectively implement its investment strategy.
- 2.4 Pension Fund solvency also remains a red risk, despite the funding level of 108%. This is due to the unpredictable and volatile nature of global financial markets on which both investment returns and certain market based actuarial assumptions used to value liabilities are based. The potential consequence of the risk occurring is a significant increase in contribution rates for the Fund's employers and/or an extension to the deficit recovery period. An Investment Strategy review is currently taking place with the aim of de-risking the Fund.

3.0 RECENT EVENTS

- 3.1 The latest version of the risk register (attached as **Appendix 1 & 2**) was updated by officers in November 2017. The next version of the risk register will be updated in May 2018 and taken to the Pension Fund Committee for approval in the July meeting as part of the Fund's annual governance review.
- 3.2 It has been suggested by officers in previous Pension Board meetings that the Pension Board could focus on one key risk in detail at each review rather than reviewing all risks. Board members may wish to discuss this and determine an agreed approach to reviewing risks going forward.

4.0 **RECOMMENDATION**

- 4.1 Pension Board Members to provide feedback on the latest Risk Register
- 4.2 Pension Board members to decide how they would like to review the Pension Fund risks in the future.

Pension Fund

Risk Register: **November 2017 Review – summary**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Identity			Person		Classification												Fallback Plan			
Change	Risk Title	Risk Description	Risk Owner	Risk Manager	Pre						RR		Post						FBPlan	Action Manager
					Prob	Obj	Fin	Serv	Rep	Cat	RRs	Next Action	Prob	Obj	Fin	Serv	Rep	Cat		
◀▶	44/4 - Pension Fund Solvency	Solvency deteriorates due to liability growth exceeding expectations and / or underperforming investment returns, inappropriate actuarial assumptions, or adverse market conditions requiring a review of employer contributions, additional payments or extended recovery period	CD SR	CSD SR Senior Accountant Pensions	M	M	H	L	M	2	3	31/05/2018	M	M	H	L	M	2	Y	CSD SR Senior Accountant Pensions
◀▶	44/201 - LGPS Pooling Transition	Failure to transition effectively to new pooling arrangements resulting in poorer value for money; lower investment returns; and inability to effectively execute investment strategy.	CD SR	CSD SR Senior Accountant Pensions	M	M	H	L	H	2	6	31/05/2018	M	M	H	L	M	2	Y	CD SR
◀▶	44/8 - Investment Strategy	Failure of the investment strategy to achieve sufficient returns from investments	CD SR	CSD SR Senior Accountant Pensions	L	M	H	L	M	3	5	31/05/2018	L	M	H	L	M	3	Y	CSD SR Senior Accountant Pensions
◀▶	44/20 - Fraud	Internal and/or external fraud as a result of inappropriate pension administration, investment activity and cash reconciliation results in financial loss, loss of reputation	CD SR	CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions	L	L	H	L	M	3	4	31/05/2018	L	L	H	L	M	3	Y	CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions
◀▶	44/16 - Key Personnel	Loss and unavailability of key personnel, leading to potential knowledge gaps and delays to provision of advice as new personnel take on key roles resulting in reduced performance and complaints.	CD SR	CSD SR Head of Pensions Administration	M	M	L	M	L	4	4	31/05/2018	M	M	L	M	L	4	Y	CSD SR Senior Accountant Pensions CSD SR Head of Pensions Administration
◀▶	44/11 - Benefit Payments	Incorrect/late benefits and payments to members resulting in criticism, customer dissatisfaction, under/over payments	CD SR	CSD SR Head of Pensions Administration	M	L	L	L	M	4	3	31/05/2018	L	L	L	L	M	5	Y	CSD SR Head of Pensions Administration

Pension Fund

Risk Register: **November 2017 Review – summary**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Identity			Person		Classification												Fallback Plan			
Change	Risk Title	Risk Description	Risk Owner	Risk Manager	Pre						RR		Post						FBPlan	Action Manager
					Prob	Obj	Fin	Serv	Rep	Cat	RRs	Next Action	Prob	Obj	Fin	Serv	Rep	Cat		
▼	44/10 - LGPS Regulations and Employer Related Legislation	LGPS Regulations and Employer Related Legislation not interpreted and implemented correctly resulting in legal challenge	CD SR	CSD SR Head of Pensions Administration	M	L	L	L	L	5	3	31/05/2018	M	L	L	L	L	5	Y	CSD SR Senior Accountant Pensions CSD SR Head of Pensions Administration
◀▶	44/7 - Investment Manager	Failure of a pension fund investment manager to meet adequate performance levels resulting in reduced financial returns, re-tendering exercise	CD SR	CSD SR Senior Accountant Pensions	L	M	M	L	L	5	3	31/05/2018	L	M	M	L	L	5	Y	CSD SR Senior Accountant Pensions
◀▶	44/14 - IT Systems	Failure of IT Pension system or other IT systems for more than 2 days (or at a critical time) resulting in backlog, incorrect payments, increased overtime, criticism	CD SR	CSD SR Head of Pensions Administration	L	M	L	M	M	5	2	31/05/2018	L	M	L	M	M	5	Y	CSD SR Head of Pensions Administration

Key	
▲	Risk Ranking has worsened since last review.
▼	Risk Ranking has improved since last review
◀▶	Risk Ranking is same as last review
- new -	New or significantly altered risk

Pension Fund

Appendix 2

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/4	Risk Title	44/4 - Pension Fund Solvency				Risk Owner	CD SR	Manager	CSD SR Senior Accountant Pensions	
Description	Solvency deteriorates due to liability growth exceeding expectations and / or underperforming investment returns, inappropriate actuarial assumptions, or adverse market conditions requiring a review of employer contributions, additional payments or extended recovery period					Risk Group	Financial	Risk Type	CSD SR 32/24		
Phase 2 - Current Assessment											
Current Control Measures			Deficit recovery period; adopt prudent actuarial assumptions; all assumptions reviewed every 3 years; measure liabilities against investment returns on a quarterly basis; regular reports to PFC; fixed income review;								
Probability	M	Objectives	M	Financial	H	Services	L	Reputation	M	Category	2
Phase 3 - Risk Reduction Actions											
							Action Manager	Action by	Completed	%	
Reduction	44/6 - Consultation with Actuary re assumptions used and discuss and carry out action plan (ongoing)						CSD SR Senior Accountant Pensions	Thu-31-May-18		0%	
Reduction	44/7 - Regular review of investment strategy to maximise investments; ongoing action linked to triennial valuations, strategy session to be held in July						CSD SR Senior Accountant Pensions	Thu-31-May-18		0%	
Reduction	44/1909 - Continue Investment strategy sessions with a view to developing de-risking options, in light on the current positive funding level						CSD SR Senior Accountant Pensions	Thu-31-May-18		0%	
Phase 4 - Post Risk Reduction Assessment											
Probability	M	Objectives	M	Financial	H	Services	L	Reputation	M	Category	2
Phase 5 - Fallback Plan											
										Action Manager	
Fallback Plan	44/428 - Increased contribution rate from employers and/or extend recovery period									CSD SR Senior Accountant Pensions	

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/201	Risk Title	44/201 - LGPS Pooling Transition				Risk Owner	CD SR		Manager	CSD SR Senior Accountant Pensions
Description	Failure to transition effectively to new pooling arrangements resulting in poorer value for money; lower investment returns; and inability to effectively execute investment strategy.					Risk Group		Risk Type			
Phase 2 - Current Assessment											
Current Control Measures			Pension Fund Committee involvement in key pooling decisions; NYPF officer involvement in pooling working groups; Periodic reporting of updates to the Pension Fund Committee; further detail behind the plans received; providing updates to the pension board on a quarterly basis around governance; pool legal advice; key decision agreed by full council; pooling briefing provided to members;								
Probability	M	Objectives	M	Financial	H	Services	L	Reputation	H	Category	2
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/161 - Consultation with advisors on the implication of pooling and advice on setting up arrangements; legal advice coming through at fund and pool levels					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/162 - Gain advice from advisors and other consultants on responding to the Government consultation; response provided					CSD SR Senior Accountant Pensions	Sun-31-Dec-17	Thu-30-Nov-17	100%		
Reduction	44/163 - Keeping Members up to date, particularly new members following May 17 elections; on PFC agenda every quarter with update					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/166 - Ensure Pension Board and employers are kept up to date on progress					CSD SR Senior Accountant Pensions	Sat-30-Jun-18		0%		
Reduction	44/167 - Ensure that PFC continue to be involved in key pooling decisions and informed of transition progress as we move towards June 2018					CSD SR Senior Accountant Pensions	Sat-30-Jun-18		0%		
Reduction	44/447 - Ensure that as the sub-funds are set up that we can invest into and the process of transition is developed, NYPF have as much involvement as possible to shape this and ensure that it is suitable for our needs					CSD SR Senior Accountant Pensions	Sat-30-Jun-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	M	Objectives	M	Financial	H	Services	L	Reputation	M	Category	2
Phase 5 - Fallback Plan											
									Action Manager		
Fallback Plan	44/544 - No current alternative to pooling							CD SR			

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/8	Risk Title	44/8 - Investment Strategy				Risk Owner	CD SR		Manager	CSD SR Senior Accountant Pensions
Description	Failure of the investment strategy to achieve sufficient returns from investments					Risk Group	Strategic		Risk Type		
Phase 2 - Current Assessment											
Current Control Measures			Strategy reviewed through asset/liability modelling; risk budgeting; experience and knowledge of the market and suitable forms of investment; Member training; Independent Investment Adviser and Consultant reports; PFC workshops and sign off of strategy; regular monitoring of investment performance; fixed income review;								
Probability	L	Objectives	M	Financial	H	Services	L	Reputation	M	Category	3
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/1876 - Continual review of the investment strategy and implement the recommendations, including consideration of pooling arrangements					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1878 - Monitor appropriateness of strategy against prevailing market conditions (including Brexit);					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1879 - Monitor the Advisor and Consultants reports and act on professional advice					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1895 - Continue to monitor the impact of MiFID II and ensure we are ready for January 2018 implementation, likely to involve discussions with fund managers and an "opt up"; – Papers all out to fund managers					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1909 - Continue Investment strategy sessions with a view to developing de-risking options, in light on the current positive funding level					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	L	Objectives	M	Financial	H	Services	L	Reputation	M	Category	3
Phase 5 - Fallback Plan											
									Action Manager		
Fallback Plan	44/430 - Review the strategy and implement changes as necessary based on the forward assessment of financial markets							CSD SR Senior Accountant Pensions			

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/20	Risk Title	44/20 - Fraud				Risk Owner	CD SR	Manager	CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions	
Description	Internal and/or external fraud as a result of inappropriate pension administration, investment activity and cash reconciliation results in financial loss, loss of reputation					Risk Group	Pers/Capacity	Risk Type			
Phase 2 - Current Assessment											
Current Control Measures			Internal Audit; internal checking and authorisation procedures and levels in both pension section and finance; split between administration and finance; all third parties have regular audits and regulated by FCA; legally binding contracts in place; governance arrangements for the delegation of duties; use of BACS payments; monthly mortality monitoring; participate in National Fraud Initiative								
Probability	L	Objectives	L	Financial	H	Services	L	Reputation	M	Category	3
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/1887 - Continually review processes and procedures including authorisation levels				CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Reduction	44/1888 - Ongoing internal audit assessment and annual review by external auditors				CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Reduction	44/1890 - Annual independent external audit of pension fund (separate from County Council) and carry out appropriate recommendations				CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Reduction	44/1894 - Review of external manager audit and risk reports; reports are also viewed by internal audit				CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	L	Objectives	L	Financial	H	Services	L	Reputation	M	Category	3
Phase 5 - Fallback Plan											
Fallback Plan	44/434 - Review incident and update procedures/processes accordingly							Action Manager			
								CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions			

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/16	Risk Title	44/16 - Key Personnel				Risk Owner	CD SR		Manager	CSD SR Head of Pensions Administration
Description	Loss and unavailability of key personnel, leading to potential knowledge gaps and delays to provision of advice as new personnel take on key roles resulting in reduced performance and complaints.					Risk Group	Capacity/performance		Risk Type		
Phase 2 - Current Assessment											
Current Control Measures			Procedure notes; knowledge sharing; file management; deputies; co-operation between departments; pensions management meetings; comprehensive training matrix; PFC action notes; professional advisors; increase resources agreed in finance team;								
Probability	M	Objectives	M	Financial	L	Services	M	Reputation	L	Category	4
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/1901 - Ensure effective management and transition arrangements are in place pending any review of management structure				CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Reduction	44/1905 - Continue to build resilience to meet current and anticipated future, demands and complexity				CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Reduction	44/1907 - Carry out appropriate induction and ongoing training for new PFC members				CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Reduction	44/1908 - Ensure inclusion of key personnel with relevant external advisers or feedback from such meetings/telephone calls (on going)				CSD SR Head of Pensions Administration CSD SR Senior Accountant Pensions		Thu-31-May-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	M	Objectives	M	Financial	L	Services	M	Reputation	L	Category	4
Phase 5 - Fallback Plan											
Fallback Plan	44/441 - Identify temporary cover arrangements plus additional resources where required							Action Manager			
								CSD SR Senior Accountant Pensions CSD SR Head of Pensions Administration			

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/11	Risk Title	44/11 - Benefit Payments				Risk Owner	CD SR		Manager	CSD SR Head of Pensions Administration
Description	Incorrect/late benefits and payments to members resulting in criticism, customer dissatisfaction, under/over payments					Risk Group	Performance		Risk Type		
Phase 2 - Current Assessment											
Current Control Measures			Up to date procedures and procedural checking; pension software up to date; workflow system; authorisation procedures; pro formas; staff training; audit trail; internal and external audits; Pensions Administration Strategy; Manuals available for calculation procedure; action plan for clean data requirements; use of task checklists; ESS; payment timetable flowchart								
Probability	M	Objectives	L	Financial	L	Services	L	Reputation	M	Category	4
Phase 3 - Risk Reduction Actions											
							Action Manager	Action by	Completed	%	
Reduction	44/1893 - Effective communication with employers, with particular regard to customer expectations						CSD SR Head of Pensions Administration	Thu-31-May-18		0%	
Reduction	44/1896 - Regular liaison with ESS regarding operational arrangements; will be holding monthly meetings to ensure understanding of the issues on both sides leading to continued improvement						CSD SR Head of Pensions Administration	Thu-31-May-18		0%	
Reduction	44/1911 - Implement the plans for the managed reduction of outstanding work						CSD SR Head of Pensions Administration	Thu-31-May-18		0%	
Phase 4 - Post Risk Reduction Assessment											
Probability	L	Objectives	L	Financial	L	Services	L	Reputation	M	Category	5
Phase 5 - Fallback Plan											
Fallback Plan	44/435 - Correct errors and review and amend existing procedures								Action Manager		CSD SR Head of Pensions Administration

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/10	Risk Title	44/10 - LGPS Regulations and Employer Related Legislation				Risk Owner	CD SR	Manager	CSD SR Head of Pensions Administration	
Description	LGPS Regulations and Employer Related Legislation not interpreted and implemented correctly resulting in legal challenge				Risk Group	Performance	Risk Type				
Phase 2 - Current Assessment											
Current Control Measures		Specialist knowledge; designated members of staff; regular updates & comms with CLG; LGPC; Actuarial advice; Employers Forums; NEPOF; section training by specialist staff; specialist software; advice on calculations interpretations; investment gmt. agreement; awareness of overriding legislation; broadening of knowledge across MT; LGE advice; nat. technical pension group provide advice; Trustees knowledge and understanding toolkit; Pensions Administration team structure reviewed; training feedback received in order to continually strengthen understanding									
Probability	M	Objectives	L	Financial	L	Services	L	Reputation	L	Category	5
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/157 - Ongoing staff training programme					CSD SR Head of Pensions Administration	Thu-31-May-18		0%		
Reduction	44/1895 - Continue to monitor the impact of MiFID II and ensure we are ready for January 2018 implementation, likely to involve discussions with fund managers and an "opt up"; – Papers all out to fund managers					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1910 - Seek to promote cross skilling within the section to improve resilience					CSD SR Head of Pensions Administration	Thu-31-May-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	M	Objectives	L	Financial	L	Services	L	Reputation	L	Category	5
Phase 5 - Fallback Plan											
									Action Manager		
Fallback Plan	44/437 - Review existing interpretations, take legal advice and amend procedures as required						CSD SR Senior Accountant Pensions CSD SR Head of Pensions Administration				

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/7	Risk Title	44/7 - Investment Manager				Risk Owner	CD SR		Manager	CSD SR Senior Accountant Pensions
Description	Failure of a pension fund investment manager to meet adequate performance levels resulting in reduced financial returns, re-tendering exercise					Risk Group	Performance		Risk Type		
Phase 2 - Current Assessment											
Current Control Measures			Qrtly review of investment mgr targets; std terms and conds re termination of contract; ext advisers monitor mgrs perf; qrtly repts to Pension Fund Comm; benchmarking against other approp comparators; investment strategy review; risk budgeting exercise via Aon; reporting by Custodian; fund mgr attend at PFC; Member training; best practice procurement process; diversified portfolio of investments;								
Probability	L	Objectives	M	Financial	M	Services	L	Reputation	L	Category	5
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/1873 - Continue to monitor and report on investment returns on a regular basis					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1874 - Continue to meet/report to PFC by Fund Managers and assess critical analysis by advisers					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Reduction	44/1875 - Carry out when appropriate, a tender exercise and use best practice procurement process to ensure positive outcome re new investment manager(s)					CSD SR Senior Accountant Pensions	Thu-31-May-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	L	Objectives	M	Financial	M	Services	L	Reputation	L	Category	5
Phase 5 - Fallback Plan											
									Action Manager		
Fallback Plan	44/429 - Change Fund Manager and redistribute funds, potentially transfer to temporary passive Fund Manager							CSD SR Senior Accountant Pensions			

Pension Fund

Risk Register: **November 2017 Review – detailed**
 Next Review Due: **May 2018**
 Report Date: **8th November 2017 (pw)**

Phase 1 - Identification											
Risk Number	44/14	Risk Title	44/14 - IT Systems				Risk Owner	CD SR		Manager	CSD SR Head of Pensions Administration
Description	Failure of IT Pension system or other IT systems for more than 2 days (or at a critical time) resulting in backlog, incorrect payments, increased overtime, criticism					Risk Group	Technological		Risk Type		
Phase 2 - Current Assessment											
Current Control Measures			Manual payments, DR plan and tested, contracts for server maintenance, backups off site, major external providers have DR plans, manual calculation procedures, administration manuals, annual financial check, contingency plan in place, modern council; modern council working to aid resilience,								
Probability	L	Objectives	M	Financial	L	Services	M	Reputation	M	Category	5
Phase 3 - Risk Reduction Actions											
						Action Manager	Action by	Completed	%		
Reduction	44/1884 - Regular review of contingency planning arrangements					CSD SR Head of Pensions Administration	Thu-31-May-18		0%		
Reduction	44/1898 - Sense check any IT recovery assumptions with Tech & Change run systems					CSD SR Head of Pensions Administration	Thu-31-May-18		0%		
Phase 4 - Post Risk Reduction Assessment											
Probability	L	Objectives	M	Financial	L	Services	M	Reputation	M	Category	5
Phase 5 - Fallback Plan											
									Action Manager		
Fallback Plan	44/433 - Recourse to manual calculations and payments, Liaise with software provider to restore system, find alternative supplier								CSD SR Head of Pensions Administration		



**North Yorkshire County Council
Pension Board
18 January 2018
Pension Board Projects
Management, administration and governance process and procedure
Scoping Report**

1. Purpose of the Report

At the October 2017 Pension Board members agreed that a scoping report would be undertaken by the lead member for each of the projects identified in the Administration Report of that meeting. The Administration Report commented that the scope of the title is wide ranging which was acknowledged by the Board, it would perhaps be prudent to break that area down into separate 'bite-sized' chunks - Management, Administration and Governance

This report is proposed to refine the scope of the Management, administration and governance process and procedure project. When considering the role of the Pension Board it is important to encompass the Pensions Regulator Code of Practice no 14 Governance and administration of public service pension schemes (COP 14). (Appendix 1).

2. Proposed Work Streams

2.1 Governance of the scheme

COP 14 details at paragraph 51 that Pension Board Members should be able to identify and where relevant challenge any failure to comply with

- Scheme regulation
- Other legislation relating to the governance and administration of the scheme

It is felt that the Board await the outcome of the Internal Audit on Pension Fund Governance Arrangement that is currently in progress, as it is believed that this will identify the Assurance Level on this issue which would be a ideal starting point for the work stream.

2.2 Administration

COP 14 details three parts

- Scheme record-keeping
- Maintaining contributions
- Providing information to members

One of the legal requirements which is detailed in the COP14 under the heading of record keeping is member information, in light of this it would be a good place for the North Yorkshire Pension Scheme to undertake a work stream on ensuring that our data (records on members) is sufficient to pass the Pension Regulators

guide to measuring your data. This would involve ensuring that the Common Data (11 basic data items) on each member is accurate

At the LGPS Local Pension Board Members' Autumn Seminar held in Liverpool it was highlighted that The Pension Regulator (tPR) are focusing on Data held by locally administered schemes. Therefore again this would be a good starting point for this project.

