

Response form 2

The 'Governing body' section of the new code of practice

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Board structure and activities

Role of the governing body (TGB001)

The governing body is responsible for running a scheme. Governing bodies may be trustees or managers of occupational pension schemes, or, in public service pension schemes, the scheme manager and the pension board. Legislation may apply to governing bodies differently depending on the type of scheme they govern.

The governance structure of public service pension schemes will need to take account of the differing responsibilities of the scheme manager, pension board and, where appropriate, pension committee. Pension boards must have an equal number of employer and member representatives.^{RO1}

Those responsible for appointing members to the governing body need to do so using the principles of proportionality, fairness and transparency, while also considering the mix of skills and experience needed by the governing body. Learn more about recruitment in [Recruiting to the governing body](#).

The law also requires that members of certain governing bodies are fit and proper to carry out their duties.^{RO2}

In some cases, legislation may dictate how a governing body is made up, who can be a member and how members are appointed.^{RO3, RO4, RO5} Governing bodies remain accountable for any functions they delegate to a third party. Read more about appointing and managing relationships in [Managing advisers and service providers](#).

Our expectations for how trustees of trust schemes^{RO6} should act can be found on page 4. They also represent appropriate standards for governing bodies of other schemes.

RO1 Section 5 of the Public Service Pensions Act 2013 [Article 5 of the Public Service Pensions Act (Northern Ireland) 2014]

RO2 Section 3(1) Pensions Act 1995 [Article 3(1) Pensions (Northern Ireland) Order 1995]

RO3 Section 29(1) Pensions Act 1995 [Article 29(1) Pensions (Northern Ireland) Order 1995]

RO4 Section 5(4) of the Public Service Pensions Act 2013 [Article 5(4) of the Public Service Pensions Act (Northern Ireland) 2014]

RO5 Sections 241 to 243 Pensions Act 2004 [Articles 218 to 220 Pensions (Northern Ireland) Order 2005]

RO6 Section 3(1) Pensions Act 1995 [Article 3(1) Pensions (Northern Ireland) Order 1995]

Expected behaviours and standards

- Act honestly and with integrity, competence and capability, and financial probity, including in matters outside their role
- Meet their legal obligations and govern their scheme properly
- Act in the interests of the members and beneficiaries of the scheme
- Seek to ensure that all members of a scheme, whether deferred, active or in a pension or decumulation phase, benefit from good governance
- Be open and honest in their dealings with us
- Have, or be able to acquire, the appropriate levels of knowledge and understanding (see [Working knowledge of pensions](#)) and to keep these up to date (see [Building and maintaining knowledge](#))
- Where acting in a professional capacity, members of governing bodies should be financially sound and not experiencing severe trading difficulties, and have indemnity insurance
- Identify and, where relevant, challenge others on any potential or actual failure to comply with the scheme rules, regulations and legislation (see [Managing advisers and service providers](#))

Glossary

Active member

A person whose employment with the employer qualifies the member for benefits under the scheme and benefits continue to accrue

Decumulation

Accumulation is where your pension grows (by contributions or investment return, for example). Decumulation is where you take money out of your pension to fund your retirement, for example, as a lump sum or by buying an annuity.

Deferred member

A person who has benefits under the scheme and is no longer an active member

Pensioner member

A person who is currently receiving a pension from the scheme

Questions for: Role of the governing body (TGB001)

ROQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

Yes

ROQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

The APPT believes this section should reference additional forms of "governing body". In particular, the governing body could be a Professional Corporate Sole Trustee (this is becoming increasingly common) and the associated Professional Trustee Standards and Professional Corporate Sole Trustee Code of Practice should be referenced. We also believe the new code should refer to the Accreditation framework for those working as professional trustees.

The overall role for the governing body should be set out clearly by reference to the responsibility for setting and reviewing scheme strategy, managing risks to that strategy, a clear business plan and regular engagement with the scheme's stakeholders.

ROQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

As noted above, this needs to refer to APPT's Professional Trustee standards and guidance, the new accreditation framework for professional trustees and the Professional Corporate Sole Trustee code of practice (published by the APPT).

ROQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

ROQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Recruiting to the governing body (TGB014)

Trustees and scheme managers should have processes in place to exercise any powers they have in recruiting and appointing members to a governing body. Our expectations for appointing service providers and advisers can be found in [Managing advisers and service providers](#). Processes for appointing members to a governing body should have the features below.