3. Recommendation

It is recommended to the Pension Board

- That the Board agree to wait for the Internal Audit findings before scoping the work stream on Governance.
- That the Board request the Pensions Administrations Section to ensure that the necessary works are undertaken to complete a Common data measurement and the findings are reported back to the Board in July 2018.

Mandy Swithenbank
Scheme Member Representative
Pension Board Member

January 2018

Background Papers – Code Of Practice 14

Code of practice no. 14

Governance and administration of public service pension schemes

April 2015

The Pensions
Regulator

Code of practice no. 14

Governance and administration of public service pension schemes

Presented to Parliament pursuant to Section 91(5) of the Pensions Act 2004

Draft to lie before Parliament for forty days, during which time either House may resolve that the code be not made.

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

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.

12 January 2015

Code of practice no. 14

Governance and administration of public service pension schemes

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Introduction

1. This code of practice is issued by The Pensions Regulator ('the regulator'), the body that regulates occupational and personal pension schemes provided through employers.
2. The regulator's statutory objectives¹ are to:
 - protect the benefits of pension scheme members
 - reduce the risks of calls on the Pension Protection Fund (PPF)
 - 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 only).
3. The regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its statutory objectives.
4. Codes of practice provide practical guidance in relation to the exercise of functions under relevant pensions legislation and set out the standards of conduct and practice expected from those who exercise those functions².

Status of codes of practice

5. Codes of practice are not statements of the law and there is no penalty for failing to comply with them. 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 account³.
6. If there are grounds to issue an improvement notice⁴, the regulator may issue a notice directing 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 regulator⁵.

This code of practice

7. The Public Service Pensions Act 2013 (the 2013 Act) introduces the framework for the governance and administration of public service pension schemes and provides an extended regulatory oversight by the regulator.

¹ Section 5(1) of the Pensions Act 2004.

² Section 90A(1), *ibid.*

³ Section 90A(5), *ibid.*

⁴ Where the regulator considers that legal requirements are not being met, or have been contravened in circumstances which make it likely that the breach will continue or be repeated, it may issue an improvement notice under s13 of the Pensions Act 2004.

⁵ Section 13(3) of the Pensions Act 2004.

8. The regulator is required to issue one or more codes of practice covering specific matters relating to public service pension schemes⁶. This code of practice sets out the legal requirements for public service pension schemes in respect of those specific matters. It contains practical guidance and sets out standards of conduct and practice expected of those who exercise functions in relation to those legal requirements.
9. The practical guidance sections in this code are not intended to prescribe the process for every scenario. They do, however, provide principles, examples and benchmarks against which scheme managers and members of pension boards can consider whether or not they have understood their duties and obligations and are reasonably complying with them.
10. If scheme managers and the members of pension boards are, for any reason, unable to act in accordance with the guidance set out in this code, or an alternative approach that meets the underlying requirements, they should consider their statutory duty under section 70 of the Pensions Act 2004 to assess and if necessary report breaches of the law⁷. For further information, see the section of this code on 'Reporting breaches of the law'.

At whom is this code directed?

11. This code relates to public service pension schemes within the meaning of the Pensions Act 2004⁸. These are schemes established under the 2013 Act, new public body pension schemes and other statutory pension schemes which are connected to those schemes. It does not apply to schemes in the wider public sector, nor to any scheme which is excluded from being a public service pension scheme within the meaning of the Pensions Act 2004.
12. This code is particularly directed at scheme managers and the members of pension boards of public service pension schemes and connected schemes. Scheme managers must comply with various legal requirements relating to the governance, management and administration of public service pension schemes. Pension boards must also comply with certain legal requirements, including assisting scheme managers in relation to securing compliance with scheme regulations and other legislation relating to the governance and administration of the scheme, any requirements of the regulator and with any other matters specified in scheme regulations. The role, responsibilities and duties of pension boards will vary. Where pension boards are not directly responsible for undertaking particular activities, they remain accountable for assisting the scheme manager in securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme, any requirements of the regulator and with any other matters for which they are responsible under the scheme regulations⁹.

⁶
Section 90A(2) of the Pensions Act 2004.

⁷
Section 70, *ibid.*

⁸
Section 318, *ibid.*

⁹
Section 5 of the Public Service Pensions Act 2013.

13. In addition, the legal requirement to report breaches of the law under section 70 of the Pensions Act 2004 applies to other persons involved in public service pension schemes, so this code is also directed at them.
14. Scheme managers and pension boards (where relevant) may be able to delegate some activities to others, or outsource them, although they will not be able to delegate their accountability for complying with a legal requirement imposed on them. This code should therefore be followed by anyone to whom activities relating to the legal requirements covered by this code have been delegated or outsourced.
15. Employers participating in public service pension schemes will also find the code a useful source of reference. The role and actions of employers can be critical in enabling scheme managers to meet certain legal requirements¹⁰.
16. Public service pension schemes are established primarily as defined benefit (DB) schemes. Some of these schemes also enable members to make additional voluntary contributions (AVCs) on either a DB basis or to a separate defined contribution (DC) scheme. There are also some DC schemes which are offered as alternatives to the DB schemes. This code applies to any DC scheme which is a public service pension scheme within the meaning of the Pensions Act 2004.

Terms used in this code

17. **The 2013 Act** – the Public Service Pensions Act 2013, which sets out the arrangements for the creation of schemes for the payment of pensions and other benefits. It provides powers to ministers to create such schemes according to a common framework of requirements.
18. **Public service pension schemes**¹¹ – these are (a) new public service pension schemes set up under section 1 of the 2013 Act (including any scheme which has effect as such a scheme¹²); (b) new public body pension schemes (within the meaning of the 2013 Act) and (c) any statutory pension schemes connected with a scheme described in (a) or (b). Substantially, these are the schemes providing pension benefits for civil servants, the judiciary, local government workers, teachers, health service workers, fire and rescue workers, members of police forces and the armed forces. Except where specified otherwise, the legal requirements and practical guidance set out in this code apply to any kind of public service pension scheme within the meaning of the Pensions Act 2004, whether it is a scheme established under section 1 of the 2013 Act, a new public body scheme or a connected scheme.

10
Employers participating in occupational public service pension schemes are under a statutory duty to report breaches of the law under s70 of the Pensions Act 2004.

11
As defined in s318 of the Pensions Act 2004. Under s318(6) of that Act, a scheme which would otherwise fall within the definition of 'public service pension scheme' in the Pensions Act 2004 does not do so if it is a scheme providing only for injury or compensation benefits (or both), or if it is specified in an order made under that section.

12
Section 28 of the 2013 Act.

19. **Connected scheme** – a scheme established under section 1 of the 2013 Act and another statutory pension scheme, or a new public body pension scheme and another statutory pension scheme are connected if and to the extent that the schemes make provision in relation to persons of the same description. Scheme regulations may specify exceptions¹³.
20. **Responsible authority** – the 2013 Act identifies secretaries of state/ ministers, each being the responsible authority for their schemes, who have power to make the scheme regulations for the relevant schemes¹⁴. The responsible authority may also be the scheme manager¹⁵. In relation to a public body pension scheme, references in the code to the responsible authority are to be read as references to the public authority which established the scheme.
21. **Scheme regulations** – each new scheme made under section 1 of the 2013 Act has scheme regulations which set out the detail of the membership and benefits to be provided under the scheme¹⁶. The regulations must identify scheme managers and provide for the establishment of pension boards and scheme advisory boards. These regulations constitute the main rules of the scheme. In addition to the scheme regulations, the rules of a scheme include:

- certain legislative provisions, to the extent that they override provisions of the scheme regulations, or which have effect in relation to a scheme and are not otherwise reflected in the scheme regulations, and
- any provision which the scheme regulations do not contain but which the scheme rules must contain if it is to conform with the requirements of Chapter 1 of Part 4 of the Pension Schemes Act 1993 (preservation of benefit under occupational pension schemes)¹⁷.

Some connected schemes and new public body pension schemes will not be established by regulations, so references in the code to scheme regulations should be read as references to the rules of the scheme in these cases.

22. **Scheme manager** – each public service pension scheme has one or more persons responsible for managing or administering the scheme¹⁸. Public service pension schemes can have different persons acting as scheme manager for different parts of the pension scheme. For the locally administered schemes¹⁹, the scheme managers may be the local administering authorities or a person representing an authority or police force.

13
Section 4(6) and (7) of the 2013 Act.

14
Section 2 and Schedule 2, *ibid.*

15
Section 4(3), *ibid.*

16
Section 3 and Schedule 3, *ibid.*

17
Section 318(2) of the Pensions Act 2004.

18
Section 4 and s30 of the 2013 Act.

19
Locally administered schemes include the schemes for England, and Wales, and Scotland for local government workers, and England and Wales for fire and rescue workers and members of police forces.

23. **Pension board** – the scheme manager (or each scheme manager) for a scheme has a pension board²⁰ with responsibility for assisting the scheme manager to comply with the scheme regulations and other legislation relating to the governance and administration of the scheme and any requirements imposed by the regulator. The pension board must also assist the scheme manager with such other matters as the scheme regulations may specify. It will be for scheme regulations and the scheme manager to determine precisely what the pension board’s role, responsibilities and duties entail.
24. **Scheme advisory board** – each DB public service pension scheme has a scheme advisory board²¹ with responsibility for providing advice on the desirability of changes to the scheme, when requested to do so by the responsible authority (or otherwise, in accordance with scheme regulations). Where there is more than one scheme manager the scheme regulations may also provide for the scheme advisory board to provide advice (on request or otherwise) to the scheme managers or the scheme’s pension boards on the effective and efficient administration and management of the scheme or any pension fund of the scheme.
25. **Schemes** – in this code the term ‘schemes’ is used throughout where actions to comply with a legal requirement, standard or expectation may be carried out by the scheme manager, pension board or by another person(s) including those to whom activities have been delegated or outsourced. The scheme manager or pension board will be ultimately accountable, depending upon to whom the legal obligation applies under the legislation.
26. **Must** – in this code the term ‘must’ is used where there is a legal requirement.
27. **Should** – in this code the term ‘should’ is used to refer to practical guidance and the standards expected by the regulator.

How to use this code

28. The code is structured as a reference for scheme managers and pension boards to use to inform their actions in four core areas of scheme governance and administration: governing your scheme, managing risks, administration and resolving issues.
29. Each core section includes practical guidance to help scheme managers and pension boards to discharge their legal duties. The regulator recognises that there may be alternative and justifiable actions or approaches that scheme managers or pension boards may wish to adopt, provided these meet the minimum legal requirements.
30. Schemes will need to consider and apply the practical guidance to suit their own particular characteristics and arrangements.

20
Section 5 and s30(1) of the 2013 Act (in the case of new public body schemes, if the scheme has more than one member).

21
Section 7, *ibid*. This requirement only applies to schemes set up under s1 of the 2013 Act.

Northern Ireland

31. References to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland. References to HM Treasury directions should be taken to be directions by the Department of Finance and Personnel. The responsible authority for each scheme is the relevant government department²².
32. The appendix to this code lists the corresponding references to Northern Ireland legislation.

²²
Section 2 and Schedule 2 of the Public Service Pensions Act (Northern Ireland) 2014.

Governing your scheme

33. This part of the code covers:

- knowledge and understanding required by pension board members
- conflicts of interest and representation, and
- publishing information about schemes.

Knowledge and understanding required by pension board members

Legal requirements

34. A member of the pension board of a public service pension scheme must be conversant with:

- the rules of the scheme²³, and
- any document recording policy about the administration of the scheme which is for the time being adopted in relation to the scheme.

35. A member of a pension board must have knowledge and understanding of:

- the law relating to pensions, and
- any other matters which are prescribed in regulations.

36. The degree of knowledge and understanding required is that appropriate for the purposes of enabling the individual to properly exercise the functions of a member of the pension board²⁴.

Practical guidance

37. The legislative requirements about knowledge and understanding only apply to pension board members. However, scheme managers should take account of this guidance as it will support them in understanding the legal framework and enable them to help pension board members to meet their legal obligations.

38. Schemes²⁵ should establish and maintain policies and arrangements for acquiring and retaining knowledge and understanding to support their pension board members. Schemes should designate a person to take responsibility for ensuring that a framework is developed and implemented.

39. However, it is the responsibility of individual pension board members to ensure that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the pension board.

23

See paragraph 21 for the definition of the 'rules of the scheme'.

24

Section 248A of the Pensions Act 2004.

25

See paragraph 25 for the definition of 'schemes'.

Areas of knowledge and understanding required

40. Pension board members must be conversant with their scheme rules, which are primarily found in the scheme regulations²⁶, and documented administration policies currently in force for their pension scheme²⁷. Being 'conversant' means having a working knowledge of the scheme regulations and policies, so that pension board members can use them effectively when carrying out their duties.
41. They must also have knowledge and understanding of the law relating to pensions (and any other matters prescribed in legislation) to the degree appropriate for them to be able to carry out their role, responsibilities and duties.
42. In terms of documented administration policies, specific documents recording policy about administration will vary from scheme to scheme. However, the following are examples of administration policies which the regulator considers to be particularly pertinent and would expect to be documented where relevant to a pension scheme, and with which pension board members must therefore be conversant where applicable²⁸. This list is not exhaustive and other documented policies may fall into this category:
 - any scheme-approved policies relating to:
 - conflicts of interest and the register of interests
 - record-keeping
 - internal dispute resolution
 - reporting breaches
 - maintaining contributions to the scheme
 - the appointment of pension board members
 - risk assessments/management and risk register policies for the scheme
 - scheme booklets, announcements and other key member and employer communications, which describe scheme policies and procedures
 - the roles, responsibilities and duties of the scheme manager, pension board and individual pension board members
 - terms of reference, structure and operational policies of the pension board and/or any sub-committee
 - statements of policy about the exercise of discretionary functions

²⁶
See paragraph 21 for the definition of the 'rules of the scheme'.

²⁷
Section 248A(2) of the Pensions Act 2004.

²⁸
Section 248A(2)(b) of the Pensions Act 2004.

- statements of policy about communications with members and scheme employers
 - the pension administration strategy, or equivalent²⁹, and
 - any admission body (or equivalent) policies.
43. For pension board members of funded pension schemes, documents which record policy about the administration of the scheme will include those relating to funding and investment matters. For example, where relevant they must be conversant with the statement of investment principles and the funding strategy statement³⁰.
44. Pension board members must also be conversant with any other documented policies relating to the administration of the scheme. For example, where applicable, they must be conversant with policies relating to:
- the contribution rate or amount (or the range/variability where there is no one single rate or amount) payable by employers participating in the scheme
 - statements of assurance (for example, assurance reports from administrators)
 - third party contracts and service level agreements
 - stewardship reports from outsourced service providers (for example, those performing outsourced activities such as scheme administration), including about compliance issues
 - scheme annual reports and accounts
 - accounting requirements relevant to the scheme
 - audit reports, including from outsourced service providers, and
 - other scheme-specific governance documents.
45. Where DC or DC AVC options are offered, pension board members should also be familiar with the requirements for the payment of member contributions to the providers, the principles relating to the operation of those arrangements, the choice of investments to be offered to members, the provider's investment and fund performance report and the payment schedule for such arrangements.
46. Schemes should prepare and keep an updated list of the documents with which they consider pension board members need to be conversant. This will enable them to effectively carry out their role. They should make sure that both the list and the documents are available in accessible formats.

²⁹
For the local government pension schemes, this might include information about the setting of performance targets or making agreements about levels of performance.

³⁰
Section 248A(2)(b) of the Pensions Act 2004.

Degree of knowledge and understanding required

47. The roles, responsibilities and duties of pension boards and their individual members will vary between pension schemes. Matters for which the pension board is responsible will be set out in scheme regulations³¹. Clear guidance on the roles, responsibilities and duties of pension boards and the members of those boards should be set out in scheme documentation.
48. Schemes should assist individual pension board members to determine the degree of knowledge and understanding that is sufficient for them to effectively carry out their role, responsibilities and duties as a pension board member.
49. Pension board members must have a working knowledge of their scheme regulations and documented administration policies. They should understand their scheme regulations and policies in enough detail to know where they are relevant to an issue and where a particular provision or policy may apply.
50. Pension board members must have knowledge and understanding of the law relating to pensions (and any other prescribed matters) sufficient for them to exercise the functions of their role. Pension board members should be aware of the range and extent of the law relating to pensions which applies to their scheme, and have sufficient understanding of the content and effect of that law to recognise when and how it impacts on their responsibilities and duties.
51. Pension board members should be able to identify and where relevant challenge any failure to comply with:
 - the scheme regulations
 - other legislation relating to the governance and administration of the scheme
 - any requirements imposed by the regulator, or
 - any failure to meet the standards and expectations set out in any relevant codes of practice issued by the regulator.
52. Pension board members' breadth of knowledge and understanding should be sufficient to allow them to understand fully and challenge any information or advice they are given. They should understand how that information or advice impacts on any issue or decision relevant to their responsibilities and duties.

³¹
Section 5(2) of the 2013
Act.

53. Pension board members of funded pension schemes should ensure that they have the appropriate degree of knowledge and understanding of funding and investment matters relating to their scheme to enable them to effectively carry out their role. This includes having a working knowledge of provisions in their scheme regulations and administration policies that relate to funding and investment, as well as knowledge and understanding of relevant law relating to pensions.
54. All board members should attain appropriate knowledge so that they are able to understand the relevant law in relation to their scheme and role. The degree of knowledge and understanding required of pension board members may vary according to the role of the board member, as well as the expertise of the board member. For example, a board member who is also a pensions law expert (for instance, as a result of their day job) should have a greater level of knowledge than that considered appropriate for board members without this background.

Acquiring, reviewing and updating knowledge and understanding

55. Pension board members should invest sufficient time in their learning and development alongside their other responsibilities and duties. Schemes should provide pension board members with the relevant training and support that they require. Training is an important part of the individual's role and will help to ensure that they have the necessary knowledge and understanding to effectively meet their legal obligations.
56. Newly appointed pension board members should be aware that their responsibilities and duties as a pension board member begin from the date they take up their post. Therefore, they should immediately start to familiarise themselves with the scheme regulations, documents recording policy about the administration of the scheme and relevant pensions law. Schemes should offer pre-appointment training or arrange for mentoring by existing pension board members. This can also ensure that historical and scheme-specific knowledge is retained when pension board members change.
57. Pension board members should undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses. They should use a personalised training plan to document and address these promptly.

58. Learning programmes should be flexible, allowing pension board members to update particular areas of learning where required and to acquire new areas of knowledge in the event of any change. For example, pension board members who take on new responsibilities will need to ensure that they gain appropriate knowledge and understanding relevant to carrying out those new responsibilities.
59. The regulator will provide an e-learning programme to help meet the needs of pension board members, whether or not they have access to other learning. If schemes choose alternative learning programmes they should be confident that those programmes:
- cover the type and degree of knowledge and understanding required
 - reflect the legal requirements, and
 - are delivered within an appropriate timescale.

Demonstrating knowledge and understanding

60. Schemes should keep appropriate records of the learning activities of individual pension board members and the board as a whole. This will help pension board members to demonstrate steps they have taken to comply with legal requirements and how they have mitigated risks associated with knowledge gaps. A good external learning programme will maintain records of the learning activities of individuals on the programme or of group activities, if these have taken place.

Conflicts of interest and representation

Legal requirements

61. A conflict of interest is a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the pension board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme for which the board is established³².
62. In relation to the pension board, scheme regulations must include provision requiring the scheme manager to be satisfied:
- that a person to be appointed as a member of the pension board does not have a conflict of interest and
 - from time to time, that none of the members of the pension board has a conflict of interest³³.

32
Section 5(5) of the 2013 Act defines a conflict of interest in relation to pension board members and s7(5) of that Act in relation to scheme advisory board members.

33
Section 5(4)(a), *ibid.*

63. Scheme regulations must require each member or proposed member of a pension board to provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of meeting the requirements referred to above³⁴.
64. Scheme regulations must include provision requiring the pension board to include employer representatives and member representatives in equal numbers³⁵.
65. In relation to the scheme advisory board, the regulations must also include provision requiring the responsible authority to be satisfied:
 - that a person to be appointed as a member of the scheme advisory board does not have a conflict of interest and
 - from time to time, that none of the members of the scheme advisory board has a conflict of interest³⁶.
66. Scheme regulations must require each member of a scheme advisory board to provide the responsible authority with such information as the responsible authority reasonably requires for the purposes of meeting the requirements referred to above³⁷.

Practical guidance

67. This guidance is to help scheme managers to meet the legal requirement to be satisfied that pension board members do not have any conflicts of interest. The same requirements apply to responsible authorities in relation to scheme advisory boards, (apart from the requirement regarding employer and member representatives), but the regulator does not have specific responsibility for oversight of scheme advisory boards.
68. Actual conflicts of interest are prohibited by the 2013 Act and cannot, therefore, be managed. Only potential conflicts of interest can be managed.
69. A conflict of interest may arise when pension board members:
 - must fulfil their statutory role³⁸ of assisting the scheme manager in securing compliance with the scheme regulations, other legislation relating to the governance and administration of the scheme and any requirements imposed by the regulator or with any other matter for which they are responsible, whilst
 - having a separate personal interest (financial or otherwise), the nature of which gives rise to a possible conflict with their statutory role.

34
Section 5(4)(b) of the
2013 Act.

35
Section 5(4)(c), *ibid.*

36
Section 7(4)(a), *ibid.*

37
Section 7(4)(b), *ibid.*

38
Section 5(2), *ibid.*

70. Some, if not all, of the 'Seven principles of public life' (formerly known as the 'Nolan principles')³⁹ will already apply to people carrying out roles in public service pension schemes, for example through the Ministerial code, Civil Service code or other codes of conduct. These principles should be applied to all pension board members in the exercise of their functions as they require the highest standards of conduct. Schemes should incorporate the principles into any codes of conduct (and across their policies and processes) and other internal standards for pension boards.
71. Other legal requirements relating to conflicts of interest may apply to pension board members and/or scheme advisory board members⁴⁰. The regulator may not have specific responsibility for enforcing all such legal requirements, but it does have a particular role in relation to pension board members and conflicts of interest. While pension board members may be subject to other legal requirements, when exercising functions as a member of a pension board they must meet the specific requirements of the 2013 Act and are expected to satisfy the standards of conduct and practice set out in this code.
72. It is likely that some pension board members will have dual interests, which may include other responsibilities. Scheme managers and pension board members will need to consider all other interests, financial or otherwise, when considering interests which may give rise to a potential or actual conflict. For example, a finance officer appointed as a pension board member can offer their knowledge and make substantial contributions to the operational effectiveness of the scheme, but from time to time they may be involved in a decision or matter which may be, or appear to be, in opposition to another interest. For instance, the pension board may be required to take or scrutinise a decision which involves the use of departmental resources to improve scheme administration, while the finance officer is at the same time tasked, by virtue of their employment, with reducing departmental spending. A finance officer might not be prevented from being a member of a pension board, but the scheme manager must be satisfied that their dual interests are not likely to prejudice the pension board member in the exercise of any particular function.

39
The Committee on Standards in Public Life has set out seven principles of public life which apply to anyone who works as a public office holder or in other sectors delivering public services:
www.gov.uk/government/publications/the-7-principles-of-public-life.

40
For example, local government legislation applicable to English local authorities contains legal requirements relating to certain people about standards of conduct, conflicts of interest and disclosure of certain interests.

73. Scheme regulations will set out matters for which the pension board is responsible⁴¹. Schemes⁴² should set out clear guidance on the roles, responsibilities and duties of pension boards and the members of those boards in scheme documentation. This should cover, for example, whether they have responsibility for administering or monitoring the administration of the scheme; developing, delivering or overseeing compliance with requirements for governance and/or administration policies; and taking or scrutinising decisions relating to governance and/or administration. Regardless of their remit, potential conflicts of interest affecting pension board members need to be identified, monitored and managed effectively.
74. Schemes should consider potential conflicts of interest in relation to the full scope of roles, responsibilities and duties of pension board members. It is recommended that all those involved in the management or administration of public service pension schemes take professional legal advice when considering issues to do with conflicts of interest.

A three-stage approach to managing potential conflicts of interest

75. Conflicts of interest can inhibit open discussions and result in decisions, actions or inactions which could lead to ineffective governance and administration of the scheme. They may result in pension boards acting improperly, or lead to a perception that they have acted improperly. It is therefore essential that any interests, which have the potential to become conflicts of interest or be perceived as conflicts of interest, are identified and that potential conflicts of interest (including perceived conflicts) are monitored and managed effectively.
76. Schemes should ensure that there is an agreed and documented conflicts policy and procedure, which includes identifying, monitoring and managing potential conflicts of interest. They should keep this under regular review. Policies and procedures should include examples of scenarios giving rise to conflicts of interest, how a conflict might arise specifically in relation to a pension board member and the process that pension board members and scheme managers should follow to address a situation where board members are subject to a potential or actual conflict of interest.

41
Section 5(2) of the 2013 Act.

42
See paragraph 25 for the definition of 'schemes'.

77. Broadly, schemes should consider potential conflicts of interest in three stages:
- identifying
 - monitoring, and
 - managing.

Identifying potential conflicts

78. Schemes should cultivate a culture of openness and transparency. They should recognise the need for continual consideration of potential conflicts. Disclosure of interests which have the potential to become conflicts of interest should not be ignored. Pension board members should have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest. They should know how to manage potential conflicts.
79. Pension board members, and people who are proposed to be appointed to a pension board, must provide scheme managers with information that they reasonably require to be satisfied that pension board members and proposed members do not have a conflict of interest⁴³.
80. Schemes should ensure that pension board members are appointed under procedures that require them to disclose any interests, including other responsibilities, which could become conflicts of interest and which may adversely affect their suitability for the role, before they are appointed.
81. All terms of engagement, for example appointment letters, should include a clause requiring disclosure of all interests, including any other responsibilities, which have the potential to become conflicts of interest, as soon as they arise. All interests disclosed should be recorded. See the section of this code on 'Monitoring potential conflicts'.
82. Schemes should take time to consider what important matters or decisions are likely to be considered during, for example, the year ahead and identify and consider any potential or actual conflicts of interest that may arise in the future. Pension board members should be notified as soon as practically possible and mitigations should be put in place to prevent these conflicts from materialising.

43
Section 5(4)(b) of the
2013 Act and scheme
regulations.

Monitoring potential conflicts

83. As part of their risk assessment process, schemes should identify, evaluate and manage dual interests which have the potential to become conflicts of interest and pose a risk to the scheme and possibly members, if they are not mitigated. Schemes should evaluate the nature of any dual interests and assess the likely consequences were a conflict of interest to materialise.
84. A register of interests should provide a simple and effective means of recording and monitoring dual interests and responsibilities. Schemes should also capture decisions about how to manage potential conflicts of interest in their risk registers or elsewhere. The register of interests and other relevant documents should be circulated to the pension board for ongoing review and published, for example on a scheme's website.
85. Conflicts of interest should be included as an opening agenda item at board meetings and revisited during the meeting, where necessary. This provides an opportunity for those present to declare any interests, including other responsibilities, which have the potential to become conflicts of interest, and to minute discussions about how they will be managed to prevent an actual conflict arising.

Managing potential conflicts

86. Schemes should establish and operate procedures which ensure that pension boards are not compromised by potentially conflicted members. They should consider and determine the roles and responsibilities of pension boards and individual board members carefully to ensure that conflicts of interest do not arise, nor are perceived to have arisen.
87. A perceived conflict of interest can be as damaging to the reputation of a scheme as an actual conflict of interest. It could result in scheme members and interested parties losing confidence in the way a scheme is governed and administered. Schemes should be open and transparent about the way they manage potential conflicts of interest.
88. When seeking to prevent a potential conflict of interest becoming detrimental to the conduct or decisions of the pension board, schemes should consider obtaining professional legal advice when assessing any option.

Examples of conflicts of interest

89. Below are some examples of potential or actual conflicts of interest which could arise, or be perceived to arise, in relation to public service pension schemes. These will depend on the precise role, responsibilities and duties of a pension board. The examples provided are for illustrative purposes only and are not exhaustive. They should not be relied upon as a substitute for the exercise of judgement based on the principles set out in this code and any legal advice considered appropriate, on a case-by-case basis.

a. Investing to improve scheme administration versus saving money

An employer representative, who may be a Permanent Secretary, finance officer or local councillor, is aware that system X would help to improve standards of record-keeping in the scheme, but it would be costly to implement. The scheme manager, for instance a central government department or local administering authority, would need to meet the costs of the new system at a time when there is internal and external pressure to keep costs down. In order to meet the costs of the new system, the scheme manager would need to find money, perhaps by using a budget that was intended for another purpose. This decision could prove unpopular with taxpayers. A conflict of interest could arise where the employer representative was likely to be prejudiced in the exercise of their functions by virtue of their dual interests.

b. Outsourcing an activity versus keeping an activity in-house

In an extension of the previous example, a member representative, who is also an employee of a participating employer, is aware that system X would help to improve standards of record-keeping in the scheme, but it would mean outsourcing an activity that is currently being undertaken in-house by their employer. The member representative could be conflicted if they were likely to be prejudiced in the exercise of their functions by virtue of their employment.

c. Representing the breadth of employers or membership versus representing narrow interests

An employer representative who happens to be employed by the administering authority and is appointed to the pension board to represent employers generally could be conflicted if they only serve to act in the interests of the administering authority, rather than those of all participating employers. Equally, a member representative, who is also a trade union representative, appointed to the pension board to represent the entire scheme membership could be conflicted if they only act in the interests of their union and union membership, rather than all scheme members.

d. Assisting the scheme manager versus furthering personal interests

- i. A pension board member, who is also a scheme adviser, may recommend the services or products of a related party, for which they might derive some form of benefit, resulting in them not providing, or not being seen to provide, independent advice or services
- ii. A pension board member who is involved in procuring or tendering for services for a scheme administrator, and who can influence the award of a contract, may be conflicted where they have an interest in a particular supplier, for example, a family member works there.

e) Sharing information with the pension board versus a duty of confidentiality to an employer

An employer representative has access to information by virtue of their employment, which could influence or inform the considerations or decisions of the pension board. They have to consider whether to share this information with the pension board in light of their duty of confidentiality to their employer. Their knowledge of this information will put them in a position of conflict if it is likely to prejudice their ability to carry out their functions as a member of the pension board.

Representation on pension boards

90. While scheme regulations must require pension boards to have an equal number of employer and member representatives⁴⁴, there is flexibility to design arrangements which best suit each scheme.
91. Arrangements should be designed with regard to the principles of proportionality, fairness and transparency, and with the aim of ensuring that a pension board has the right balance of skills, experience and representation (for example, of membership categories and categories of employers participating in the scheme). Those responsible for appointing members to a pension board should also consider the mix of skills and experience needed on the pension board in order for the board to operate effectively in light of its particular role, responsibilities and duties.

44
Section 5(4)(c) of the
2013 Act.

Publishing information about schemes

Legal requirements

92. The scheme manager for a public service scheme must publish information about the pension board for the scheme(s) and keep that information up-to-date⁴⁵.
93. The information must include:
 - who the members of the pension board are
 - representation on the board of members of the scheme(s), and
 - the matters falling within the pension board's responsibility⁴⁶.

Practical guidance

Publication of pension board information

94. Scheme members will want to know that their scheme is being efficiently and effectively managed. Public service pension schemes should have a properly constituted, trained and competent pension board, which is responsible for assisting the scheme manager to comply with the scheme regulations and other legislation relating to the governance and administration of the scheme and requirements imposed by the regulator.
95. Scheme managers must publish the information required about the pension board and keep that information up-to-date⁴⁷. This will ensure that scheme members can easily access information about who the pension board members are, how pension scheme members are represented on the pension board and the responsibilities of the board as a whole.
96. When publishing information about the identity of pension board members, the representation of scheme members and matters for which the board is responsible, schemes⁴⁸ should also publish useful related information about the pension board such as:
 - the employment and job title (where relevant) and any other relevant position held by each board member
 - the pension board appointment process
 - who each pension board member represents
 - the full terms of reference for the pension board, including details of how it will operate, and
 - any specific roles and responsibilities of individual pension board members.

45
Section 6(1) of the 2013 Act.

46
Section 6(2), *ibid.*

47
Section 6(1), *ibid.*

48
See paragraph 25 for the definition of 'schemes'.

97. Schemes should also consider publishing information about pension board business, for example board papers, agendas and minutes of meetings (redacted to the extent that they contain confidential information and/or data covered by the Data Protection Act 1998). They should consider any requests for additional information to be published, to encourage scheme member engagement and promote a culture of transparency.
98. Scheme managers must ensure that information published about the pension board is kept up-to-date⁴⁹. Schemes should have policies and processes to monitor all published data on an ongoing basis to ensure it is accurate and complete.

Other legal requirements

99. Scheme managers (or any other person specified in legislation) must comply with any other legal requirements relating to the publication of information about governance and administration. In particular, HM Treasury directions may require the scheme manager or responsible authority of a public service pension scheme to publish scheme information, including information about scheme administration and governance and may specify how and when information is to be published⁵⁰.

⁴⁹
Section 6(1) of the 2013 Act.

⁵⁰
Section 15, *ibid.*

Managing risks

100. This part of the code covers the requirement for scheme managers to establish and operate adequate internal controls.

Internal controls

Legal requirements

101. The scheme manager of a public service pension scheme must establish and operate internal controls. These must be adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules and in accordance with the requirements of the law.

102. For these purposes 'internal controls' means:

- arrangements and procedures to be followed in the administration and management of the scheme
- systems and arrangements for monitoring that administration and management, and
- arrangements and procedures to be followed for the safe custody and security of the assets of the scheme⁵¹.

Practical guidance

103. Internal controls are systems, arrangements and procedures that are put in place to ensure that pension schemes are being run in accordance with the scheme rules (which for most public service pension schemes are set out in the scheme regulations) and other law. They should include a clear separation of duties, processes for escalation and decision making and documented procedures for assessing and managing risk, reviewing breaches of law and managing contributions to the scheme.

104. Good internal controls are an important characteristic of a well-run scheme and one of the main components of the scheme manager's role in securing the effective governance and administration of the scheme. Internal controls can help protect pension schemes from adverse risks, which could be detrimental to the scheme and members if they are not mitigated.

105. Scheme managers must establish and operate internal controls⁵². These should address significant risks which are likely to have a material impact on the scheme. Scheme managers should employ a risk-based approach and ensure that sufficient time and attention is spent on identifying, evaluating and managing risks and developing and monitoring appropriate controls. They should seek advice, as necessary.

⁵¹ Section 249A(5) and s249B of the Pensions Act 2004.

⁵² Section 249B, *ibid.*

Identifying risks

106. Before implementing an internal controls framework, schemes⁵³ should carry out a risk assessment. They should begin by:
- setting the objectives of the scheme
 - determining the various functions and activities carried out in the running of the scheme, and
 - identifying the main risks associated with those objectives, functions and activities.
107. An effective risk assessment process will help schemes to identify a wide range of internal and external risks, which are critical to the scheme and members. When identifying risks, schemes should refer to relevant sources of information, such as records of internal disputes and legislative breaches, the register of interests, internal and external audit reports and service contracts.
108. Once schemes have identified risks, they should record them in a risk register and review them regularly. Schemes should keep appropriate records to help scheme managers demonstrate steps they have taken to comply, if necessary, with legal requirements.

Evaluating risks and establishing adequate internal controls

109. Not all risks will have the same potential impact on scheme operations and members or the same likelihood of materialising. Schemes should consider both these areas when determining the order of priority for managing risks and focus on those areas where the impact and likelihood of a risk materialising is high.
110. Many pension schemes will already have adequate internal controls in place, some of which may apply to a variety of the functions of the administering authority. Schemes should review their existing arrangements and procedures to determine whether they can prevent and detect errors in scheme operations and help mitigate pension scheme-related risks. For example, schemes could obtain assurance about their existing controls through direct testing or by obtaining reports on controls. Any such review should be appropriate to the outcome of the risk evaluation.
111. Schemes should consider what internal controls are appropriate to mitigate the main risks they have identified and how best to monitor them. For example, the scheme manager(s) for a funded scheme should establish and operate internal controls that regularly assess the effectiveness of investment-related decision making. Scheme managers for all pension schemes should establish and operate internal controls that regularly assess the effectiveness of data management and record-keeping.

53
See paragraph 25 for the definition of 'schemes'.

Managing risks by operating internal controls

112. Schemes should consider a number of issues when designing internal controls to manage risks. The examples provided are for illustrative purposes only and are not exhaustive. They should not be relied upon as a substitute for the exercise of judgement, based on the principles set out in this code and any advice considered appropriate, particularly in light of any problems experienced in the past.

a. How the control is to be implemented and the skills of the person performing the control

For example, schemes should ensure that new employers participating in the scheme understand what member data are required and the process for supplying it. Where employers fail to supply the correct data or do not follow the correct process, schemes should ensure that the employer identifies the cause of the error and that appropriate action is taken to avoid recurrence, for example remedying a systemic error or providing the relevant training.

b. The level of reliance that can be placed on information technology solutions where processes are automated

For example, where scheme administration processes use an automated system, internal or external auditors could audit the system on an annual basis to assess whether it is capable of performing a required function and report any issues that are identified.

c. Whether a control is capable of preventing future recurrence or merely detecting an event that has already happened

For example, schemes should ensure that their systems support the maintenance and retention of good member records. This includes implementing procedures and controls which identify where systems are not fit for purpose, there are gaps in the data, the data are of a poor quality and/or there has been a loss of data.

d. The frequency and timeliness of a control process

For example, schemes should ensure that data are complete. They should undertake a data-cleansing or member-tracing exercise and review this on a regular basis (at least annually or at regular intervals that they consider appropriate for the scheme).

e. How the control will ensure that data are managed securely

For example, schemes should ensure that all staff, including temporary or contract staff, complete information management training before they are given access to sensitive data.

f. The process for flagging errors or control failures, and approval and authorisation controls

For example, schemes should ensure that member communications such as member information booklets are reviewed regularly, particularly where there are changes to the scheme. All relevant parties should be aware of how they should flag errors and the authorisation required before any changes are made to the communications.

Monitoring controls effectively

113. Risk assessment is a continual process and should take account of a changing environment and new and emerging risks, including significant changes in or affecting the scheme and employers who participate in the scheme.
114. For example, where relevant, schemes should put in place systems and processes for making an objective assessment of the strength of an employer's covenant (which should include analysis of their financial position, prospects and ability to pay the necessary employer contributions).
115. An effective risk assessment process will provide a mechanism to detect weaknesses at an early stage. Schemes should periodically review the adequacy of internal controls in:
 - mitigating risks
 - supporting longer-term strategic aims, for example relating to investments
 - identifying success (or otherwise) in achieving agreed objectives, and
 - providing a framework against which compliance with the scheme regulations and legislation can be monitored.
116. Internal or external audits and/or quality assurance processes should ensure that adequate internal controls are in place and being operated effectively. Reviews should take place when substantial changes take place, such as changes to pension scheme personnel, implementation of new administration systems or processes, or where a control has been found to be inadequate.
117. A persistent failure to put in place adequate internal controls may be a contributory cause of an administrative breach. Where the effect and wider implications of not having in place adequate internal controls are likely to be 'materially significant', the regulator would expect to receive a whistleblowing report that outlines relevant information relating to the breach. For more information, see the 'Reporting breaches of the law' section of this code.

118. Ultimately, the legal responsibility for establishing and operating adequate internal controls rests with the scheme manager⁵⁴. Scheme regulations or other documents may delegate responsibilities to pension board members or others – for example identifying, evaluating and managing risks, developing and maintaining appropriate controls and providing assurance to the scheme manager about any controls in place. However, accountability for those controls and the governance of policies, procedures and processes will reside with the scheme manager.

Outsourcing services

119. The legal requirements relating to internal controls apply equally where schemes outsource services connected with the running of the scheme. Providers should be required to demonstrate that they will have adequate internal controls in their tenders for delivering services. The requirements should be incorporated in the terms of engagement and contract between the scheme and service provider. Outsourced services may include, for example, the maintenance of records and data, calculation of benefits and investment management services. Where services are outsourced, scheme managers should be satisfied that internal controls associated with those services are adequate and effective.

120. An increasing number of service providers are obtaining independent assurance reports to help demonstrate their ability to deliver quality administration services. Schemes should ask their service providers to demonstrate that they have adequate internal controls relating to the services they provide. It is vital that schemes ensure they receive sufficient assurance from service providers. For example, the information from providers should be sufficiently detailed and comprehensive and the service level agreements should cover all services that are outsourced. Schemes should also consider including provisions in contracts for outsourced services requiring compliance with appropriate standards. This should help to ensure effective administration.

54
Section 249B of the
Pensions Act 2004.

Administration

121. This part of the code covers:

- scheme record-keeping
- maintaining contributions, and
- providing information to members.

Scheme record-keeping

Legal requirements

122. Scheme managers must keep records of information relating to:

- member information⁵⁵
- transactions⁵⁶, and
- pension board meetings and decisions⁵⁷.

123. The legal requirements are set out in the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 ('the Record Keeping Regulations').

Practical guidance

124. Failure to maintain complete and accurate records and put in place effective internal controls to achieve this can affect the ability of schemes⁵⁸ to carry out basic functions. Poor record-keeping can result in schemes failing to pay benefits in accordance with scheme regulations, processing incorrect transactions and ultimately paying members incorrect benefits. For funded schemes, it may lead to schemes managing investment risks ineffectively. There is also the potential for the maladministration of members' contributions and failure to identify any misappropriation of assets. Schemes should be able to demonstrate to the regulator, where required, that they keep accurate, up-to-date and enduring records to be able to govern and administer their pension scheme efficiently.

125. Scheme managers must establish and operate adequate internal controls⁵⁹, which should include processes and systems to support record-keeping requirements and ensure that they are effective at all times.