Recruitment and standards

- Be clear who is responsible for the recruitment, selection and appointment process.
- Include any input required from other parties.
- Identify gaps in skills and competencies across the governing body and how these can be addressed over time.
- Have a succession plan in place to maintain the skills and competencies needed by the governing body to operate properly.
- Document the principles for determining remuneration of members of the governing body (see [Remuneration policy](#)).
- Record the assessment of the fitness and propriety of candidates.
- Have a resignation and removal policy which provides clarity on who can remove a member of the governing body, under what circumstances and the steps for doing so.
- Follow any scheme rule or regulation requiring representation^{RE1} of particular bodies or groups and have a process to ensure this is maintained.

RE1 Section 5 of the Public Service Pension Scheme Act 2013 and [section 241 and 242 of Pensions Act 2004]

When recruiting members to the governing body of a relevant multi-employer scheme further requirements will apply, as set out in the following below:

Governing bodies of relevant multi-employer schemes must:

- follow specific rules on representation and independence of the trustee board^{RE2}, including restrictions on how long some trustees can remain in post as non-affiliated trustees
- have at least three trustees, or where there is a sole corporate trustee that isn't a professional trustee body (a professional trustee body is treated as one trustee), at least three directors^{RE3}
- appoint non-affiliated trustees in an open and transparent way^{RE4}
- have a process in place to encourage scheme members, or their representatives, to speak up about matters that affect them^{RE5}

RE2 Regulations 27-28 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulations 27-28 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RE3 Regulation 27 (1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 27 (1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RE4 Regulation 28 (1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 28 (1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RE5 Regulation 29 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 29 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

Questions for: Recruiting to the governing body (TGB014)

REQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

REQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

This section should include a stronger reference to diversity of views and skills depending on the nature of the scheme - to include gender, age, independence, ethnicity, scheme membership.

This section is silent on what governing bodies should do when they seek to recruit members but no members are forthcoming such that the vacancy is not filled. This is an increasingly common issue for schemes (especially smaller schemes).

When recruiting, the governing bodies should make it clear to applicants how much time is needed for the role inclusive of all the training requirements.

REQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

No comment

REQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

REQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

TPR should be open about the difficulty many schemes have in recruiting suitably skilled and willing MNTs and ENTs. Guidance on how schemes tackle this issue should be provided.

Member-nominated trustee appointments (TGB044)

The requirement

Some governing bodies are required to establish and implement arrangements that enable at least one-third of the trustees to be member-nominated trustees (MNTs). However, there are many exemptions to this requirement. Trustees should consider seeking legal advice where they believe an exemption may apply and record any conclusion reached.^{ME1, ME2, ME3}

The cost and nature of MNT arrangements should be proportionate to the circumstances of the scheme. The arrangements should also include nomination and selection processes that are fair and transparent for all members of the scheme. Treating members fairly does not however mean that all categories of member have to be treated the same.

Governing bodies should have MNT arrangements in place within six months of a scheme's start date. However, this period may vary according to the size, structure and circumstances of the scheme.

Note: If a scheme has a corporate trustee, the requirement is for one-third of the trustee board to be member-nominated directors (MNDs) based on the total number of company directors. For the purpose of this module, MNT can also refer to MND. Where a scheme has corporate and individual trustees, each company should be counted as a single trustee for the purpose of determining the total number of trustees.

Expectations for member-nominated trustee arrangements

Governing bodies have a series of expectations and requirements they should follow when establishing MNT arrangements. They should document how the arrangements comply with these requirements. They may also wish to record the reasons for any decisions made while establishing the processes.