55
Regulation 4 of the Record Keeping Regulations.

56
Regulation 5, *ibid.*

57
Regulation 6, *ibid.*

58
See paragraph 25 for the definition of 'schemes'.

59
Section 249B of the Pensions Act 2004.

Records of member information

126. Scheme managers must ensure that member data across all membership categories specified in the Record Keeping Regulations is complete and accurate⁶⁰. Member data should be subject to regular data evaluation.
127. Scheme managers must keep specific member data⁶¹, which will enable them to uniquely identify a scheme member and calculate benefits correctly. This is particularly important with the establishment of career average revalued earnings (CARE) schemes. Scheme managers must be able to provide members with accurate information regarding their pension benefits (accrued benefits to date and their future projected entitlements) in accordance with legislative requirements⁶², as well as pay the right benefits to the right person (including all beneficiaries) at the right time.
128. Schemes should require participating employers to provide them with timely and accurate data in order for the scheme manager to be able to fulfil their legal obligations. Schemes should seek to ensure that processes are established by employers which enable the transmission of complete and accurate data from the outset. Processes will vary from employer to employer, depending on factors such as employee turnover, pay periods, number of employees who are members and the timing and number of payroll processing systems.
129. Schemes should seek to ensure that employers understand the main events which require information about members to be passed from the employer to the scheme and/or another employer, such as when an employee:
- joins or leaves the scheme
 - changes their rate of contributions
 - changes their name, address or salary
 - changes their member status, and
 - transfers employment between scheme employers.
130. Schemes should ensure that appropriate procedures and timescales are in place for scheme employers to provide updated information when member data changes, for checking scheme data against employer data and for receiving information which may affect the profile of the scheme. If an employer fails to act according to the procedures set out above, meaning that they and/or scheme managers may not be complying with legal requirements, those under a statutory duty to report breaches of the law to the regulator under section 70 of the Pensions Act 2004 should assess whether there has been a relevant breach and take action as necessary.

⁶⁰
Section 16 and s30 of the 2013 Act. Regulation 4 of the Record Keeping Regulations specifies member records which must be kept. The Data Protection Act 1998 requires personal data to be accurate and up-to-date.

⁶¹
Regulation 4 of the Record Keeping Regulations.

⁶²
Legislative requirements include s14 of the 2013 Act, HM Treasury directions made under that section, and the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

Records of transactions

131. Schemes should be able to trace the flow of funds into and out of the scheme and reconcile these against expected contributions and scheme costs. In doing so, they will have clear oversight of the core scheme transactions and should be able to mitigate risks swiftly.
132. Scheme managers must keep records of transactions made to and from the scheme and any amount due to the scheme which has been written off⁶³. They should be able to demonstrate that they do so.

Records of pension board meetings and decisions

133. Scheme managers must keep records of pension board meetings including any decisions made⁶⁴. Schemes should also keep records of key discussions, which may include topics such as compliance with policies relating to administration of the scheme.
134. Scheme managers must also keep records relating to any decision taken by members of the pension board other than at a pension board meeting, or taken by a committee/sub-committee, which has not been ratified by the pension board. The records must include the date, time and place of the decision and the names of board members participating in that decision⁶⁵. This will ensure that there is a clear and transparent audit trail of the decisions made in relation to the scheme.

Retention of scheme records

135. Schemes should retain records for as long as they are needed. It is likely that data will need to be held for long periods of time and schemes will need to retain some records for a member even after that individual has retired, ensuring that pension benefits can be properly administered over the lifetime of the member and their beneficiaries. Schemes should have in place adequate systems and processes to enable the retention of records for the necessary time periods.

Ongoing monitoring of data

136. Schemes should have policies and processes that monitor data on an ongoing basis to ensure it is accurate and complete, regardless of the volume of scheme transactions. This should be in relation to all membership categories, including pensioner member data where queries may arise once the pension is being paid.
137. Schemes should adopt a proportionate and risk-based approach to monitoring, based on any known or historical issues that may have occurred in relation to the scheme's administration. This is particularly important for the effective administration of CARE pension schemes, which requires schemes to hold significantly more data than needed for final salary schemes.

63
Regulation 5 of the
Record Keeping
Regulations.

64
Regulation 6, *ibid.*

65
Ibid.

Data review exercise

138. Schemes should continually review their data and carry out a data review exercise at least annually. This should include an assessment of the accuracy and completeness of the member information data held. Schemes should decide the frequency and nature of the review in light of factors such as the level of data quality, any issues identified and key scheme events.
139. Where the management of scheme data has been outsourced, it is vital that schemes understand and are satisfied that the controls in place will ensure the integrity of scheme member data. They should ensure that the administrator has assessed the risks that poor or deficient member records may present to the scheme and has taken the necessary steps to mitigate them, where applicable.
140. Where there has been a change of administrator or the administration system/platform, schemes should review and cleanse data records and satisfy themselves that all data are complete and accurate.

Data improvement plan

141. Where schemes identify poor quality or missing data, they should put a data improvement plan in place to address these issues. The plan should have specific data improvement measures which schemes can monitor and a defined end date within a reasonable timeframe when the scheme will have complete and accurate data.

Reconciliation of member records

142. Schemes should ensure that member records are reconciled with information held by the employer, for example postal address or electronic address (email address) changes and new starters. Schemes should also ensure that the numbers of scheme members is as expected based on the number of leavers and joiners since the last reconciliation. Schemes should be able to determine those members who are approaching retirement, those who are active members and those who are deferred members.

Data protection and internal controls

143. Schemes must ensure that processes that are created to manage scheme member data meet the requirements of the Data Protection Act 1998 and the data protection principles.

144. Schemes should understand:

- their obligations as data controllers and who the data processors are in relation to the scheme
- the difference between personal data and sensitive personal data (as defined in the Data Protection Act 1998)
- how data are held and how they should respond to data requests from different parties
- the systems which need to be in place to store, move and destroy data, and
- how data protection affects member communications.

Other legal requirements

145. In addition to the requirements set out in the Record Keeping Regulations, there are various other legal requirements that relate to record-keeping in public service pension schemes. Those requirements apply variously to managers, administrators and employers. Not all requirements apply to all public service pension schemes, but some of the key requirements are set out under the following legislation:

- Pensions Act 1995 and 2004
- Pensions Act 2008 and the Employers' Duties (Registration and Compliance) Regulations 2010⁶⁶
- Occupational Pension Schemes (Scheme Administration) Regulations 1996
- Registered Pension Schemes (Provision of Information) Regulations 2006
- Data Protection Act 1998, and
- Freedom of Information Act 2000.

146. Where applicable, schemes should be able to demonstrate that they keep records in accordance with these and any other relevant legal requirements. Schemes should read the relevant legislation and any guidance in conjunction with this code where applicable.

⁶⁶ See the regulator's guidance about automatic enrolment for more information about record-keeping requirements under this legislation.

Maintaining contributions

Legal requirements

147. Employer contributions must be paid to the scheme in accordance with any requirements in the scheme regulations. Where employer contributions are not paid on or before the date they are due under the scheme and the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, the scheme manager must give a written report of the matter to the regulator as soon as reasonably practicable⁶⁷.
148. Where employee contributions are deducted from a member's pay, the amount deducted must be paid to the managers of the scheme at the latest by the 19th day of the month following the deduction, or by the 22nd day if paid electronically (the 'prescribed period')⁶⁸, or earlier if required by scheme regulations. References to 'days' means all days. References to 'working days' do not include Saturdays, Sundays or Bank Holidays.
149. Where employee contributions are not paid within the prescribed period, if the scheme manager⁶⁹ has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, they must give notice of the failure to the regulator and the member within a reasonable period after the end of the prescribed period⁷⁰. Where there is a failure to pay employee contributions on an earlier date in accordance with scheme regulations, schemes should also consider their statutory duty under section 70 of the Pensions Act 2004 to assess and if necessary report breaches of the law. For more information about reporting breaches of the law, see this section of the code.

67
Section 70A of the Pensions Act 2004.

68
Section 49(8) of the Pensions Act 1995 and regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

69
The legal requirement to report late payments of employee contributions is imposed on the 'managers' of a scheme, which the regulator generally takes to be the 'scheme manager' identified in scheme regulations in accordance with the 2013 Act.

70
Section 49(9) of the Pensions Act 1995.

71
See paragraph 25 for the definition of 'schemes'.

Practical guidance

150. As part of the requirement to establish and operate adequate internal controls, scheme managers should ensure that there are effective procedures and processes in place to identify payment failures that are – and are not – of material significance to the regulator. A 'payment failure' is where contribution payments are not paid to the scheme by the due date(s), or within the prescribed period and a 'materially significant payment failure' refers to a payment failure which is likely to be of material significance to the regulator in the exercise of its functions.
151. Schemes⁷¹ should monitor pension contributions, resolve payment issues and report payment failures, as appropriate, so that the scheme is administered and managed in accordance with the scheme regulations and other legal requirements.

152. Adequate procedures and processes are likely to involve:

- developing a record to monitor the payment of contributions
- monitoring the payment of contributions
- managing overdue contributions, and
- reporting materially significant payment failures.

153. These procedures and processes should help scheme managers to meet their statutory duty to report materially significant payment failures to the regulator, as well as ensuring the effective management of scheme contributions and payment of the right pension.

Developing a record for monitoring the payment of contributions

154. There are legislative requirements for managers of DB schemes to keep a schedule of contributions; and for DC schemes, a payment schedule, which allows managers to monitor contributions to their scheme. There are various exemptions from these requirements including for DB and DC schemes which are established by or under an enactment and which are guaranteed by a Minister of the Crown or other public authority, and for DB schemes which are pay-as-you-go schemes⁷².

155. Public service pension schemes which meet these exemptions should nonetheless develop a record for monitoring the payment of contributions to the scheme (a contributions monitoring record, which must reflect any requirements in scheme regulations where relevant). Schemes should prepare the contributions monitoring record in consultation with employers.

156. A contributions monitoring record will enable schemes to check whether contributions have been paid on time and in full, and, if they have not, provide a trigger for escalation for schemes to investigate the payment failure and consideration of whether scheme managers need to report to the regulator and, where relevant, members.

157. A contributions monitoring record should include the following information:

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

72

Exemptions from the requirement to secure a schedule of contributions in respect of DB schemes under s227 of the Pensions Act 2004 are in regulation 17 of the Occupational Pension Schemes (Scheme Funding) Regulations 2005. Exemptions from the requirement to secure a payment schedule in respect of DC schemes under s87 of the Pensions Act 1995 is in regulation 17 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

158. The date when employer contributions must be paid is the date on or before which they are due under the scheme in accordance with the scheme regulations (or other scheme documentation). Schemes should assess the timing of payments against the date specified.
159. While there is a legal requirement for employee contributions to be paid to the scheme by the 19th day of the month following deduction, or by the 22nd day if paid electronically, this does not override any earlier time periods required by the scheme regulations. There are special rules for the first deduction of contributions on automatic enrolment under the Pensions Act 2008⁷³.
160. A contributions monitoring record should help schemes to identify any employers who are not paying contributions on time and/or in full, support schemes to ensure that contributions are paid and employers to develop and implement new processes, as appropriate. The contributions monitoring record should provide schemes with information to maintain records of money received and will be useful for schemes to ensure that their member records are kept up-to-date.

Monitoring the payment of contributions

161. Schemes should monitor contributions on an ongoing basis for all the membership categories within the scheme. Schemes should regularly check payments due against the contributions monitoring record.
162. Schemes should apply a risk-based and proportionate approach to help identify employers and situations which present a higher risk of payment failures occurring and which are likely to be of material significance and require the scheme manager to intervene.
163. Schemes should be aware of what is to be paid in accordance with the contributions monitoring record or other scheme documentation, which may be used by the pension scheme. Schemes should also have a process in place to identify where payments are late or have been underpaid, overpaid or not paid at all.
164. For schemes to effectively monitor contributions they will require access to certain information. Employers will often provide the payment information that schemes need to monitor contributions at the same time as they send the contributions to the scheme, which may be required under the scheme regulations. Payment information may include:
 - the employer and employee contributions due to be paid, which should be specified in the scheme regulations and/or other scheme documentation
 - the pensionable pay that contributions are based upon (where required), and
 - due date(s) on or before which payment of contributions and other amounts are to be made.

73
Regulation 16 of the
Occupational Pension
Schemes (Scheme
Administration)
Regulations 1996.

165. Schemes should have adequate internal controls in place to monitor the sharing of payment information between the employer, pension scheme and member. Where the necessary payment information is not automatically available or provided by employers, schemes should request the additional information they need. Schemes may not need to obtain payment information as a matter of course, only where it is required for effective monitoring.
166. Scheme managers must record and retain information on transactions, including any employer and employee contributions received and payments of pensions and benefits⁷⁴, which will support them in their administration and monitoring responsibilities.
167. Where the administration of scheme contributions is outsourced to a service provider, schemes should ensure that there is a process in place to obtain regular information on the payment of contributions to the scheme and a clear procedure in place to enable them to identify and resolve payment failures which may occur.

Managing overdue contributions

168. When schemes identify or are notified of a problem, they should assess whether a payment failure has occurred before taking steps to resolve and, if necessary, report it. During their assessment, schemes should take into account:
- legitimate agreed payments made directly by an employer for scheme purposes, ie where the scheme has agreed that a contributions payment can be made late due to exceptional circumstances
 - legitimate agreed payment arrangements made between an employee and employer, ie where the employer has agreed that a contribution payment can be made late due to exceptional circumstances
 - contributions paid directly to a pension provider, scheme administrator or investment manager
 - any AVCs included with an employer's overall payment.
169. Where schemes identify a payment failure, they should follow a process to resolve issues quickly. This should normally involve the following steps:
- a. Investigate any apparent employer failure to pay contributions in accordance with the contributions monitoring record or legal requirements.
 - b. Contact the employer promptly to alert them to the payment failure and to seek to resolve the overdue payment.

74
Regulation 5 of the
Record Keeping
Regulations.

- c. Discuss it further with the employer as soon as practicable to find out the cause and circumstances of the payment failure.
 - d. Ask the employer to resolve the payment failure and take steps to avoid a recurrence in the future.
170. Schemes should maintain a record of their investigation and communications between themselves and the employer. Recording this information will help to provide evidence of schemes' effective monitoring processes and could help to demonstrate that the scheme manager has met the legal requirement to establish and operate adequate internal controls. It will also form part of the decision of whether or not to report a payment failure to the regulator and, where relevant, members.
171. The regulator recognises that a monitoring process based on information provided by employers may not be able to confirm deliberate underpayment or non-payment, or fraudulent behaviour by an employer. Schemes should review current processes or develop a new process which is able to detect situations where fraud may be more likely to occur and where additional checks may be appropriate.
172. Ultimately, schemes have flexibility to design their own procedures so that they can obtain overdue payments and rectify administrative errors in the most effective and efficient way for their particular scheme.

Reporting payment failures which are likely to be of material significance to the regulator

173. Scheme managers must report payment failures which are likely to be of material significance to the regulator within a reasonable period, in the case of employee contributions; and as soon as reasonably practicable in the case of employer contributions⁷⁵.
174. Where schemes identify a payment failure, they should attempt to recover contributions within 90 days from the due date or prescribed period having passed without full payment of the contribution.
175. While schemes are not expected to undertake a full investigation to establish materiality or investigate whether an employer has behaved fraudulently, schemes should ask the employer:
- the cause and circumstances of the payment failure
 - what action the employer has taken as a result of the payment failure, and
 - the wider implications or impact of the payment failure.

75
Section 49(9)(b) of the Pensions Act 1995 and s70A of the Pensions Act 2004.

176. When reaching a decision about whether to report, schemes should consider these points together and establish whether they have reasonable cause to report.
177. Having reasonable cause means more than merely having a suspicion that cannot be substantiated. Schemes should investigate the payment failure and use their judgement when deciding whether to report to the regulator.
178. Schemes may choose to take an employer's response to their enquiries at face value if they have no reason to believe it to be untrue or where their risk-based process indicates that there is a low risk of continuing payment failure. Where they receive no response, schemes may infer that an employer is unwilling to pay the contributions due.
179. Examples of payment failures that are likely to be of material significance to the regulator include:
- where schemes have reasonable cause to believe that the employer is neither willing nor able to pay contributions, for example in the event of a business failure or where an employer becomes insolvent and is unable to make pension payments
 - where there is a payment failure involving possible dishonesty or a misuse of assets or contributions, for example where schemes have concerns that an employer is retaining and using contributions to manage cash flow difficulties or where schemes have become aware that the employer has transferred contributions elsewhere other than to the pension scheme, which may be misappropriation
 - where the information available to schemes may indicate that the employer is knowingly concerned with fraudulently evading their obligation to pay employee contributions
 - where schemes become aware that the employer does not have adequate procedures or systems in place to ensure the correct and timely payment of contributions due and the employer does not appear to be taking adequate steps to remedy the situation, for example where there are repetitive and regular payment failures, or
 - any event where contributions have been outstanding for 90 days from the due date, unless the payment failure was a one-off or infrequent administrative error that had already been corrected on discovery or is thereafter corrected as soon as possible.

180. Examples of payment failures which are not likely to be of material significance to the regulator include:
- where a payment arrangement is being met by an employer for the recovery of outstanding contributions, or
 - where there are infrequent one-off payment failures or administrative errors such as where employees leave or join the scheme and those occasional failures or errors have been corrected within 90 days of the due date.
181. Schemes should identify and report to the regulator, as appropriate, any payment failures that may not be of material significance taken individually, but which could indicate a systemic problem. For example, an employer consistently failing to pay contributions by the due date or within the prescribed period, but paying within 90 days, may be due to inefficient scheme systems and processes. Schemes may also need to report payment failures that occur repeatedly and are likely to be materially significant to the regulator, depending on the circumstances.
182. Reporting payment failures of employer contributions as soon as 'reasonably practicable' means within a reasonable period from the scheme manager having reasonable cause to believe that the payment failure is likely to be of material significance to the regulator. Schemes should also consider whether it may be appropriate to report a payment failure of employer contributions to scheme members.
183. A reasonable period for reporting would be within ten working days from having reasonable cause to believe that the payment failure is likely to be of material significance. This will depend upon the seriousness of the payment failure and impact on the scheme. A written report should be preceded by a telephone call, if appropriate.
184. In the case of an employer failing to pay employee contributions to the pension scheme, if the scheme manager has reasonable cause to believe that the payment failure is likely to be of material significance to the regulator, the failure must be reported to the regulator⁷⁶ and members within a reasonable period after the end of the prescribed period⁷⁷. A reasonable period for reporting to the regulator would be within ten working days and to members within 30 days of having reported to the regulator.
185. Reports relating to payment failures of employer contributions must be made in writing (preferably using our Exchange online service)⁷⁸. In exceptional circumstances the scheme manager could make a telephone report.

76
Reporting to the regulator does not affect any responsibility to report to another person or organisation.

77
S49(8) and (9) of the Pensions Act 1995 and regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996. Where there is a failure to pay employee contributions on an earlier date in accordance with scheme regulations, schemes should also consider their statutory duty under s70 of the Pensions Act 2004 to assess and if necessary report breaches of the law.

78
Section 70A of the Pensions Act 2004.

186. The regulator has standardised reporting procedures and expectations regarding content, format and channel. For more information, see the section of this code on 'Reporting breaches of the law'.

Providing information to members

Legal requirements

187. The law requires schemes⁷⁹ to disclose information about benefits and scheme administration to scheme members and others. This section summarises the legal requirements relating to benefit statements and certain other information which must be provided and should be read alongside the requirements in the 2013 Act, HM Treasury directions⁸⁰ and the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 ('the Disclosure Regulations 2013'). In addition to these duties, there are other legal requirements relating to the provision of information to members and others under other legislation. See paragraph 211 for further details.

79
See paragraph 25 for the definition of 'schemes'.

80
Section 14 of the 2013 Act.

81
Section 14(1) and s30(1) of the 2013 Act.

Benefit statements

For active members of DB schemes under the 2013 Act

188. Scheme regulations must require scheme managers to provide an annual benefit information statement to each active member of a DB scheme established under the 2013 Act or new public body scheme⁸¹. The statement must include a description of the benefits earned by a member in respect of their pensionable service⁸².

82
Section 14(2)(a), *ibid.*

83
Section 14(4) and (5), *ibid.*

84
Section 14(2)(b) and (6), *ibid.*

189. The first statement must be provided no later than 17 months after the scheme regulations establishing the scheme come into force. Subsequent statements must be provided at least annually after that date⁸³.

85
The Occupational Pension Schemes (Managers) Regulations 1986 specify who is to be treated as the 'manager' (in certain occupational public service pension schemes) for the purpose of providing information under specified legislation, including the Disclosure Regulations 2013, which may differ from the person who is the 'scheme manager'.

190. Statements must also comply with HM Treasury directions in terms of any other information which must be included and the manner in which they must be provided to members⁸⁴.

For active, deferred or pension credit members of any DB public service pension scheme under the Disclosure Regulations 2013

191. Managers⁸⁵ of a scheme must also provide a benefit statement following a request by an active, deferred or pension credit member of a DB scheme if the information has not been provided to that member in the previous 12 months before that request⁸⁶.

86
Regulation 16 of the Disclosure Regulations 2013.

192. These benefit statements must include information about the amount of benefits by reference to a particular date and how they are calculated⁸⁷. The full details depend on the type of member making the request.

193. The information must be given as soon as practicable but no more than two months after the date the request is made⁸⁸.

For members of a DC public service pension scheme under the Disclosure Regulations 2013

194. Managers of a scheme must provide a benefit statement to a member of a DC public service pension scheme, who is not an 'excluded person', within 12 months of the end of the scheme year⁸⁹. An 'excluded person' is a member or beneficiary whose present postal address and email address is not known to the scheme because the correspondence has been returned (in the case of postal correspondence) or has not been delivered (in the case of electronic correspondence)⁹⁰.

195. The information which must be provided includes the amount of contributions (before any deductions are made) credited to the member during the immediately preceding scheme year⁹¹, the value of the member's accrued rights under the scheme at a date specified by the managers of the scheme⁹² and a statutory money purchase illustration⁹³. The full detail of the information that must be provided is set out in the Disclosure Regulations 2013.

87
Regulation 16 and Schedule 5 of the Disclosure Regulations 2013.

88
Regulation 16(3), *ibid.*

89
Regulation 17, *ibid.*

90
Regulation 2, *ibid.*

91
'Scheme year' is defined in Regulation 2, *ibid.*

92
Regulation 17 and Schedule 6, *ibid.*

93
Paragraph 6 and Schedule 6, *ibid.* There are certain exceptions to the requirements to provide this information.

94
Regulation 4, *ibid.*

Other information about scheme administration

196. Under the Disclosure Regulations 2013, managers of a scheme must provide other information to members and others in certain circumstances (for example, on request). The Regulations set out the information which must be given, the timescales for providing such information and the methods that may be used. Not all information must be provided in respect of all public service pension schemes (there are some exemptions for specified public service schemes or according to the type of benefit offered), but information which scheme managers may need to provide includes:

- basic scheme information
- information about the scheme that has materially altered
- information about the constitution of the scheme
- annual report (this requirement will generally not apply to unfunded DB public service pension schemes and DB schemes for local government workers⁹⁴)

- information about funding principles, actuarial valuations and payment schedules (these requirements will generally not apply to unfunded DB public service pension schemes and DB schemes for local government workers⁹⁵)
- information about transfer credits
- information about lifestyling (this requirement will not apply in respect of DB benefits in public service pension schemes⁹⁶)
- information about accessing benefits, and
- information about benefits in payment.

197. The detail of the information that must be provided to scheme members and others and any exemptions are set out in the Disclosure Regulations 2013. Managers must provide the required information, along with confirmation that members may request further information and the postal and email addresses to which a person should send those requests and enquiries⁹⁷.

Who is entitled to information

198. Managers of a scheme must ensure that scheme members and others are given information in accordance with the Disclosure Regulations 2013, unless they are an 'excluded person' (as defined above).

199. The Disclosure Regulations 2013 make provision for scheme members and others to receive information that is relevant to their pension rights and entitlements under the scheme. The categories of people who are entitled to receive information vary according to the different types of information, and there are exemptions where information has already been provided in a specified period. The detail of who is entitled to any particular type of information is set out in the Disclosure Regulations 2013 but may include any of the following ('a relevant person'):

- active members
- deferred members
- pensioner members
- prospective members
- spouses or civil partners of members or prospective members
- other beneficiaries, and
- recognised trade unions.

95
Regulation 4 of the
Disclosure Regulations
2013.

96
Regulation 18(1), *ibid.*

97
Regulation 4(7), *ibid.*

When basic scheme information must be provided

200. Managers must disclose certain basic information about the scheme and the benefits it provides to a prospective member (if practicable to do so) or a new member⁹⁸. Where the manager has received jobholder information⁹⁹ for the member or prospective member they must provide the information within a month of the jobholder information being received¹⁰⁰. Where they have not received jobholder information, they must provide the information within two months of the date the person became an active member of the scheme¹⁰¹.

201. Managers must also provide the information on request to a relevant person within two months of the request being made, except where the same information was provided to the same person or trade union in the 12 months before the request¹⁰².

What information must be disclosed on request

202. In addition to the basic scheme information, pension scheme members and other relevant persons are entitled to request certain scheme information or scheme documents including:

- information about the constitution of the pension scheme, and
- information about transfer credits¹⁰³.

How benefit statements and other information must be provided

203. Generally, schemes may choose how they provide information to scheme members, including by post, electronically (by email or by making it available on a website) or by any other means permitted by the law. For benefit statements issued under the 2013 Act, HM Treasury directions may specify how the information must be provided. Where schemes wish to provide information required under the Disclosure Regulations 2013 by electronic means there are important steps and safeguards that must first be met¹⁰⁴. These include:

- scheme members and beneficiaries being provided with the option to opt out of receiving information electronically by giving written notice to the scheme
- managers being satisfied that the electronic communications have been designed:
 - so that the person will be able to access and either store or print the relevant information and
 - taking into account the requirements of disabled people

98
Regulation 6 of the Disclosure Regulations 2013.

99
Specified in regulation 3 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010.

100
Regulation 6(5) of the Disclosure Regulations 2013.

101
Regulation 6(6), *ibid.*

102
Regulation 6(4) and (7), *ibid.*

103
Regulations 11, 14 and Parts 1 and 4 of Schedule 3, *ibid.*

104
Regulation 26, *ibid.*

- ensuring that members and beneficiaries who were members or beneficiaries of the public service pension scheme on 1 December 2010 (where the scheme had not provided information electronically prior to that date) has been sent a written notice (other than via email or website), informing them that:
 - it is proposed to provide information electronically in the future and
 - scheme members and beneficiaries may opt out of receiving information electronically by sending written notice.

204. Where schemes make information or a document available on a website for the first time, they must give notice (other than via a website) to the recipient¹⁰⁵. They must ensure that the notice includes:

- a statement advising that the information is available on the website
- the website address
- details of where on the website the information or document can be read, and
- an explanation of how the information or document may be read on the website¹⁰⁶.

205. When any subsequent information is made available on a website, managers of a scheme must give a notice (other than via a website) to recipients informing them that the information is available on the website¹⁰⁷. This notice will not be required where¹⁰⁸:

- at least two documents have been given to the recipient by hand or sent to the recipient's last known postal address
- each of those letters asks the recipient to give their electronic (email) address to the scheme and informs the recipient of their right to request (in writing) that information or documents are not to be provided electronically
- a third letter has been given to the recipient by hand or sent to the recipient's last known postal address and includes a statement that further information will be available to read on the website and that no further notifications will be sent to the recipient and
- the managers of the scheme do not know the recipient's email address and have not received a written request that information or documents are not to be provided to the recipient electronically.

105
Regulation 27(1) and (5) of the Disclosure Regulations 2013.

106
Regulation 27(2), *ibid.*

107
Regulation 27(3) and (5), *ibid.*

108
Regulation 28, *ibid.*

206. In some cases, the Disclosure Regulations 2013 specify that information must be made available by one of the following methods¹⁰⁹:

- available to view free of charge, at a place that is reasonable having regard to the request
- published on a website (in which case the procedure to be followed before making information available on a website does not apply, except that the person or trade union must be notified of certain details)
- given for a charge that does not exceed the expense incurred in preparing, posting and packing the information, or
- publicly available elsewhere.

Practical guidance

207. Schemes should design and deliver communications to scheme members in a way that ensures they are able to engage with their pension provision. Information should be clear and simple to understand as well as being accurate and easily accessible. It is important that members are able to understand their pension arrangements and make informed decisions where required.

208. Schemes should attempt to make contact with their scheme members and, where contact is not possible, schemes should carry out a tracing exercise to locate the member and ensure that their member data are up-to-date.

209. Where a person has made a request for information, schemes should acknowledge receipt if they are unable to provide the information at that stage. Schemes may encounter situations where the time period for providing information takes longer than expected. In these circumstances, schemes should notify the person and let them know when they are likely to receive the information. Scheme managers and managers (where different) must provide information in accordance with the time periods specified in the 2013 Act and Disclosure Regulations 2013.

210. To promote transparency, schemes should make information readily available at all times to ensure that prospective and existing members are able to access information when they require it.

Other legal requirements

211. Managers (or any other person specified in legislation) must comply with other legislation requiring information to be provided to members of public service pension schemes in certain circumstances. Not all requirements apply to all public service pension schemes and some may only arise in limited circumstances.

¹⁰⁹
Regulation 29 of the
Disclosure Regulations
2013.

Some of the requirements that schemes may need to be aware of are set out in or under the following legislation¹¹⁰:

- Occupational Pension Schemes (Contracting-out) Regulations 1996
- Occupational Pension Schemes (Transfer Values) Regulations 1996
- Occupational Pension Schemes (Winding up etc.) Regulations 2005
- Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 (the requirements of these regulations are covered in the section of this code on 'Internal dispute resolution').

110

The legislation identified in this list is made under section 113 of the Pension Schemes Act 1993. There are other requirements that relate to providing information to members which arise under other legislation and which may be relevant to public service pension schemes (for example, under legislation relating to automatic enrolment and early leavers).

Resolving issues

212. This part covers:

- internal dispute resolution, and
- reporting breaches of the law.

Internal dispute resolution

Legal requirements

213. Scheme managers¹¹¹ must make and implement dispute resolution arrangements that comply with the requirements of the law and help resolve pensions disputes between the scheme manager and a person with an interest in the scheme. 'Pension disputes'¹¹² cover matters relating to the scheme between the managers and one or more people with an interest in the scheme. These exclude 'exempted disputes'.

214. There are certain 'exempted disputes' to which the internal dispute resolution procedure will not apply¹¹³. This includes disputes where proceedings have commenced in any court or tribunal, or where the Pensions Ombudsman has commenced an investigation into it. Certain other prescribed disputes, for instance medical-related disputes that may arise in relation to police and fire and rescue workers, are also 'exempted disputes'¹¹⁴.

215. A person has an interest in the scheme if they:

- are a member or surviving non-dependant beneficiary of a deceased member of the scheme
- are a widow, widower, surviving civil partner or surviving dependant of a deceased member of the scheme
- are a prospective member of the scheme
- have ceased to be a member, beneficiary or prospective member or
- claim to be in one of the categories mentioned above and the dispute relates to whether they are such a person.

216. Dispute resolution arrangements may require people with an interest in the scheme to first refer matters in dispute to a 'specified person' in order for that person to consider and give their decision on those matters. The specified person's decision may then be confirmed or replaced by the decision taken by the scheme manager after reconsideration of the matters¹¹⁵.

111
Legal requirements relating to the internal dispute resolution provisions are imposed on the 'managers' of a scheme, which the regulator generally takes to be the 'scheme manager' identified in scheme regulations in accordance with the 2013 Act.

112
Section 50(3) of the Pensions Act 1995.

113
Section 50(9), *ibid.*

114
Regulation 4 of the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.

115
Section 50(4A) of the Pensions Act 1995.

217. Scheme managers and specified persons (if used as part of a scheme's procedure) must take the decision required on the matters in dispute within a reasonable period of receiving the application. They must notify the applicant of the decision within a reasonable period of having taken it¹¹⁶.
218. Internal dispute resolution procedures must state the manner in which an application for the resolution of a pension dispute is to be made, the particulars which must be included in such an application and the manner in which any decisions required in relation to such an application are to be reached and given¹¹⁷. The procedure must specify a reasonable period within which applications must be made by certain people¹¹⁸.
219. Scheme managers must provide information about the scheme's dispute resolution procedure as well as information about The Pensions Advisory Service (TPAS) and the Pensions Ombudsman to certain people at certain stages¹¹⁹.

Practical guidance

220. Scheme members expect their pension scheme to be managed effectively. Where a person with an interest in the scheme is not satisfied with any matter relating to the scheme (for example a decision which affects them), they have the right to ask for that matter to be reviewed.
221. Internal dispute resolution arrangements provide formal procedures and processes for pension scheme disputes to be investigated and decided upon quickly and effectively. They play a key role in the effective governance and administration of a scheme.
222. Schemes¹²⁰ can operate a two-stage procedure with a 'specified person' undertaking the first-stage decision. Alternatively, they may adopt a single-stage procedure if they consider that is more appropriate for their scheme.
223. With the exception of certain matters outlined below, the law does not prescribe the detail of the dispute resolution procedure. Schemes should decide on this and ensure it is fit for purpose.

116
Section 50(5) of the Pensions Act 1995.

117
Section 50B(4), *ibid*.

118
Section 50B(3)(a), *ibid*.

119
Regulation 6 of, and Part 1 of Schedule 2 to, the Disclosure Regulations 2013 and regulation 2 of the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations 2008.

120
See paragraph 25 for the definition of 'schemes'.

When applications should be submitted

224. Schemes may choose to specify time limits within which the following people must apply for a dispute to be resolved¹²¹:

- scheme members
- widows, widowers, surviving civil partners or surviving dependants of deceased scheme members
- surviving non-dependant beneficiaries of deceased scheme members, and
- prospective scheme members.

225. If schemes decide to specify time limits, they should publish and make those time limits readily available to ensure that those with an interest in the scheme are aware that they must submit an application within a prescribed time limit.

226. Scheme managers must ensure their scheme's procedure specifies a reasonable period within which applications by the following people must be made¹²²:

- a person who has ceased to be within the categories in paragraph 224 above
- a person who claims that they were a person within the categories in paragraph 224 above and has ceased to be such a person, and the dispute relates to whether they are such a person.

227. A reasonable period would be six months beginning immediately after the date on which the person ceased to be, or claims they ceased to be, a person with an interest in the scheme. However, schemes have the flexibility to exercise their judgement and take an application outside a specified time period, if appropriate.

When decisions should be taken

228. Managers and specified persons (where applicable) must decide the matter in dispute within a reasonable period of receiving the application. A reasonable period is within four months of receiving the application. In the case of a two-stage dispute resolution procedure, the reasonable period applies to each stage separately. Where a dispute is referred to scheme managers for a second-stage decision, the reasonable period begins when the managers receive the referral. However, there may be cases where it will be possible to process an application sooner than the reasonable time given. Where this is the case, there should not be a delay in taking the decision.

121
Section 50B(3)(b) of the Pensions Act 1995.

122
Section 50B(3)(a) of the Pensions Act 1995.

229. There may be exceptional circumstances of a particular dispute which may prevent the process being completed within the reasonable time period stated above. For instance, where the dispute involves unusually complex and labour-intensive calculations or research, or delays occur that are outside the control of the scheme manager (or specified person), or because they need to obtain independent evidence.
230. The regulator recognises that the circumstances of each dispute are different and decision times may vary. Schemes should be satisfied that the time taken to reach a decision is appropriate to the situation and be able to demonstrate this, if necessary.

When applicants should be informed of a decision

231. Applicants must be notified of the decision made by a scheme manager and specified person (where applicable) within a reasonable time period after the decision has been made¹²³. Schemes should usually notify applicants of the decision no later than 15 working days after the decision has been made. However, there may be cases where it is possible to notify an applicant sooner than the reasonable time given. Where this is the case, there should not be a delay in notifying them of the decision.
232. Schemes should provide the applicant with regular updates on the progress of their investigation. They should notify the applicant where the time period for a decision is expected to be shorter or longer than the reasonable time period and let them know when they are likely to receive an outcome.

Implementing the procedure and processes

233. Scheme regulations or other documents recording policy about the administration of the scheme should specify internal dispute resolution arrangements. Schemes should focus on educating and raising awareness of their internal dispute resolution arrangements and ensuring that they are implemented.
234. Schemes should ensure that the effectiveness of the arrangements is assessed regularly and be satisfied that those following the process are complying with the requirements set, which includes effective decision making. This is particularly important where the arrangements require employers participating in the pension scheme to carry out duties as part of the process, for example where schemes have implemented the two-stage procedure and employers are acting as the specified person for the first stage.
235. Schemes should confirm and communicate their arrangements to members, for example, in the joining booklet. Schemes should make their arrangements accessible to potential applicants, for example by publishing them on a scheme website.

123
Section 50(5) of the
Pensions Act 1995.

236. Scheme managers must provide the following information about the procedure and processes the scheme has in place for the internal resolution of disputes to certain people in certain circumstances¹²⁴:

- prospective members, if it is practicable to do so
- any scheme members who have not already been given the information
- certain relevant people who request the information and who have not been given that information in the previous 12 months, and
- members or prospective members when schemes receive jobholder information, or when a jobholder becomes an active member, in connection with automatic enrolment.

237. Scheme managers must also provide the postal or email address and job title of the person to contact in order to make use of the internal dispute arrangements.

238. In addition, scheme managers must provide information about TPAS and the Pensions Ombudsman at certain stages¹²⁵. Upon receiving an application for the resolution of a pension dispute, scheme managers (or the specified person) must make the applicant aware as soon as reasonably practicable that TPAS is available to assist members and beneficiaries of the scheme and provide contact details for TPAS. When notifying the applicant of the decision, scheme managers must also inform the applicant that the Pensions Ombudsman is available to investigate and determine complaints or disputes of fact or law relating to a public service pension scheme and provide the Pension Ombudsman's contact details.

239. Schemes can decide what information they need from applicants to reach a decision on a disputed matter and how applications should be submitted. Schemes should ensure they make the following information available to applicants:

- the procedure and processes to apply for a dispute to be resolved
- the information that an applicant must include
- the process by which any decisions are reached, and
- an acknowledgement once an application has been received.

124
Regulation 6 of, and Part 1 of Schedule 2 to, the Disclosure Regulations 2013.

125
Regulation 2 of the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations 2008.

240. When reviewing an application, scheme managers and specified persons (where relevant) should ensure that they have all the appropriate information to make an informed decision. They should request further information if required. Scheme managers and specified persons should be satisfied that the times taken to reach a decision and notify the applicant are appropriate to the situation and that they have taken the necessary action to meet the reasonable time periods. Scheme managers should be able to demonstrate this to the regulator if required.

Reporting breaches of the law

Legal requirements

241. Certain people are required to report breaches of the law to the regulator where they have reasonable cause to believe that:

- a legal duty¹²⁶ which is relevant to the administration of the scheme has not been, or is not being, complied with
- the failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions¹²⁷.

For further information about reporting late payments of employee or employer contributions, see the section of this code on 'Maintaining contributions'.

242. People who are subject to the reporting requirement ('reporters') for public service pension schemes are:

- scheme managers¹²⁸
- members of pension boards
- any person who is otherwise involved in the administration of a public service pension scheme
- employers¹²⁹: in the case of a multi-employer scheme, any participating employer who becomes aware of a breach should consider their statutory duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers
- professional advisers¹³⁰ including auditors, actuaries, legal advisers and fund managers: not all public service pension schemes are subject to the same legal requirements to appoint professional advisers, but nonetheless the regulator expects that all schemes will have professional advisers, either resulting from other legal requirements or simply as a matter of practice
- any person who is otherwise involved in advising the managers of the scheme in relation to the scheme¹³¹.

243. The report must be made in writing as soon as reasonably practicable¹³². See paragraph 263 for further information about how to report breaches.

126

The reference to a legal duty is to a duty imposed by, or by virtue of, an enactment or rule of law (s70(2)(a) of the Pensions Act 2004).

127

Section 70(2) of the Pensions Act 2004.

128

The legal requirement to report breaches of the law under section 70(1)(a) is imposed on the 'managers' of a scheme, which the regulator generally takes to be the 'scheme manager' identified in scheme regulations in accordance with the 2013 Act.

129

As defined in s318 of the Pensions Act 2004.

130

As defined in s47 of the Pensions Act 1995.

131

Section 70(1) of the Pensions Act 2004.

132

Section 70(2), *ibid.*

Practical guidance

244. Schemes¹³³ should be satisfied that those responsible for reporting breaches are made aware of the legal requirements and this guidance. Schemes should provide training for scheme managers and pension board members. All others under the statutory duty to report should ensure they have a sufficient level of knowledge and understanding to fulfil that duty. This means having sufficient familiarity with the legal requirements and procedures and processes for reporting.

Implementing adequate procedures

245. Identifying and assessing a breach of the law is important in reducing risk and providing an early warning of possible malpractice in public service pension schemes. Those people with a responsibility to report breaches, including scheme managers and pension board members, should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations. Procedures should enable people to raise concerns and facilitate the objective consideration of those matters. It is important that procedures allow reporters to decide within an appropriate timescale whether they must report a breach. Reporters should not rely on waiting for others to report.

246. Procedures should include the following features:

- a process for obtaining clarification of the law around the suspected breach where needed
- a process for clarifying the facts around the suspected breach where they are not known
- a process for consideration of the material significance of the breach by taking into account its cause, effect, the reaction to it, and its wider implications, including (where appropriate) dialogue with the scheme manager or pension board
- a clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the regulator
- an established procedure for dealing with difficult cases
- a timeframe for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable
- a system to record breaches even if they are not reported to the regulator (the record of past breaches may be relevant in deciding whether to report future breaches, for example it may reveal a systemic issue), and
- a process for identifying promptly any breaches that are so serious they must always be reported.

133
See paragraph 25
for the definition of
'schemes'.

Judging whether a breach must be reported

247. Breaches can occur in relation to a wide variety of the tasks normally associated with the administrative function of a scheme such as keeping records, internal controls, calculating benefits and, for funded pension schemes, making investment or investment-related decisions.