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- ME1 Sections 241(8) and 242(10) of the Pensions Act 2004 [Articles 218(8) and 219(10) Pensions (Northern Ireland) Order 2005]
 - ME2 Regulations 2 and 3 The Occupational Pensions Schemes (Member-nominated Trustees and Directors) Regulations 2006 [Regulations 2 and 3 The Occupational Pensions Schemes (Member-nominated Trustees and Directors) Regulations (Northern Ireland) 2006]
 - ME3 Among the exemptions are schemes where all the trustees or directors are independent as defined in section 23 of the Pensions Act 1995 [Article 23 of the Pensions (Northern Ireland) Order 1995]

Nomination process

- Arrangements must include a process for active and pensioner members, or any organisation that adequately represents these groups, to nominate potential candidates for MNT positions.
- The process should include the eligibility criteria for prospective nominees, taking into account any legislative provisions that prohibit certain individuals from being a trustee. Read more in [Recruiting to the governing body](#).
- A non-member nominee^{ME4} must have the employer's approval to qualify for selection.
- Governing bodies should discuss with the employer whether non-members will be eligible to be candidates.
- Eligibility of non-members should be reflected in the arrangements as a criterion for nomination and selection.

Selection process

- The selection process must include arrangements for determining who will be appointed as trustees when there are more nominations than vacancies.
- When there are fewer nominations than vacancies, the governing body may still run a selection process if appropriate.
- While methods of selection chosen may vary according to the circumstances of the scheme, they must include some or all of the scheme members.

The nomination and selection process should take place within six months of the requirement to appoint an MNT arising. Reasonable periods for completing the nomination and selection process will vary according to the size, structure and circumstances of the scheme.

If there are still unfilled MNT vacancies after the selection process, governing bodies must repeat the selection process at reasonable intervals. We consider a reasonable interval for repeating the process to be no more than three years from the end of an unsuccessful nomination process.

If there has been a material change to the scheme's circumstances and/or membership (for example, a bulk transfer in of new members or a large number of redundancies), it should be done sooner.

ME4 Sections 241(5)(c) and 242(5)(c) The Pensions Act 2004 [Articles 218(5)(c) and 219(5)(c) Pensions (Northern Ireland) Order 2005]

Role of MNTs and reviewing arrangements

Governing bodies must not exclude MNTs from the exercise of any trustee functions solely on the basis of being an MNT. More information about our expectations for appointed MNTs can be found in the modules: [Recruiting to the governing body](#), [Working knowledge of pensions](#) and [Building and maintaining knowledge](#).

Governing bodies should document and periodically review MNT arrangements at least every five years. For schemes with larger memberships, or those with more categories of member, a review every three years is more appropriate. Earlier reviews should also be considered if there is a material change to the scheme's circumstances and/or membership.

Communicating with scheme members

Our expectations for communications to scheme members at each stage of the MNT process are detailed below. Governing bodies should use their established means of communicating with members and provide sufficient time for them to consider their nominations.

The nomination stage should include:

- the number of MNTs the scheme is required to have and the current number of vacancies
- an explanation of the role and our expectations of trustees
- details of training that will be provided
- any eligibility criteria
- how to make a nomination and any time limits that apply
- details of the selection process and what would happen if insufficient nominations are received
- a contact for queries

The selection stage should include:

- the outcome of the nomination stage
- details for members involved in the selection stage of their next steps
- the method of selection

Outcome:

- an explanation of the process undertaken and details of any appointments that were made as result of this
- where insufficient nominations were received to fill all vacancies, confirmation of when the process will be repeated

Glossary

Corporate trustee

A company that acts as a sole trustee for a scheme

Member-nominated trustee (MNT)

MNTs are trustees who are nominated as a result of a process involving all active and pensioner members of a scheme, or an organisation that adequately represents these groups, and that are then selected by a process involving some or all of the scheme members. MNTs should be taken to include 'member-nominated directors' (MNDs) of corporate trustees.

Questions for: Member-nominated trustee appointments (TGB044)

MEQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

MEQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

Nomination process should refer to diversity, filling skills gaps and being representative of the membership.

The nomination process is generally "old fashioned" with formal letters sent to membership used to advertise the role. TPR should be encouraging more use of modern technology and communication methods to help governing bodies attract a more diverse membership.

On the reference to resignation and removal, the guidance should cover fixed terms and maximum terms more clearly.

MEQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Case studies would be helpful for the above.

MEQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

MEQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Role of the chair (TGB015)

Governing bodies of occupational pension schemes need to have someone who fulfils the role of chair as a matter of best practice. Governing bodies of relevant schemes^{RL1} must appoint someone as chair, and for certain schemes the role of chair should form part of its effective system of governance. Learn more about effective systems of governance in [Scheme governance](#).