Judging whether there is 'reasonable cause'

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

249. Reporters should ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. For example, a member of a funded pension scheme may allege that there has been a misappropriation of scheme assets where they have seen in the annual accounts that the scheme's assets have fallen. However, the real reason for the apparent loss in value of scheme assets may be due to the behaviour of the stock market over the period. This would mean that there is not reasonable cause to believe that a breach has occurred.

250. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with the pension board or scheme manager or with others who are in a position to confirm what has happened. It would not be appropriate to check in cases of theft, suspected fraud or other serious offences where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances the reporter should alert the regulator without delay.

251. If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.

252. In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the regulator may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

Judging what is of 'material significance' to the regulator

253. In deciding whether a breach is likely to be of 'material significance' to the regulator. It would be advisable for those with a statutory duty to report to consider the:

- cause of the breach
- effect of the breach
- reaction to the breach, and
- wider implications of the breach.

254. When deciding whether to report, those responsible should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the regulator.

Cause of the breach

255. The breach is likely to be of material significance to the regulator where it was caused by:

- dishonesty
- poor governance or administration
- slow or inappropriate decision making practices
- incomplete or inaccurate advice, or
- acting (or failing to act) in deliberate contravention of the law.

256. When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.

257. A breach will not normally be materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

Effect of the breach

258. Reporters need to consider the effects of any breach, but with the regulator's role in relation to public service pension schemes and its statutory objectives in mind, the following matters in particular should be considered likely to be of material significance to the regulator:

- pension board members not having the appropriate degree of knowledge and understanding, which may result in pension boards not fulfilling their roles, the scheme not being properly governed and administered and/or scheme managers breaching other legal requirements
- pension board members having a conflict of interest, which may result in them being prejudiced in the way that they carry out their role, ineffective governance and administration of the scheme and/or scheme managers breaching legal requirements
- adequate internal controls not being established and operated, which may lead to schemes not being run in accordance with their scheme regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the scheme at the right time
- accurate information about benefits and scheme administration not being provided to scheme members and others, which may result in members not being able to effectively plan or make decisions about their retirement
- appropriate records not being maintained, which may result in member benefits being calculated incorrectly and/or not being paid to the right person at the right time
- pension board members misappropriating any assets of the scheme or being likely to do so, which may result in scheme assets not being safeguarded, and
- any other breach which may result in the scheme being poorly governed, managed or administered.

259. Reporters need to take care to consider the effects of the breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

Reaction to the breach

260. Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the regulator will not normally consider this to be materially significant.

261. A breach is likely to be of concern and material significance to the regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence
- are not pursuing corrective action to a proper conclusion, or
- fail to notify affected scheme members where it would have been appropriate to do so.

Wider implications of the breach

262. Reporters should consider the wider implications of a breach when they assess which breaches are likely to be materially significant to the regulator. For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the scheme manager or pension board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For instance, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

Submitting a report to the regulator

263. Reports must be submitted in writing and can be sent by post or electronically, including by email or by fax. Wherever possible reporters should use the standard format available via the Exchange online service on the regulator's website.

264. The report should be dated and include as a minimum:

- full name of the scheme
- description of the breach or breaches
- any relevant dates
- name of the employer or scheme manager (where known)
- name, position and contact details of the reporter, and
- role of the reporter in relation to the scheme.

265. Additional information that would help the regulator includes:

- the reason the breach is thought to be of material significance to the regulator
- the address of the scheme
- the contact details of the scheme manager (if different to the scheme address)
- the pension scheme's registry number (if available), and
- whether the concern has been reported before.

266. Reporters should mark urgent reports as such and draw attention to matters they consider particularly serious. They can precede a written report with a telephone call, if appropriate.
267. Reporters should ensure they receive an acknowledgement for any report they send to the regulator. Only when they receive an acknowledgement can the reporter be confident that the regulator has received their report.
268. The regulator will acknowledge all reports within five working days of receipt, however it will not generally keep a reporter informed of the steps taken in response to a report of a breach as there are restrictions on the information it can disclose.
269. The reporter should provide further information or reports of further breaches if this may help the regulator to exercise its functions. The regulator may make contact to request further information.
270. Breaches should be reported as soon as reasonably practicable, which will depend on the circumstances. In particular, the time taken should reflect the seriousness of the suspected breach.
271. In cases of immediate risk to the scheme, for instance, where there is any indication of dishonesty, the regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert the regulator to the breach.

Whistleblowing protection and confidentiality

272. The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report. The regulator understands the potential impact of a report on relationships, for example, between an employee and their employer.
273. The statutory duty to report does not, however, override 'legal privilege'¹³⁴. This means that oral and written communications between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.

134
Section 311 of the
Pensions Act 2004.

274. The regulator will do its best to protect a reporter's identity (if desired) and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law. This includes circumstances where the regulator is ordered by a court to disclose it.
275. The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the regulator. Consequently, where individuals employed by firms or another organisation having a statutory duty to report disagree with a decision not to report to the regulator, they may have protection under the ERA if they make an individual report in good faith. The regulator expects such individual reports to be rare and confined to the most serious cases.

Appendix

Corresponding Northern Ireland legislation

GB legislation	NI legislation
Pension Schemes Act 1993 (c. 48) - Chapter 1 of Part 4 - section 113	Pension Schemes (Northern Ireland) Act 1993 (c. 49) - Chapter 1 of Part 4 - section 109
Pensions Act 1995 (c. 26) - section 47 - section 49 - section 50 - section 50B - section 87	Pensions (Northern Ireland) Order 1995 (SI 1995/3213 (NI 22)) - Article 47 - Article 49 - Article 50 - Article 50B - Article 85
Employment Rights Act 1996 (c. 18)	Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16))
Data Protection Act 1998 (c. 29)	Data Protection Act 1998 (c. 29)
Freedom of Information Act 2000 (c.36)	Freedom of Information Act 2000 (c.36)
Pensions Act 2004 (c. 35) - section 5 - section 13 - section 70 - section 70A - section 90A - Part 3 - section 227 - section 248 - section 248A - section 249A - section 249B - section 311 - section 318	Pensions (Northern Ireland) Order 2005 (SI 2005/255 (NI 1)) - Article 4 - Article 9 - Article 65 - Article 65A - Article 85A - Part 4 - Article 206 - Article 225 - Article 225A - Article 226A - Article 226B - Article 283 - Article 2
Pensions Act 2008 (c. 30)	Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13)

GB legislation	NI legislation
Public Service Pensions Act 2013 (c. 25) <ul style="list-style-type: none"> - section 1 - section 2 - section 3 - section 4 - section 5 - section 6 - section 7 - section 14 - section 15 - section 16 - section 28 - section 30 - Schedule 2 - Schedule 3 	Public Service Pensions Act (Northern Ireland) 2014 (c. 2) <ul style="list-style-type: none"> - section 1 - section 2 - section 3 - section 4 - section 5 - section 6 - section 7 - section 14 - section 15 - section 16 - section 28 - section 31 - Schedule 2 - Schedule 3
Occupational Pension Schemes (Managers) Regulations 1986 (SI 1986/1718)	Occupational Pension Schemes (Managers) Regulations (Northern Ireland) 1986 (SR 1986 No. 320)
Occupational Pension Schemes (Contracting-out) Regulations 1996 (SI 1996/1172)	Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 (SR 1996 No. 493)
Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715)	Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (SR 1997 No. 94)
Occupational Pension Schemes (Transfer Values) Regulations 1996 (SI 1996/1847)	Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 (SR 1996 No. 619)
Occupational Pension Schemes (Winding up etc.) Regulations 2005 (SI 2005/706)	Occupational Pension Schemes (Winding up, etc.) Regulations (Northern Ireland) 2005 (SR 2005 No. 171)
Occupational Pension Schemes (Scheme Funding) Regulations 2005 (SI 2005/3377)	Occupational Pension Schemes (Scheme Funding) Regulations (Northern Ireland) 2005 (SR 2005 No. 568)
Registered Pension Schemes (Provision of Information) Regulations 2006 (SI 2006/567)	Registered Pension Schemes (Provision of Information) Regulations 2006 (SI 2006/567)

GB legislation	NI legislation
Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 (SI 2008/649)	Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008 (SR 2008 No. 116)
Employers' Duties (Registration and Compliance) Regulations 2010 (SI 2010/5)	Employers' Duties (Registration and Compliance) Regulations (Northern Ireland) 2010 (SR 2010 No. 186)
Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (SI 2010/772)	Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations (Northern Ireland) 2010 (SR 2010 No. 122)
Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (SI 2013/2734)	Occupational and Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 2014 (SR 2014 No. 79)
Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014	Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014

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The Pensions
Regulator

Statement from Councillor Ian Cuthbertson regarding scope of project relating to developing improved Customer Service:-

To develop an improved customer service, commencing with a review of the standard communications with members, beneficiaries and employers. The initial aim is to use the review to identify any obvious duplicated/overlapping cases or gaps in the range of letters used. In terms of letter content, the review should also (in conjunction with any recorded member/beneficiary/employer feedback) identify any examples of jargon or technical terms used and suggest replacement of these by more straightforward wording or layout. The review could also identify any obvious improvements to timing of initial letters from NYPF or of responses to incoming correspondence.

Submitted via e-mail on 7th January 2018.

NORTH YORKSHIRE COUNTY COUNCIL

PENSION BOARD

18 JANUARY 2018

NYPF STATEMENT OF COMPLIANCE WITH THE UK STEWARDSHIP CODE

1.0 PURPOSE OF THE REPORT

- 1.1 To provide Pension Board members with an update on the progress made towards the production of an NYPF statement of compliance with the UK Stewardship Code.
- 1.2 To provide Board members with the opportunity to feed comments back on the draft statement prior to PFC approval.

2.0 UK STEWARDSHIP CODE BACKGROUND

- 2.1 The Financial Reporting Council (FRC) published the first UK Stewardship Code (the Code) for institutional investors on 2 July 2010 and issued an update on 1 October 2012 (attached as **Appendix 1**). The Code will next be revised in 2018. The main focus of the Code is on UK Equity investments.
- 2.2 The Code aims to enhance the quality of engagement between investors and companies to help improve the long term risk adjusted returns to shareholders. The Code also sets out a number of areas of good practice to which the FRC believes institutional investors should aspire. Further details of the FRC and the Code are available at www.frc.org.uk.
- 2.3 The Local Government Pension Scheme (LGPS) Management and Investment of Funds Regulations 2016 require each Fund to have an Investment Strategy Statement (ISS), the latest NYPF ISS is attached as **Appendix 2**. The mandatory guidance states that the ISS should explain the Fund's policy on stewardship with reference to the UK Stewardship Code. It also states that "Administering authorities should become Signatories to the Code and state how they implement the following seven principles and guidance of the Code, which apply on a "comply or explain" basis":
 1. Publicly disclose their policy on how they will discharge their stewardship responsibilities.
 2. Have a robust policy on managing conflicts of interest in relation to stewardship which should be publicly disclosed.
 3. Monitor their investee companies.
 4. Establish clear guidelines on when and how they will escalate their stewardship activities.
 5. Be willing to act collectively with other investors where appropriate.
 6. Have a clear policy on voting and disclosure of voting activity.
 7. Report periodically on their stewardship and voting activities.
- 2.4 To become signatories to the Code, Investors should submit a Statement of Compliance with the U.K. Stewardship Code to the FRC for assessment. In 2016, to improve the quality of reporting against the Code, encourage greater transparency in

the market and maintain the credibility of the Code, the FRC began to assess signatories based on the quality of their Code statements. Statements assessed as Tier 1, are considered to provide a good quality and transparent description of the approach to stewardship and explanations of alternative approaches where necessary. Statements assessed as Tier 2 are considered insufficiently transparent or do not provide adequate explanations. All Tier 1 and 2 statements are published on the FRC website.

3.0 **UPDATE AND NEXT STEPS**

- 3.1 To ensure that the North Yorkshire Pension Fund is compliant with this latest guidance, officers have drafted an NYPF Statement of Compliance with the U.K. Stewardship Code, attached as **Appendix 3**.
- 3.2 As Board members will be aware, assistance on gaining NYPF compliance with the UK Stewardship Code is on the Pension Board's work plan (line 14). Board members are therefore asked to provide any comments on the draft Statement at the January meeting. Comments and feedback will be reflected in the draft statement before it is presented to the Pension Fund Committee for approval in the February meeting. Once approved, the statement will be sent to the FRC for assessment.
- 3.3 Following FRC assessment, the statement will be published on the NYPF website and will be reviewed as part of the annual governance review. The FRC will also be notified of any updates to the statement.

4.0 **RECOMMENDATION**

- 4.1 Pension Board members to provide feedback on the draft NYPF Statement of Compliance with the U.K. Stewardship Code.

September 2012

The UK Stewardship Code

The FRC does not accept any liability to any party for any loss, damage or costs howsoever arising, whether directly or indirectly, whether in contract, tort or otherwise from any action or decision taken (or not taken) as a result of any person relying on or otherwise using this document or arising from any omission from it.

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Stewardship and the Code

1. Stewardship aims to promote the long term success of companies in such a way that the ultimate providers of capital also prosper. Effective stewardship benefits companies, investors and the economy as a whole.
2. In publicly listed companies responsibility for stewardship is shared. The primary responsibility rests with the board of the company, which oversees the actions of its management. Investors in the company also play an important role in holding the board to account for the fulfilment of its responsibilities.
3. The UK Corporate Governance Code identifies the principles that underlie an effective board. The UK Stewardship Code sets out the principles of effective stewardship by investors. In so doing, the Code assists institutional investors better to exercise their stewardship responsibilities, which in turn gives force to the “comply or explain” system.
4. For investors, stewardship is more than just voting. Activities may include monitoring and engaging with companies on matters such as strategy, performance, risk, capital structure, and corporate governance, including culture and remuneration. Engagement is purposeful dialogue with companies on these matters as well as on issues that are the immediate subject of votes at general meetings.
5. Institutional investors’ activities include decision-making on matters such as allocating assets, awarding investment mandates, designing investment strategies, and buying or selling specific securities. The division of duties within and between institutions may span a spectrum, such that some may be considered asset owners and others asset managers.
6. Broadly speaking, asset owners include pension funds, insurance companies, investment trusts and other collective investment vehicles. As the providers of capital, they set the tone for stewardship and may influence behavioural changes that lead to better stewardship by asset managers and companies. Asset managers, with day-to-day responsibility for managing investments, are well positioned to influence companies’ long-term performance through stewardship.
7. Compliance with the Code does not constitute an invitation to manage the affairs of a company or preclude a decision to sell a holding, where this is considered in the best interest of clients or beneficiaries.

Application of the Code

1. The UK Stewardship Code traces its origins to 'The Responsibilities of Institutional Shareholders and Agents: Statement of Principles,' first published in 2002 by the Institutional Shareholders Committee (ISC), and which the ISC converted to a code in 2009. Following the 2009 Walker Review of governance in financial institutions, the FRC was invited to take responsibility for the Code. In 2010, the FRC published the first version of the UK Stewardship Code, which closely mirrored the ISC code. This edition of the Code does not change the spirit of the 2010 Code.
2. The Code is directed in the first instance to institutional investors, by which is meant asset owners and asset managers with equity holdings in UK listed companies. Institutional investors may choose to outsource to external service providers some of the activities associated with stewardship. However, they cannot delegate their responsibility for stewardship. They remain responsible for ensuring those activities are carried out in a manner consistent with their own approach to stewardship. Accordingly, the Code also applies, by extension, to service providers, such as proxy advisors and investment consultants.
3. The FRC expects signatories of the Code to publish on their website, or if they do not have a website in another accessible form, a statement that:
 - describes how the signatory has applied each of the seven principles of the Code and discloses the specific information requested in the guidance to the principles; or
 - if one or more of the principles have not been applied or the specific information requested in the guidance has not been disclosed, explains why the signatory has not complied with those elements of the Code.
4. Disclosures under the Code should improve the functioning of the market for investment mandates. Asset owners should be better equipped to evaluate asset managers, and asset managers should be better informed, enabling them to tailor their services to meet asset owners' requirements.
5. In particular the disclosures should, with respect to conflicts of interest, address the priority given to client interests in decision-making; with respect to collective engagement, describe the circumstances under which the signatory would join forces with other institutional investors to ensure that boards acknowledge and respond to their concerns on critical issues and at critical times; and, with respect to proxy voting agencies, how the signatory uses their advice.
6. The statement of how the Code has been applied should be aligned with the signatory's role in the investment chain.
7. Asset owners' commitment to the Code may include engaging directly with companies or indirectly through the mandates given to asset managers. They should clearly communicate their policies on stewardship to their managers. Since asset owners are the primary audience of asset managers' public statements as well as client reports on stewardship, asset owners should seek

to hold their managers to account for their stewardship activities. In so doing, they better fulfil their duty to their beneficiaries to exercise stewardship over their assets.

8. An asset manager should disclose how it delivers stewardship responsibilities on behalf of its clients. Following the publication in 2011 of the Stewardship Supplement to Technical Release AAF 01/06, asset managers are encouraged to have the policies described in their stewardship statements independently verified. Where appropriate, asset owners should also consider having their policy statements independently verified.
9. Overseas investors who follow other national or international codes that have similar objectives should not feel the application of the Code duplicates or confuses their responsibilities. Disclosures made in respect of those standards can also be used to demonstrate the extent to which they have complied with the Code. In a similar spirit, UK institutions that apply the Code should use their best efforts to apply its principles to overseas equity holdings.
10. Institutional investors with several types of funds or products need to make only one statement, but are encouraged to explain which of their funds or products are covered by the approach described in their statements. Where institutions apply a stewardship approach to other asset classes, they are encouraged to disclose this.
11. The FRC encourages service providers to disclose how they carry out the wishes of their clients with respect to each principle of the Code that is relevant to their activities.
12. Signatories are encouraged to review their policy statements annually, and update them where necessary to reflect changes in actual practice.
13. This statement should be easy to find on the signatory's website, or if they do not have a website in another accessible form, and should indicate when the statement was last reviewed. It should include contact details of an individual who can be contacted for further information and by those interested in collective engagement. The FRC hosts on its website the statements of signatories without their own website.
14. The FRC retains on its website a list of asset owners, asset managers and service providers that have published a statement on their compliance or otherwise with the Code, and requests that signatories notify the FRC when they have done so, and when the statement is updated.
15. The FRC regularly monitors the take-up and application of the Code. It expects the content of the Code to evolve over time to reflect developments in good stewardship practice, the structure and operation of the market, and the broader regulatory framework. Unless circumstances change, the FRC does not envisage proposing further changes to the Code until 2014 at the earliest.

Comply or Explain

1. As with the UK Corporate Governance Code, the UK Stewardship Code should be applied on a “comply or explain” basis.
2. The Code is not a rigid set of rules. It consists of principles and guidance. The principles are the core of the Code and the way in which they are applied should be the central question for the institutional investor as it determines how to operate according to the Code. The guidance recommends how the principle might be applied.
3. Those signatories that choose not to comply with one of the principles, or not to follow the guidance, should deliver meaningful explanations that enable the reader to understand their approach to stewardship. In providing an explanation, the signatory should aim to illustrate how its actual practices contribute to good stewardship and promote the delivery of the institution’s or its clients’ investment objectives. They should provide a clear rationale for their approach.
4. The Financial Services Authority requires any firm authorised to manage funds, which is not a venture capital firm, and which manages investments for professional clients that are not natural persons, to disclose “the nature of its commitment” to the Code or “where it does not commit to the Code, its alternative investment strategy” (under Conduct of Business Rule 2.2.3¹).
5. The FRC recognises that not all parts of the Code are relevant to all signatories. For example, smaller institutions may judge that some of its principles and guidance are disproportionate in their case. In these circumstances, they should take advantage of the “comply or explain” approach and set out why this is the case.
6. In their responses to explanations, clients and beneficiaries should pay due regard to the signatory’s individual circumstances and bear in mind in particular the size and complexity of the signatory, the nature of the risks and challenges it faces, and the investment objectives of the signatory or its clients.
7. Whilst clients and beneficiaries have every right to challenge a signatory’s explanations if they are unconvincing, they should not evaluate explanations in a mechanistic way. Departures from the Code should not be automatically treated as breaches. A signatory’s clients and beneficiaries should be careful to respond to the statements from the signatory in a manner that supports the “comply or explain” process and bears in mind the purpose of good stewardship. They should put their views to the signatory and both parties should be prepared to discuss the position.

¹ <http://fsahandbook.info/FSA/html/handbook/COBS/2/2>

The Principles of the Code

So as to protect and enhance the value that accrues to the ultimate beneficiary, institutional investors should:

1. publicly disclose their policy on how they will discharge their stewardship responsibilities.
2. have a robust policy on managing conflicts of interest in relation to stewardship which should be publicly disclosed.
3. monitor their investee companies.
4. establish clear guidelines on when and how they will escalate their stewardship activities.
5. be willing to act collectively with other investors where appropriate.
6. have a clear policy on voting and disclosure of voting activity.
7. report periodically on their stewardship and voting activities.

The UK Stewardship Code

Principle 1

Institutional investors should publicly disclose their policy on how they will discharge their stewardship responsibilities.