The role of the chair is an important one and we expect the appointment of a chair to be set out in a robust and documented process. The members of a governing body remain responsible for running the scheme and are equally responsible for any decisions taken.

Where it exists, the legal duty to appoint a chair typically falls on the governing body. Governing bodies should review their scheme rules and other relevant scheme documents, which, in the case of a corporate trustee, includes the company's articles of association or constitution, to check whether their scheme has a defined process for appointing a chair.

Specific requirements for relevant schemes

The identity of the chair must comply with the provisions of regulation 22 of the Scheme Administration Regulations.^{RL2} The additional responsibility the chair has is they must sign the annual chair's statement.^{RL3} Learn more about the chair's statement in [Chair's statement](#).

A chair of trustees must be appointed within three months of a scheme being established, or within three months of an existing chair resigning or being removed.^{RL4} We expect trustee boards to treat the timescale permitted in law as a maximum, and to appoint a chair of trustees as quickly as possible. The law requires governing bodies to inform us of the name of the chair.^{RL5}

RL1 Regulation 1 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 1 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RL2 Regulation 22(2) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 22(2) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RL3 Regulation 23(1)(e) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 23(1)(e) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

RL4 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997].

RL5 Regulation 3(1)(da) Register of Occupational and Personal Pension Schemes Regulations 2005 [Regulation 3(1)(a) Register of Occupational and Personal Pension Schemes Regulations (Northern Ireland) 2005]

As a matter of best practice, the chair needs to demonstrate the skills and behaviours outlined below:

The role of the chair

- Act as the leader of the governing body and demonstrate the standards of behaviour expected from other members of the board.
- Represent the interests of the scheme to all relevant parties, including employers, advisers, service providers and members.
- Have an independent viewpoint when necessary, and be free from potential conflicts (see [Conflicts of interest](#)).
- Be able to recognise each individual trustee's potential, and ensure their knowledge and skills are used effectively (see [Working knowledge of pensions](#)).
- Encourage members of the governing body to think strategically and take the broad, long-term view.
- Help achieve compromise and consensus between differing parties to achieve good member outcomes.
- Encourage participation from all members of a governing body, including new members.
- Be able to demonstrate elements of the following skills:
 - communication with the governing body and its stakeholders
 - organisation, teaching and training (sourcing if not delivering)
 - debating, challenging and negotiating
 - ability to gather and understand diverse views
 - managing conflicts of interest.

Glossary

Articles of Association

The formal legal document that sets out the purpose of a company and the manner in which it will operate

Questions for: Role of the chair (TGB015)

RLQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

RLQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

Greater clarity should be provided regarding the skills and competencies needed for Chair appointments.

Some Boards operate a system whereby no specific Chair is nominated. Instead, a Chair is chosen at the start of each meeting with an understanding that different trustees will take the Chair role when it is "their turn". There is no reference to this approach in the guidance.

Further details covering the Chair role should be included:

- lead the Board when setting and reviewing strategy
- lead engagement with the Employer
- implement assessment of the governing body effectiveness
- act as a role model for behaviours, soft skills and decision skills expected
- chair discussions inclusively
- provide feedback to others
- be open to all ideas

RLQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

The Professional Trustee standards set out the role and behaviours of the Chair. These should be referenced in the guidance;

RLQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

RLQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Meetings and decision-making (TGB006)

We expect governing bodies to spend an appropriate amount of time running their scheme. In most cases, the governing body will need to meet at least quarterly.

Under section 249A of the Pensions Act 2004^{MT1}, governing bodies of certain schemes must establish and operate an effective system of governance (see [Scheme governance](#)) including internal controls (see [Managing risk using internal controls](#)). However, there are certain exemptions.^{MT2}

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,^{MT3} and with the requirements of the law.

Governing bodies must include the following in their written meeting records:^{MT4, MT5}

- the date, time and place of the meeting
- the names of all in attendance, including professional advisers or any other person present
- the names of those invited to the meeting but who did not attend
- any decisions made at the meeting, including the names of those who participated in them
- any decisions made outside a meeting since the previous meeting, or taken by a committee/sub-committee, including the time, place and date of the decision, and the names of the members of the governing body who participated in the decision
- decisions relating to the winding-up of the scheme^{MT6}

Governing bodies that are required to put in place effective systems of governance should establish processes for planning and running meetings. Our expectations for these are listed on page 34.

MT1 Articles 226A of The Pensions (Northern Ireland) Order 2005

MT2 Section 249A(3) Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

MT3 As defined in Section 318(2) Pensions Act 2004

MT4 Section 49 Pensions Act 1995 [Article 49 Pensions (Northern Ireland) Order 1995]; Regulations 12 and 13 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulations 12 and 13 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

MT5 Regulation 6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 [Regulation 6 Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations (Northern Ireland) 2014]

MT6 Section 49A Pensions Act 1995 [Article 49 Pensions (Northern Ireland) Order 1995]; the Occupational Pension Schemes (Winding Up Notices and Reports etc) Regulations 2002 [the Occupational Pension Schemes (Winding Up Notices and Reports etc) Regulations (Northern Ireland) 2002]

Establishing meeting processes

- Understand and adhere to any prescribed governance processes in the scheme rules and legislation.
- Set the frequency of meetings for the governing body.
- Establish the circumstances, including legislative restrictions,^{MT7} where and how extraordinary meetings may be called.
- Consider the complexity and urgency of any issues affecting the scheme to determine the length of the meeting.
- Create a process for rescheduling postponed meetings.
- Set expectations for members of the governing body in preparing for meetings, and actions needed in between them.
- Agree who has responsibility for setting the agenda and who else is consulted in its development.
- Agree standing agenda items, for example risk register and conflicts of interest items, and administration tasks.
- Establish the number of members of the governing body required to attend for any meeting to be considered quorate.
- Consider the extent to which the governing body can influence or direct other parties (such as the sponsoring employer) in decisions that may have material consequences for the scheme or the business supporting it.

Decision-making

- Ensure that decisions are made in accordance with the scheme rules and regulations, and the terms of reference of any sub-committees.
- Keep records relating to any decision taken by members of the governing body, including related advice or information.
- Establish appropriate retention periods for records of decision-making.
- Consider publishing information about their activity (see [General principles for member communications](#)), for example board papers, agendas and minutes or summaries of meetings. Redactions relating to sensitive or confidential information and/or data covered by the data protection legislation^{MT8} may be appropriate.
- Consider ways to publish additional information, including information that has been requested, to encourage scheme member engagement and promote a culture of transparency.

MT7 Section 32 Pensions Act 1995 [Article 32 Pensions (Northern Ireland) Order 1995]; Regulations 9 and 10 Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulations 9 and 10 Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

MT8 Data protection 1998 and GDPR

Glossary

Internal controls

- Arrangements and procedures to be followed in the administration and management of the scheme
- Systems and arrangements for monitoring that administration and management
- Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme (Section 249A of the Pensions Act 2004)

Quorate

The necessary representation of members of the governing body to make a decision

Scheme rules

The rules and associated documentation setting out how a given scheme is to operate

Questions for: Meetings and decision-making (TGB006)

MTQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

MTQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

Many Trustee Boards are now moving away from the traditional quarterly meeting cycle. The growth of online meetings has accelerated this. Meetings are now generally shorter but more frequent. Instead of a quarterly meeting cycle, TPR could usefully reference an approximate number of hours a year that Trustee should meet for to meet their responsibilities. Whether it is four meetings of six hours each or twelve meeting of two hours each should be treated equally.

MTQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

An increasing number of scheme are being governed under the Professional Corporate Sole Trustee model. In such cases, formal "set-piece" meetings occur less frequently and instead shorter meetings covering only one or two topics happen much more frequently. A separate section for sole trustees governance models would be helpful to help ensure standards are maintained. This section should reference the Professional Corporate Sole Trustee Code of Practice issued by the APPT.

MTQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

There is a reference to publishing minutes of meetings. We feel that this might stifle engagement with the employer whereby confidential information is shared with trustees as well as prevent full discussion of discretion cases which are needed in order to reach a consensus decision. Further, Trustees are seeking to get a deeper understanding of the Employer's affairs rather than force the Employer to clam up and stop sharing information with Trustees. There is a reference to redacting the minutes but that will take a disproportionate amount of time to achieve especially as the Employer will likely want to see minutes before they are published. The likely outcome would be 2 x sets of minutes, one for public consumption and one, fuller set which actually records the progress of the discussions and the reasoning behind decisions reached.