Guidance

Stewardship activities include monitoring and engaging with companies on matters such as strategy, performance, risk, capital structure, and corporate governance, including culture and remuneration. Engagement is purposeful dialogue with companies on those matters as well as on issues that are the immediate subject of votes at general meetings.

The policy should disclose how the institutional investor applies stewardship with the aim of enhancing and protecting the value for the ultimate beneficiary or client.

The statement should reflect the institutional investor's activities within the investment chain, as well as the responsibilities that arise from those activities. In particular, the stewardship responsibilities of those whose primary activities are related to asset ownership may be different from those whose primary activities are related to asset management or other investment-related services.

Where activities are outsourced, the statement should explain how this is compatible with the proper exercise of the institutional investor's stewardship responsibilities and what steps the investor has taken to ensure that they are carried out in a manner consistent with the approach to stewardship set out in the statement.

The disclosure should describe arrangements for integrating stewardship within the wider investment process.

Principle 2

Institutional investors should have a robust policy on managing conflicts of interest in relation to stewardship which should be publicly disclosed.

Guidance

An institutional investor's duty is to act in the interests of its clients and/or beneficiaries.

Conflicts of interest will inevitably arise from time to time, which may include when voting on matters affecting a parent company or client.

Institutional investors should put in place, maintain and publicly disclose a policy for identifying and managing conflicts of interest with the aim of taking all reasonable steps to put the interests of their client or beneficiary first. The policy should also address how matters are handled when the interests of clients or beneficiaries diverge from each other.

Principle 3

Institutional investors should monitor their investee companies.

Guidance

Effective monitoring is an essential component of stewardship. It should take place regularly and be checked periodically for effectiveness.

When monitoring companies, institutional investors should seek to:

- keep abreast of the company's performance;
- keep abreast of developments, both internal and external to the company, that drive the company's value and risks;
- satisfy themselves that the company's leadership is effective;
- satisfy themselves that the company's board and committees adhere to the spirit of the UK Corporate Governance Code, including through meetings with the chairman and other board members;
- consider the quality of the company's reporting; and
- attend the General Meetings of companies in which they have a major holding, where appropriate and practicable.

Institutional investors should consider carefully explanations given for departure from the UK Corporate Governance Code and make reasoned judgements in each case. They should give a timely explanation to the company, in writing where appropriate, and be prepared to enter a dialogue if they do not accept the company's position.

Institutional investors should endeavour to identify at an early stage issues that may result in a significant loss in investment value. If they have concerns, they should seek to ensure that the appropriate members of the investee company's board or management are made aware.

Institutional investors may or may not wish to be made insiders. An institutional investor who may be willing to become an insider should indicate in its stewardship statement the willingness to do so, and the mechanism by which this could be done.

Institutional investors will expect investee companies and their advisers to ensure that information that could affect their ability to deal in the shares of the company concerned is not conveyed to them without their prior agreement.

Principle 4

Institutional investors should establish clear guidelines on when and how they will escalate their stewardship activities.

Guidance

Institutional investors should set out the circumstances in which they will actively intervene and regularly assess the outcomes of doing so. Intervention should be considered regardless of whether an active or passive investment policy is followed. In addition, being underweight is not, of itself, a reason for not intervening. Instances when institutional investors may want to intervene include, but are not limited to, when they have concerns about the company's strategy, performance, governance, remuneration or approach to risks, including those that may arise from social and environmental matters.

Initial discussions should take place on a confidential basis. However, if companies do not respond constructively when institutional investors intervene, then institutional investors should consider whether to escalate their action, for example, by:

- holding additional meetings with management specifically to discuss concerns;
- expressing concerns through the company's advisers;
- meeting with the chairman or other board members;
- intervening jointly with other institutions on particular issues;
- making a public statement in advance of General Meetings;
- submitting resolutions and speaking at General Meetings; and
- requisitioning a General Meeting, in some cases proposing to change board membership.

Principle 5

Institutional investors should be willing to act collectively with other investors where appropriate.

Guidance

At times collaboration with other investors may be the most effective manner in which to engage.

Collective engagement may be most appropriate at times of significant corporate or wider economic stress, or when the risks posed threaten to destroy significant value.

Institutional investors should disclose their policy on collective engagement, which should indicate their readiness to work with other investors through formal and informal groups when this is necessary to achieve their objectives and ensure companies are aware of concerns. The disclosure should also indicate the kinds of circumstances in which the institutional investor would consider participating in collective engagement.

Principle 6

Institutional investors should have a clear policy on voting and disclosure of voting activity.

Guidance

Institutional investors should seek to vote all shares held. They should not automatically support the board.

If they have been unable to reach a satisfactory outcome through active dialogue then they should register an abstention or vote against the resolution. In both instances, it is good practice to inform the company in advance of their intention and the reasons why.

Institutional investors should disclose publicly voting records.

Institutional investors should disclose the use made, if any, of proxy voting or other voting advisory services. They should describe the scope of such services, identify the providers and disclose the extent to which they follow, rely upon or use recommendations made by such services.

Institutional investors should disclose their approach to stock lending and recalling lent stock.

Principle 7

Institutional investors should report periodically on their stewardship and voting activities.

Guidance

Institutional investors should maintain a clear record of their stewardship activities.

Asset managers should regularly account to their clients or beneficiaries as to how they have discharged their responsibilities. Such reports will be likely to comprise qualitative as well as quantitative information. The particular information reported and the format used, should be a matter for agreement between agents and their principals.

Asset owners should report at least annually to those to whom they are accountable on their stewardship policy and its execution.

Transparency is an important feature of effective stewardship. Institutional investors should not, however, be expected to make disclosures that might be counterproductive. Confidentiality in specific situations may well be crucial to achieving a positive outcome.

Asset managers that sign up to this Code should obtain an independent opinion on their engagement and voting processes having regard to an international standard or a UK framework such as AAF 01/06². The existence of such assurance reporting should be publicly disclosed. If requested, clients should be provided access to such assurance reports.

² Assurance reports on internal controls of service organisations made available to third parties:
<http://www.icaew.com/en/technical/audit-and-assurance/assurance/technical-release-aaf-01-06>



The FRC is responsible for promoting high quality corporate governance and reporting to foster investment. We set the UK Corporate Governance and Stewardship Codes as well as UK standards for accounting, auditing and actuarial work. We represent UK interests in international standard-setting. We also monitor and take action to promote the quality of corporate reporting and auditing. We operate independent disciplinary arrangements for accountants and actuaries; and oversee the regulatory activities of the accountancy and actuarial professional bodies.

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UP/FRC-BI12002

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NORTH YORKSHIRE PENSION FUND

INVESTMENT STRATEGY STATEMENT

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1.0 INTRODUCTION

- 1.1 Regulation 7 of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (the Regulations) requires administering authorities to formulate, publish and maintain an Investment Strategy Statement (ISS). This document is the ISS of the North Yorkshire Pension Fund (NYPF, or the Fund) for which North Yorkshire County Council (the Council) is the administering authority.
- 1.2 The Council has delegated all its functions as the administering authority of NYPF to the Pension Fund Committee (PFC, or the Committee). The Corporate Director - Strategic Resources, who reports to the Chief Executive, has day to day control of the management of all aspects of the Fund's activities.
- 1.3 The Committee determines the investment policy of the Fund and has ultimate responsibility for the investment strategy. The Committee undertakes its responsibilities after taking appropriate advice from external advisers.
- 1.4 The Committee seeks to invest in accordance with the ISS, any Fund money that is not needed immediately to make payments from the Fund. The ISS should be read in conjunction with the Fund's Funding Strategy Statement.

2.0 OBJECTIVES OF THE FUND

- 2.1 The primary objective of the Fund is to provide pension benefits for members upon retirement and/or benefits on death for their dependents, on a defined benefits basis. Investments will therefore be selected with the aim of fully funding these benefit requirements over an extended number of years. The funding position will be reviewed at each Triennial Valuation with adjustments to the investment strategy, asset allocation and to investments with investment managers as required.
- 2.2 The investment objective of the Fund is to provide for sufficient capital growth of the Fund's assets in a range of market conditions, supplemented by employee and employer contribution income, to meet the cost of benefits as they fall due. It is translated into a suitable strategic asset allocation benchmark designed to address the nature of the Fund's liabilities, and deliver returns over the long term including through periods of volatility in financial markets.

3.0 INVESTMENT OF MONEY IN A WIDE VARIETY OF INVESTMENTS

- 3.1 The Committee reviews the investments of the Fund on a regular basis. The last review of the investment strategy took place in 2013 and there is an ongoing review of the strategy, alongside the 2016 Triennial Valuation, due to be completed in 2017. Additional reviews of individual asset classes have also taken place, with particular regard to diversification and suitability. The Committee receives advice from its Investment Consultant when undertaking such reviews.
- 3.2 These reviews provide a framework designed to produce the returns the Fund requires over the long term to meet its future liabilities. Each asset class invested in is allocated a range, and rebalancing takes place when values stray beyond them due to market conditions. Further rebalancing may take place based on tactical views of the Fund's advisers.
- 3.3 The Fund's current strategic asset allocation is set out below. The table also includes the ranges within which the asset allocation may vary without specific reference to the Committee, however in practice the allocation is considered by the Committee each quarter and adjustments made as necessary.

	Minimum %	Benchmark %	Maximum %
Equities	50	62	75
Alternatives	10	20	20
Fixed Income	15	18	30

- 3.4 The largest proportion of the Fund's investments are in equities which is aimed at growing the value of assets over the long term. Other return seeking asset classes complement this goal, with the allocation to liability matching assets providing a measure of protection against rising liability valuations.
- 3.5 Each asset class is sub-divided into two or more mandates with different investment managers and operating to different benchmarks, further increasing the diversification of the Fund's investments.
- 3.6 The most recent changes to the strategy have been the addition of Alternatives, being Property (2012), Diversified Growth Funds (2013) and Private Debt (2016). These asset classes have served to further diversify the Fund's investments, spreading risk and reducing short term volatility.
- 3.7 Each investment manager operates to a specific benchmark and to specific mandate restrictions appropriate to their process and style, so that in aggregate, their activities are aligned to the overall performance requirements and risk appetite of the Fund. Each manager holds a range of underlying investments which reflects their views relative to their respective benchmarks, as permitted by their mandates.
- 3.8 The investment management arrangements of the Fund are as follows.

Manager	Mandate	Objective
Standard Life	UK Equities	To outperform the FTSE 350 (excluding Investment Trusts) Equally Weighted Index by 3% pa over the long term
Baillie Gifford	Global Equities (Global Alpha)	To outperform the FTSE All World Index by 2% over the long term
Baillie Gifford	Global Equities (Long Term Global Growth)	To outperform the FTSE All World Index by 3% over the long term
Dodge & Cox	Global Equities	To outperform the MSCI All Country World Index over a market cycle
Veritas	Global Equities	To outperform CPI + 6% to 10% over the medium term
Fidelity	Overseas Equities	To outperform an MSCI geographically weighted index by 2% pa over the medium term
Newton	Diversified Growth Fund	To outperform LIBOR by 4% over the medium term
Standard Life	Diversified Growth Fund	To outperform LIBOR by 5% over the medium term
Hermes	UK Property	To outperform the IPD Other Balanced Property Funds Index by 0.5% over the medium term
Legal & General	UK Property	To outperform the IPD All Balanced

		Property Funds Index over the medium term
Threadneedle	UK Property	To outperform the IPD All Balanced Property Funds Index by 1% to 1.5% over the medium term
M&G	UK Government Bonds	To outperform liabilities by 0.5%
ECM	European Corporate Bonds	To outperform LIBOR by 3%
BlueBay	Private Debt	IRR of 9% gross (7% net) including 4.5% cash yield
Permira	Private Debt	IRR of 9% gross (8% net) including 5% cash yield

4.0 THE SUITABILITY OF PARTICULAR INVESTMENTS AND TYPES OF INVESTMENTS

4.1 The following categories of investment have been approved as suitable for the NYPF.

UK Equities provide a share in the assets and profitability of public companies floated on UK stock exchanges. Capital gains and losses arise as share prices change to reflect investor expectations at the market, sector and stock levels. Income is derived from dividends.

Overseas Equities are similar to UK Equities but allow greater diversification amongst markets, sectors and stocks. Valuations are affected by exposure to movements in the relative value of the foreign currencies in which investments are made against sterling. Exchange rates are likely to reflect differentials in inflation so should not affect returns materially over the long term, but over the short term currency movements may significantly add to or subtract from returns. Equities are expected to provide high returns compared to other asset classes (the "equity-risk premium"); to address the NYPF deficit position a high proportion of assets will be held in equities.

UK Bonds are debt instruments issued by the UK Government and other borrowers. Bonds provide a fixed rate of interest and are usually redeemed at a fixed price on a known future date. Valuations primarily reflect the fixed level of interest, the period to redemption and the overall return demanded by investors. They are vulnerable to rising inflation and correspondingly benefit from falling inflation.

Overseas Bonds are similar to UK Bonds but have exposure to currency exchange rate fluctuations. As with UK bonds they are influenced by local inflation rates.

Index Linked Bonds are bonds that provide interest and a redemption value directly linked to a measure of inflation, usually the Retail Price Index or a similar index. The returns from this asset class act as a useful proxy for movements in liability values.

Diversified Growth Funds	are an alternative way of investing in shares, bonds, property and other asset classes. These funds are managed by specialist multi-asset managers and target returns slightly below that of equities but with significantly reduced volatility due to the diversification of their constituent parts.
UK Property	is an investment in buildings, indirectly through pooled vehicles. Capital gains and losses occur as prices fluctuate in line with rental levels and investor demand. Income is generated from rents collected from tenants. The nature of rental agreements gives property some of the characteristics of bonds, whilst growth and inflation provide some of the characteristics of equities. It is, therefore, a useful diversifying asset class.
Private Debt	is loan arrangements provided directly to companies over the medium term for an index linked return, significantly above rates charged by commercial banks. Typically they are provided through pooled fund arrangements and require that investors commit funds for a period of 5 to 7 years, with income and capital being returned throughout that time.
Derivative Instruments	such as options and futures are mechanisms through which the Fund can be protected from sudden changes in share prices or exchange rates. Although not income producing they can result in capital gains and losses. They may be used to hedge the Fund's exposure to particular markets.
Cash	is invested in authorised institutions in accordance with the treasury management policy of the Council under the terms of a Service Level Agreement and attracts interest at market rates.

- 4.2 Each asset class has different return expectations and volatility characteristics. They are blended to produce the optimal investment return while taking an appropriate level of risk. Periodic investment reviews assess whether this blend requires adjustment, including through the addition of new asset classes, to take account of changing market conditions and the evolving asset and liability profile of the Fund. Tactical rebalancing also takes place, as required. All monitoring, reviews and rebalancing is undertaken after taking advice from the Fund's Investment Consultant.
- 4.3 The 2016 Triennial Valuation was prepared on the basis of an expected return on assets of 5.9% over the long term. This return is 1.5% above the discount rate used to calculate the Fund's liabilities and reflects a "probability of funding success" as described in the Funding Strategy Statement of 75%. This is based on the Fund's current asset mix and assumes no outperformance from active management.

5.0 THE APPROACH TO RISK, INCLUDING THE WAYS IN WHICH RISKS ARE TO BE MEASURED AND MANAGED

- 5.1 The Fund to aims to achieve its funding objective by taking an appropriate level of risk, through investing a proportion of funds in growth assets. Ongoing monitoring of the risk profile takes place including reassessing its appropriateness through investment strategy reviews and at the quarterly meetings of the PFC when appropriate. Close regard is paid to the ongoing risks which may arise through a developing mismatch, over time, between the assets of the Fund and its liabilities, together with the risks which may arise from any lack of balance/ diversification of the investment of those assets.

- 5.2 The risk of financial mismatch is that the Fund's assets fail to grow in line with the liabilities. It is managed by the Committee through a review of the assumptions used to calculate the Fund's liabilities at each Triennial Valuation, and an assessment by the Actuary of the Fund's asset allocation strategy of the probability of achieving funding success. This assessment forms the basis for subsequent asset allocation reviews aimed at controlling risk and further improving the funding position.
- 5.3 Longevity risk and other demographic factors are assessed at each Triennial Valuation. The Committee reviews national and Fund specific trends as part of this process.
- 5.4 Systemic risk, being the possibility that an event akin to the financial crisis occurs, is mitigated through the diversified nature of the Fund's asset allocation strategy. The Committee has taken steps since 2008 to spread investments across a larger number of asset classes which behave differently in different market conditions. The risks associated with individual asset classes, the combined nature of risks at Fund level are reassessed at each strategy review and changes made as appropriate.
- 5.5 This diversification across asset classes and across investment managers within each asset class significantly mitigates concentration risk, so that the effect of underperformance of any one asset class or investment manager is minimised. Rebalancing activity prevents departure from the strategic asset allocation benchmark.
- 5.6 The significant majority of the Fund's assets are invested in liquid investments, so that the risk of illiquidity, being an inability to meet liabilities as a result of a lack of liquid assets, is minimal. The risk is further managed by cashflow forecasting.
- 5.7 Currency risk is that the Fund's assets, the majority of which are overseas, underperform relative to Sterling. This risk is managed through a periodic assessment of currency exchange rates including receiving advice on the suitability of hedging the major currencies the Fund's assets are denominated in.
- 5.8 Agreements with the Fund's custodian and investment managers provide protection against fraudulent losses. In addition regular checks are undertaken by independent auditors of the custodian's and investment managers' systems. These organisations have internal compliance teams which also monitor and report on risk.
- 5.9 The Fund maintains a Risk Register which identifies the key risks, an assessment of the potential impact of each risk should it occur, and the controls and contingency plans in place to mitigate the likelihood and severity of each risk. The Risk Register is reviewed by the PFC annually and by the Pension Board semi-annually.

6.0 THE APPROACH TO POOLING INVESTMENTS, INCLUDING THE USE OF COLLECTIVE INVESTMENT VEHICLES AND SHARED SERVICES

- 6.1 The Fund is a provisional member of the Border to Coast Pensions Partnership ("BCPP", or "the Pool"). The proposed structure and basis on which the BCPP will operate was initially set out in the July 2016 submission to Government and is currently under review as part of the plans for formal creation of the Pool vehicle.
- 6.2 The key criteria for the assessment of the Pool are that it provides a suitable solution that meets the investment objectives and asset allocation strategy of the Fund and that there is significant financial benefit to joining the arrangements.
- 6.3 The change in arrangements is that the Pool will be responsible for manager selection and monitoring, which is currently a responsibility of the Committee. The responsibilities for determining the investment strategy and asset allocation strategy will remain with the Committee.

- 6.4 At the time of preparing this statement the details of the pooling arrangements are being finalised. However it is expected that NYPF's liquid assets will be transitioned into the Pool once suitable sub-funds are in place, and that illiquid investments will be retained by NYPF. New investments will be made through the Pool wherever possible.
- 6.5 The July 2016 submission to Government of BCPP, available on the Fund's website www.nypf.org.uk, provided a statement addressing an outline structure and governance of the Pool, the mechanisms by which the Fund can hold the Pool to account and the services that will be shared or jointly procured. Government approved this approach on 12 December 2016. The Fund has subsequently been working with the BCPP to progress final arrangements.
- 6.6 Arrangements include establishing a Financial Conduct Authority regulated company to manage the assets of BCPP partner funds. Based on legal advice describing the options on holding shares in this company (BCPP Limited), the Fund will hold all voting and non-voting shares rather than the Council. This is because the purpose of the company is to meet the needs of the constituent Funds in complying with the regulations on pooling, rather than for a Council specific purpose.
- 6.7 The Fund will hold the Pool to account through having a representative on the Joint Committee, which as an investor will monitor and oversee the investment operations of BCPP Limited. It will also have a representative on the Shareholder Board, which will as an owner provide oversight and control of the corporate operations of BCPP Limited.
- 6.8 As the Pool develops and the structure and governance of the Pool are established, the Fund will include this information in future iterations of the ISS.

7.0 HOW SOCIAL, ENVIRONMENTAL OR CORPORATE GOVERNANCE CONSIDERATIONS ARE TAKEN INTO ACCOUNT IN THE SELECTION, NON-SELECTION, RETENTION AND REALISATION OF INVESTMENTS

- 7.1 The PFC takes the view that its overriding obligation is to act in the best financial interests of the Scheme and its beneficiaries. It is recognised that environmental, social and governance ("ESG") factors can influence long term investment performance and the ability to achieve long term sustainable returns. Therefore, as a responsible investor, the Committee wishes to promote corporate social responsibility, good practice and improved performance amongst all companies in which it invests.
- 7.2 The Committee considers the financial impact of ESG factors on its investments through regular reporting by the Fund's investment managers. Engagement with company management and voting behaviour are integral to investment processes aimed at improving performance in companies in which they invest.
- 7.3 As well as delegating the Fund's approach to ESG issues to its investment managers, NYPF is also a member of the Local Authority Pension Fund Forum (LAPFF) which is the UK's leading collaborative shareholder engagement group. This organisation promotes ESG good practice on behalf of over 70 LGPS funds. Its activity acts as a complement to that undertaken by the Fund's investment managers. Any differences in approach are discussed with the Fund's investment managers so that the reasons are fully understood.
- 7.4 The Fund is compliant with the six principles on investment decision making for occupational pension schemes, as set out in the guidance published by the Chartered Institute of Public Finance and Accountancy in December 2009 called "Investment Decision Making and Disclosure in the Local Government Pension Scheme: A Guide to the Application of the Myners Principles".