There are also a number of processes listed that are not required in the real world. For example, a process for rescheduling postponed meetings would be a waste of time and money as in reality the meeting would be rescheduled anyway with or without a policy.

MTQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment.

Remuneration policy (TGB016)

This module applies to governing bodies of occupational pension schemes with more than 100 members, but not public service pension schemes or authorised master trust schemes. There are some other limited exceptions.^{RM1} Other schemes may wish to adopt these principles as good practice.

A remuneration policy sets out the levels and means for remunerating those undertaking activities in relation to the scheme paid for by the governing body and/or sponsoring employer. Below are our expectations of remuneration policies for relevant governing bodies:

Remuneration policy

- The governing body should establish a remuneration policy and keep a written record of it.
- This policy should be proportionate to the size, scale, nature and complexity of scheme activities.
- It should support the sound, prudent and effective management of the scheme and be aligned with the scheme's long-term interests.
- The remuneration policy should apply to all persons or corporate bodies who effectively run the scheme, those who carry out key functions or whose activities materially impact the scheme's risk profile.
- The policy should include measures to mitigate potential conflicts of interest and focus on 'in-house' roles, such as trustees, trustee secretary, administrators and sub-committees.
- The policy should be reviewed at least every three years, but in most cases it will be appropriate to do so annually or immediately following any significant changes to the scheme's governance arrangements.
- The policy should include an explanation of the decision-making process for the levels of remuneration, and why these are considered to be appropriate.
- The governing body should consider any outsourced service provider. These include, but are not limited to, administration, actuarial, legal advisory, and investment services.
- The policy should be published on the scheme website or otherwise made available to scheme members.

RM1 Section 249A (3) Pensions act 2004 [Article 226A (3) Pensions (Northern Ireland) Order 2005]

Glossary

Chairperson

The person selected to take charge of the governing body in leading meetings and may often have the deciding vote on scheme matters. For DC schemes the chairperson is also required to sign the annual chair's statement

Risk profile

Includes consideration of the scheme's membership demographics, funding, asset allocation and sponsor covenant (where applicable)

Questions for: Remuneration policy (TGB016)

RMQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

RMQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

As this is a new section, the guidance should be expanded to give governing bodies more support. Case studies would be help develop understanding of the requirements in this section.

RMQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

See above

RMQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

The remuneration policy is meant to cover people undertaking activities in relation to the scheme. It is not clear whether this covers people appointed by the employer such as a pensions manager or independent trustee. The policy should be applied only to roles that the Governing Body can control otherwise the policy cannot be applied. Further we do not see how the commercial arrangements between the sponsoring employer and those it employs or appoints are relevant to the management of the Scheme.

RMQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Knowledge and understanding

Working knowledge of pensions (TGB017)

All governing bodies should maintain a list of items the members of the governing body should be familiar with. The list should be available in an accessible format and reviewed regularly. Our expectations for learning and development are set out in [Building and maintaining knowledge](#).

Our expectations of knowledge and understanding apply equally to any individual who exercises any trustee function within a company acting as trustee of the scheme. Professional trustees and those appointed because of specialist expertise should be able to demonstrate a greater level of knowledge than members without such expertise.

The items we consider to be key are listed below. This list is not exhaustive, and some governing bodies may add other items. Some elements of this list will not be relevant to certain schemes.

Pension law and associated legislation

- The roles, responsibilities and duties of the governing body.
- The governing body's liabilities and potential liability for decisions made.
- The law relating to pensions and trusts.
- The definition and nature of a pension trust (if applicable).
- The separation of the scheme's assets (if applicable) and any sponsoring employer.
- Fiduciary duties and safeguarding the financial interests of all beneficiaries.
- The responsibility to act prudently and in accordance with the scheme rules.
- The law relating to pensions and trusts.
- Other legislation that might affect the scheme, for example:
 - anti-discrimination
 - data protection.
- The Pensions Regulator's codes of practice.
- Proposals for legislative change.
- Tax treatment of pension schemes.
- Main features of the state pension provision.
- Key elements of [automatic enrolment](#) legislation.

The scheme

- Trust deed and rules and any amendments (if applicable).
- Scheme regulations and statutory guidance (public service schemes only).
- The governing body's powers and discretions.
- The benefit structure, including the pension or decumulation options available to members.
- The balance of powers between the governing body and the employer.
- Any written policies and procedures relating to:
 - internal dispute resolution
 - the appointment of members of the governing body.
- Statements of policy about the exercise of discretionary functions.
- How policies, practices and scheme rules are reviewed and amended.
- Terms of reference, structure and operational policies of any sub-committees of the governing body.
- Any admission body policies (public service schemes only).
- Any categories of membership of the scheme.
- The annual chair's statement (certain DC schemes) (see [Chair's statement](#)).

Scheme funding and investments (excluding LGPS)

- Statement of investment principles (if applicable)
- Statement of funding principles (if applicable).
- Any policies the governing body has adopted in relation to stewardship of investments and ESG matters.
- The choice of investments, if any, offered to members and any default arrangement.
- The contribution rate(s) or amount(s) payable by employers participating in the scheme.
- The contribution rate(s) or amount(s) payable by scheme members participating in the scheme.
- The investment of scheme assets and the governing body's investment objectives.
- The importance of the [employer covenant](#).

- Recovery plan and covenant analysis (if applicable).
- The Pension Protection Fund (PPF) where applicable.
- The scheme's investment mandates.
- Strategic asset allocation.
- Measurement and reporting of investment performance.
- The impact of investment charges and fees (see also [Value for members](#)).
- The key features and processes of investment management.
- The processes and principles used for selecting fund managers.

Principles of investment (excluding LGPS)

- How investment can affect scheme member outcomes.
- Custody arrangements including monitoring and record-keeping.
- The operation of financial markets.
- The major asset classes and their characteristics.
- Characteristics of alternative asset classes, financial instruments and investment techniques.
- The implications of overseas investment including foreign exchange risk and political risk.
- The nature of financial risk, including:
 - risk/reward profile of each major asset class
 - basic principles of matching assets to liabilities (DB)
 - basic principles of matching assets to pension expectations (DC)
 - managing risk by diversification of assets.
- The investment strategy adopted by the governing body.

Risk management

- The risk register.
- Risk assessment framework and risk management policies for the scheme.
- Any policies and procedures including documentation relating to:
 - conflicts of interest
 - reporting breaches
 - maintaining contributions to the scheme
 - gifts and hospitality.

Scheme administration and service providers

- The need to obtain professional advice in certain circumstances.
- The pension administration strategy, or equivalent documents setting details of performance targets etc.
- Whether the scheme is being used for automatic enrolment.
- The roles and responsibilities of appointed advisers and service providers.
- Any policies and procedures including documentation relating to:
 - record-keeping
 - cleaning and maintaining data
 - collection of data.

In relation to scheme communications governing bodies should be familiar with

- Any scheme-approved booklets, announcements and other key communications to scheme members and employers.
- Statements of policy about communications with scheme members and employers.
- Policies relating to the public provision of information and information given on request.
- Where applicable, procedures for dealing with Freedom of Information requests.

Glossary

Accessibility

Making sure that communications and online services can be used and understood by as many people as possible. This includes those with impaired vision or hearing, motor difficulties, cognitive impairments and learning disabilities. The government has produced helpful guidance on this:

<https://www.gov.uk/government/publications/inclusive-communication/accessible-communication-formats>

Beneficiary

A person who benefits from a trust; the member, spouse or children, for example

Decumulation

Accumulation is where your pension grows (by contributions or investment return, for example). Decumulation is where you take money out of your pension to fund your retirement, for example, as a lump sum or by buying an annuity.

Employer covenant

The ability of the sponsoring employer to financially support a DB pension scheme

Custody arrangement

An arrangement where a third party holds assets on behalf of someone else (a pension scheme, for example). The custodian may undertake certain reconciliation and transaction activities.

Money laundering

The concealment of the origins of illegally obtained money

Passive management

Involves setting up your investment framework (having divided your investments upfront) and leaving the investments to grow

Pension Protection Fund (PPF)

The Pension Protection Fund is a statutory fund in the United Kingdom, intended to provide limited protection to DB scheme members if their pension fund winds up without sufficient funds to pay benefits

Professional trustee

A person whose business includes trusteeship. Someone will normally be considered a professional trustee if they have represented themselves to one or more unrelated schemes as having expertise in trustee matters generally (rather than just in certain areas).