8.0 THE EXERCISE OF RIGHTS (INCLUDING VOTING RIGHTS) ATTACHING TO INVESTMENTS

- 8.1 The Committee has delegated the exercise of voting rights to Pension Investment Research Consultants Limited (PIRC). Votes are executed by PIRC according to predetermined Shareholder Voting Guidelines agreed by the PFC, available on the Fund's website. These guidelines are aligned to the UK Stewardship Code and to best practice in other jurisdictions. Votes are cast for all UK equities held by the Fund, and for non-UK holdings where practicable. The Fund monitors voting decisions on a regular basis.
- 8.2 The Fund adheres to the Stewardship Code as published by the Financial Reporting Council. The Committee will expect both BCPP Ltd and any investment managers appointed by it to also comply with the Stewardship Code.
- 8.3 The Fund's collective engagement activity through the LAPFF supports the voting activity undertaken by PIRC.
- 8.4 The Fund aims to adopt the Principles of the Financial Reporting Council's UK Stewardship Code. A Statement of Compliance will be published on the Fund's website in 2017.

23 February 2017

NORTH YORKSHIRE PENSION FUND

Statement of Compliance with the UK Stewardship Code for Institutional Investors

Introduction

The UK Stewardship Code aims to enhance the quality of engagement between institutional investors and the companies with which they hold investments to assist in improving long term returns to shareholders. The North Yorkshire Pension Fund (NYPF) aims to apply the values of the code across its investment activity and believes that these values being met is essential to discharge the duty we owe to stakeholders.

This Statement of Compliance details the approach of NYPF to the seven principles of the Code.

Principle 1 - Institutional investors should publicly disclose their policy on how they will discharge their stewardship responsibilities

The NYPF takes its responsibility as a shareholder seriously and seeks to adhere to the UK Stewardship Code wherever possible. Whilst the Fund does not currently have a specific Stewardship Policy, the Investment Strategy Statement and Governance Compliance Statement describe the Fund's approach to stewardship; both of these policies are available on the Fund's website.

As a responsible investor, NYPF wishes to promote corporate social responsibility and good governance practice amongst all companies in which it invests by being an engaged asset owner. In accordance with the Stewardship Code, the Fund will seek to ensure that there is effective engagement with companies to make sure that strong governance arrangements are in place; this can ultimately have a positive impact on investment performance and therefore the funding level of the Fund. In practice, the Fund applies the code in a number of ways, including through its arrangements with investment managers and through membership of collaborative groups.

The day to day investment activity of NYPF is delegated to external investment managers, who are expected to adhere to the policies that were approved during inception, though the Fund retains the right to direct an investment manager in respect of any specific issue. The policies adhered to during inception must take account of the UK Corporate Governance Code and the UK Stewardship Code and are expected to follow the best practice contained within these codes alongside any local standards when dealing with overseas investments. Currently eight of our investment managers have a published statement of compliance to the UK Stewardship Code with the four remaining being investors in private debt and property funds. On appointment, the investment manager's approach to stewardship

is assessed. Managers are also asked to include stewardship activity in their quarterly reports that are taken to the Pension Fund Committee (PFC) for review.

The Fund is also a member of the Local Authority Pension Fund Forum (LAPFF) which is a collaborative shareholder engagement group for Local Authority Pension Funds who monitor corporate governance issues at investee companies and provide guidance accordingly. Members of the PFC also attend the LAPFF Annual Conference to keep up to date with the work of the LAPFF.

The exercising of voting rights is delegated to the Pension Investment Research Consultants Limited (PIRC) and executed according to predetermined Shareholder Voting Guidelines. These guidelines are agreed by the Pension Fund Committee and aligned to the UK Stewardship Code and to best practice in other jurisdictions. Votes are cast for all UK equities held by the Fund. The Fund monitors voting decisions on a regular basis.

Principle 2 - Institutional investors should have a robust policy on managing conflicts of interest in relation to stewardship and this policy should be publicly disclosed

The administering authority of the NYPF requires disclosure of any interests a Member may possess in a company or organisation which has dealings with the authority and this disclosure must be placed in the Register of Members' Interests; this register is available on the authority's website. In addition to the entries on the Register, Members are also asked to declare any conflicts of interest at the start of each Pension Fund Committee meeting which will be documented as part of the minutes for that meeting. Dependent upon the nature of the interest, the chairman of the PFC will ensure appropriate action is taken to prevent any conflict of interest affecting the decision making process. This requirement can be found in the Code of Conduct for Members of North Yorkshire County Council.

The Fund expects a similar approach to be taken by its investment managers and external advisors with the organisation's Internal Controls document reviewed at inception to ensure consistency with the Fund's own policy. These Internal Control documents are also reviewed regularly by the Fund following inception. Where any conflicts exist, these are to be reported to the Fund along with the actions taken to negate the conflict.

Principle 3 - Institutional investors should monitor their investment companies

The daily responsibility of managing the Fund's investments lies primarily with the individual investment managers and as such we expect them to monitor and report on the organisations they have invested in on our behalf, intervening when necessary. The minimum requirement is a quarterly update on the investment managers' performance and activity which is assessed against specific benchmarks and details any performance issues with the assets contained therein. To compliment this, investment managers attend the quarterly meetings to discuss

aspects of the Fund and are expected to report in a timely manner any issues that have become apparent.

As noted previously, the exercising of the Funds voting rights are delegated to Pension Investment Research Consultants Limited (PIRC). The voting decisions are influenced by our membership of the LAPFF which supports the voting activity undertaken by PIRC. Both organisations monitor investee companies on our behalf and report to the Fund on a quarterly basis. The Shareholder Voting Guidelines which PIRC adhere to encourage the promotion of corporate social responsibility, good practice and improved performance which it considers to be essential elements of long term share performance.

In addition to this, the Fund also receives alerts from the LAPFF with regard to governance issues and liaises with the investment managers where it is appropriate to gain more knowledge and agree a course of action where it is deemed appropriate.

Principle 4 - Institutional investors should establish clear guidelines on when and how they will escalate their activities as a method of protecting and enhancing shareholder value

With the Fund's investment managers monitoring the companies in which investments are held, it follows that any escalation in engagement activity is also undertaken by the investment managers within the guidelines that were stipulated during the initial engagement of the investment manager. Any escalation activity taken by investment managers is reported to the PFC on a quarterly basis.

On a separate basis and in conjunction with the LAPFF and PIRC, the Fund may decide to escalate engagement activity itself through a joint shareholder action where it is felt that actions by the company have resulted or could result in a loss of shareholder value or a deviation by the company which contradicts the basis on which the original investment was made. Such instances will usually be brought to the fore by the LAPFF as a result of their monitoring activities.

In extreme cases, the Fund may engage in shareholder litigation to recover any loss in value caused by the actions of an investee company. To facilitate this the Fund retains the services of companies such as the Goal Group and Grant & Eisenhower. All activity relating to this is reported on a quarterly basis to the PFC.

Principle 5 - Institutional investors should be willing to act collectively with other investors where appropriate

The Fund seeks to work collaboratively with other institutional investors to maximise the influence it can have on individual companies. This is achieved by being an engaged member of the LAPFF which aims to protect the long term investments of its members through promoting the highest standards of corporate governance and

corporate responsibility amongst investee companies. A representative from the Pension Fund Committee (PFC) attends the annual LAPFF conference to gain an understanding of, and have input to, any proposed engagement activities.

The implementation of LGPS Pooling Arrangements will also aid acting collaboratively going forward. Pooling will increase the individual power and influence of investors in order to push for change.

The main contact for collaborative purposes is Amanda Alderson, Senior Accountant for the Fund, who can be contacted by email at Amanda.alderson@northyorks.gov.uk.

Principle 6 - Institutional investors should have a clear policy on voting and disclosure of voting activity

The NYPF has instructed Pension Investment Research Consultants Ltd (PIRC) to execute the voting rights for all segregated UK Equities held by the Fund and Non UK where practicable. These votes are executed by PIRC according to predetermined Shareholder Voting Guidelines agreed by the PFC which are reviewed on an annual basis and exemplify the Funds commitment to Responsible Investing and best practice. Should PIRC raise any contentious issues these are reported to the PFC, as they will have the final say on how the vote is to be made.

Voting rights which fall outside the scope of PIRC are delegated to the investment managers and expected to be exercised in line with the Shareholder Voting Guidelines and the investment manager policies which were agreed upon by the Fund. The exercising of all voting rights is to be aligned with the interests of the Fund and communicate a clear approach to issues so that companies can fully understand both the intentions and views of the Fund. Where the board's resolutions do not meet the alignment of the Funds interests, the investment manager will either abstain from the vote or vote against the board's resolution and communicate to the company the reasons why the resolution is not being supported.

Additional guidance issued by the LAPFF can also have a bearing on voting intentions.

The Fund does not currently participate in stock lending in its segregated accounts.

Principle 7 - Institutional investors should report periodically on their stewardship and voting activities

The Fund's investment managers are required to detail in their quarterly reports any stewardship activities that have been performed in that period. These activities are reviewed by the committee on a quarterly basis.

Whilst stewardship activities have formed part of the quarterly PFC reporting and the NYPF approach to stewardship and voting activities is detailed in the Investment Strategy Statement, they have not been summarised in the annual accounts. Beginning with the 2017/18 financial year, a section will be provided in the annual accounts which details stewardship activities and an analysis of the voting activity in the year.

NORTH YORKSHIRE COUNTY COUNCIL**PENSION BOARD****18 JANUARY 2018****LGPS POOLING ARRANGEMENTS****1.0 PURPOSE OF THE REPORT**

- 1.1 To provide Pension Board members with an update on the progress made towards the LGPS Pooling arrangements.

2.0 LGPS POOLING UPDATE

- 2.1 There continues to be a significant amount of work on the implementation of LGPS pooling arrangements and the setting up of BCPP. Since the last meeting of the Board, there has been one Joint Committee meeting on 20 October 2017. The next meeting of the Joint Committee is to be held on 16 January 2018, two days before the next Pension Board meeting. A verbal update will be provided by officers in the meeting.

- 2.2 The new BCPP website has now been launched that contains further information on the Pool:

<https://www.bordertocoast.org.uk/>

- 2.3 The implementation of the Company is still on track and expecting a transfer of assets to begin with effect from June 2018. To remind Board members, there have been 3 workstreams created in developing the Company: (i) Governance, (ii) People and (iii) Operating Model each of which has Member and officer involvement. The Joint Committee are provided with updates on these activities at each of their quarterly meetings. A verbal update on these workstreams will also be provided to Board Members at the next meeting.

3.0 RECOMMENDATION

- 3.1 Pension Board members to note the content of the report.

North Yorkshire County Council

Pension Board

18 January 2018

Training

1.0 Purpose of the Report

To provide an update on Pension Board member training.

2.0 Background

The Training Policy was adopted by the Pension Board at its inaugural meeting in July 2015. This set out the knowledge and understanding requirements of members of the Pension Board, routes to obtaining training, and training review arrangements.

It states that the suitability of training events and activities should be based on a self-assessment carried out by each Pension Board member. The regulations place the responsibility for making this assessment, and subsequent action to ensure Pension Board members have an appropriate level of knowledge and understanding, on the individual members. In addition, the Pensions Regulator requires that Pension Board members invest time in learning and development.

3.0 Training Activity

Detailed in **Appendix 1** are training events attended and activities undertaken by Pension Board members. Board members are asked to review the training record and advise officers if updates are required.

Pension Board members may wish to discuss the merits of recently undertaken training activity and where appropriate the pros and cons, to inform other Board members of its usefulness.

4.0 Training Opportunities

The Pensions Regulator described the modules on its website as “essential to achieve the required level of trustee knowledge and understanding” and “essential learning for those working with or running public service schemes”. The Pension Board agreed at its meeting on 30 July 2015 that these modules would be completed by all members, however, at the meeting of the Board held on 17 October 2017, it was agreed that it was not necessary for all Members to complete all the modules.

Pension Board members are asked to discuss and identify their specific learning and development requirements with officers who will make appropriate arrangements for attendance at training events.

5.0 Recommendations

- (i) That Members provide an update regarding any Pensions Regulator modules they wish to complete and likely timescales for this.
- (ii) That Members provide details of any training they wish to be included on the training record:
- (iii) That Members should continue to identify any appropriate training needs.

Barry Khan
Assistant Chief Executive (Legal and Democratic Services)
County Hall
Northallerton

Background Documents: Pensions Regulator on-line training modules

Pension Board Members - Training, Meetings and Events

Appendix 1

Date	Title or Nature of Course	Sponsor/ Organiser	Venue	David Portlock - Chair	Mandy Swithenbank	Stella Smethurst	Gordon Gresty	Louise Branford- White	Cllr Mike Jordan	Cllr Ian Cuthbertson	Phil MacDonald
04/06/15	Training Event for Pension Board Members	LGA	Marriott Hotel, Leeds			X	X	X	X		
03/07/15	Pension Board Member Training	AON	Leeds		X				X		
17/07/15	Pension Board Member Training	AON	Leeds		X	X			X		
24/07/15	Pension Board Member Training	AON	Leeds			X			X		
21/10/15	LGPS Trustee Training – Fundamentals XIV	LGA	Leeds		X	X	X			X	
17/11/15	LGPS Trustee Training – Fundamentals XIV	LGA	Leeds	X	X	X	X			X	
08/12/15	LGPS Trustee Training – Fundamentals XIV	LGA	Leeds	X	X	X	X	X	X	X	
14/01/16	Governance for North Yorkshire Pension Board	Peter Scales – Independent Observer for the North Yorkshire pension fund	County Hall	X	X	X	X	X	X	X	
29/06/16	Local Pension Board Conference	CIPFA & Barnett Waddingham	London	X							
01/03/17	LGPS Spring Seminar	CIPFA & Barnett Waddingham	Leeds	X							X
28/06/17	Local Pension Boards 2 years on	CIPFA & Barnett Waddingham	London	X							
29/06/17 and 30/06/17	Annual LGPS “Trustees” Conference	LGA	Bournemouth	X							X
11/09/17 and 12/09/17	Introduction to Pension Funds – New Pension Fund Committee and Pension Board Members	BCPP	York	X	X		X			X	
10/11/17	Local Pension Boards Autumn Seminar	CIPFA	Liverpool		X					X	
17/09/15	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							

Date	Title or Nature of Course	Sponsor/ Organiser	Venue	David Portlock - Chair	Mandy Swithenbank	Stella Smethurst	Gordon Gresty	Louise Branford- White	Cllr Mike Jordan	Cllr Ian Cuthbertson	Phil MacDonald
26/11/15	North Yorkshire Pension Fund Committee	NYCC	County Hall	X	X	X					
15/01/16	North Yorkshire Pension Fund Committee	NYCC	County Hall	X	X	X					
25/02/16	North Yorkshire Pension Fund Committee	NYCC	County Hall	X		X					
19/05/16	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
07/07/16	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
15/09/16	North Yorkshire Pension Fund Committee	NYCC	County Hall	X	X		X				
24/11/16	North Yorkshire Pension Fund Committee	NYCC	County Hall	X		X					
26/01/17	North Yorkshire Pension Fund Committee	NYCC	County Hall	X	X			X	X	X	X
23/02/17	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
31/03/17	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
25/05/17	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
14/09/17	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
23/11/17	North Yorkshire Pension Fund Committee	NYCC	County Hall	X							
25/11/16	North Yorkshire Pension Investment Strategy Workshop	NYPF	County Hall	X							
23/02/17	North Yorkshire Pension Investment Strategy Workshop	NYPF	County Hall	X							
15/09/17	North Yorkshire Pension Investment Strategy Workshop	NYPF	County Hall	X							
17/11/17	North Yorkshire Pension Investment Strategy Workshop	NYPF	County Hall	X							

Date	Title or Nature of Course	Sponsor/ Organiser	Venue	David Portlock - Chair	Mandy Swithenbank	Stella Smethurst	Gordon Gresty	Louise Branford- White	Cllr Mike Jordan	Cllr Ian Cuthbertson	Phil MacDonald
20/12/17	North Yorkshire Pension Investment Strategy Workshop	NYPF	County Hall	X							
11/11/16	Triennial Valuation Seminar	Actuary	County Hall	X				X			
13/01/17	Pooling – Employers Seminar	NYPF	County Hall	X	X		X	X			
24/02/17	North Yorkshire Pension Fund Manager Meeting	NYPF	County Hall	X							
03/03/16	Audit Committee Training Session - Counter Fraud	NYCC	County Hall	X					X		
03/02/16	Governance Forum	Mazars	York	X					X		
08/07/16	Governance Forum	Mazars	York	X					X		
03/02/17	Governance Forum – (Including Cyber Security)	Mazars	York	X					X		
07/15 – 03/17	Introducing Pension Schemes	The Pensions' Regulator – Toolkit Modules	On-line		X		X			X	
07/15 – 03/17	The Trustees' Role	The Pensions' Regulator – Toolkit Modules	On-line	X	X		X				
07/15 – 03/17	Running a Scheme	The Pensions' Regulator – Toolkit Modules	On-line	X	X		X				
07/15 – 03/17	Pensions' Law	The Pensions' Regulator – Toolkit Modules	On-line		X		X				
07/15 – 03/17	An introduction to investment	The Pensions' Regulator – Toolkit Modules	On-Line				X				
07/15 – 03/17	How a DB Scheme works	The Pensions' Regulator – Toolkit Modules	On-line				X				

North Yorkshire County Council**Pension Board****18 January 2018****Work Programme****1.0 Purpose of the Report**

To detail the areas of planned work by the Pension Board

2.0 Future Activity

Previous reports to the Board have set out a number of areas that could be identified as potential priority areas of work for Board Members to provide scoping reports to subsequent meetings. It is expected that scoping reports, on the issues highlighted below, will have been submitted for consideration at today's meeting:-

1. **Management, administration and governance process and procedure.**
2. **Development of improved customer services.**
3. **Scheme Member and employer communications.**

Resources will be made available, via relevant Officers, to assist Board Members with their approach to the development of these issues.

Members are asked to consider further areas, highlighted in the work programme, in which they would like to undertake in-depth consideration, and provide scoping reports to future meetings, in relation to the development of these issues.

3.0 Recommendations

That members:

- i) Review and agree any updates to the Work Plan (as set out in Appendix 1);
- ii) Consider further subject areas for taking topics forward, consider leading on these, and providing a short scoping report to future meetings;
- iii) Consider and request (via the Clerk) supporting resources which may be required to take the reviews forward.

Barry Khan
Assistant Chief Executive (Legal and Democratic Services)
County Hall
Northallerton

PENSION BOARD WORK PLAN

APPENDIX 1

	18-Jan-18	12-Apr-18	19-Jul-18	11-Oct-18	24-Jan-19	11-Apr-19	
<u>Business planning</u>							
1	Agree plan for the year	✓				✓	
2	Review Terms of Reference	✓	✓			✓	
3	Review performance against the plan	✓	✓	✓	✓	✓	
4	Report to the PFC / NYCC		✓	✓			
5	Report to Scheme Advisory Board / DCLG		✓	✓			
<u>Compliance checks</u>							
6	Review regular compliance monitoring reports		✓		✓		✓
7	Review the compliance of scheme employers						
8	Review such documentation as is required by the Regulations						✓
9	Review the outcome of internal audit reports	✓	✓	✓	✓	✓	
10	Review the outcome of external audit reports				✓		
11	Review annual report				✓		
12	Review the compliance of particular issues on request of the PFC						
13	Review the outcome of actuarial reporting and valuations		✓				
14	Assist with compliance with the UK Stewardship Code	✓					
<u>Administration procedures and performance</u>							
15	Review management, administrative and governance processes and procedures						
16	Monitor complaints and performance						
17	Review the Internal Dispute Resolution Process						
18	Review cases referred to the Pensions Ombudsman						
19	Review the implementation of revised policies and procedures						
20	Review the exercise of employer and administering authority discretions			✓			
21	Assist with the development of improved customer services						
22	Monitor performance of administration, governance and investments						
23	Review processes for the appointment of advisors and suppliers						
24	Monitor investment costs						
25	Review the risk register	✓		✓		✓	
26	Assist with the development of improved structures and policies						
27	Assist in assessing process improvements on request of PFC						
28	Assist with asset voting and engagement processes						
29	Pooling arrangements and governance	✓	✓	✓	✓	✓	✓
<u>Communications</u>							
30	Review scheme member and employer communications						
<u>Training</u>							
31	Review Pension Board knowledge and skills self assessment	✓	✓	✓	✓	✓	✓
32	Review training log	✓	✓	✓	✓	✓	✓
33	Review training arrangements for the Board and other groups	✓	✓	✓	✓	✓	✓

Notes

- 3 arrangements to be determined by the Council.
- 4 arrangements to be determined by SAB/DCLG.