Recovery plan

A plan put in place to enable a defined benefit scheme to return to being fully funded on a statutory basis

Scheme rules

The rules and associated documentation setting out how a given scheme is to operate

Questions for: Working knowledge of pensions (TGB017)

WOQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

WOQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

The long list of bullet points is unlikely to met by lay trustees, those with other roles / day jobs, those working with smaller and medium sized schemes and newer trustees (less than three years experience).

Some areas need to be highlighted more such as journey planning, scheme strategy and objectives. Some areas seem to be missing completely such as principles of ESG and stewardship, cyber risks, pension scams and the trend to other models of governance.

WOQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Again we ask TPR to emphasise the 20th century trustee standards in general and the professional trustee accreditation and standards framework.

WOQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

This section highlights how varied and challenging the role of the trustee is. As lay trustees become more aware of this, schemes may find it harder to recruit willing trustees to support the scheme. This may in turn lead to more professionalisation of the role.

WOQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

WOQ6:

The expectations in these modules are based on longstanding existing guidance. Do the expectations provide a new member of a governing body with sufficient knowledge and understanding to enable them to fulfil their role?

Yes but based on earlier comments, it is not realistic to expect a lay trustee to have a strong knowledge of all the areas highlighted in the code.

Governance of knowledge and understanding (TGB005)

This module applies to schemes subject to the requirement to maintain an effective system of governance under the Pensions Act 2004, section 249A.

It is important that the governing body as a whole can demonstrate they jointly possess the skills, knowledge and experience^{GO1} to run the scheme effectively.

The governing body should:

- have a balance of skills and experience spread throughout the board and be able to demonstrate this
- be able to apply its knowledge to governing the scheme
- have sufficient skills to judge and question advice or services provided by a third party
- maintain a plan for the ongoing maintenance and development of the governing body's knowledge (see [Building and maintaining knowledge](#)).
- be able to identify and address skills gaps
- have sufficient understanding of industry good practice and standards to assess the performance of the scheme and its service providers (see [Managing advisers and service providers](#)).
- keep records of the learning activities of individual members and the body as a whole
- be able to demonstrate steps it has taken to comply with the law
- have and maintain training and development plans to ensure that its collective knowledge and understanding is kept relevant and up to date (see [Building and maintaining knowledge](#)).

GO1 Sections 247-248 Pensions Act 2004

Questions for: Governance of knowledge and understanding (TGB005)

GOQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

GOQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

The time needed to achieve a high level of knowledge and understanding needs to be understood by all parties, especially the Employer.

Regular review of the effectiveness of the governing body's knowledge should be arranged by the Chair.

GOQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

No comment

GOQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

GOQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

GOQ6:

The expectations in these modules are based on longstanding existing guidance. Do the expectations provide a new member of a governing body with sufficient knowledge and understanding to enable them to fulfil their role?

No comment

Building and maintaining knowledge (TGB003)

Individual members of governing bodies must ensure they have the appropriate knowledge and understanding^{BU1} to enable them to properly exercise their functions. Learn more in [Working knowledge of pensions](#) and [Governance of knowledge and understanding](#).

The members of a governing body should invest sufficient time in their learning and development, alongside their other responsibilities and duties. Governing bodies should provide their members with the necessary training and support. Members of a governing body should be aware that their responsibilities and duties begin from the date they take up their post.

Learning programmes should be flexible, allowing members to update areas of learning and to acquire new knowledge. Members of governing bodies who take on new responsibilities will need to ensure they gain relevant knowledge and understanding. Trustees of occupational pension schemes have the right to time off to perform their duties as trustee of their employer's scheme and for trustee training.^{BU2}

The steps to help governing bodies ensure their knowledge and understanding is established and maintained are outlined below. Members of a governing body should:

- be able to demonstrate a basic level of knowledge and understanding needed to run their scheme within six months of their appointment^{BU3} (see [Working knowledge of pensions](#)).
- start on a programme of learning immediately on appointment, if not before, in conjunction with a scheme specific induction programme, if one is provided
- undertake advanced scheme-specific learning once a good understanding of the scheme has been obtained
- consider how they are meeting our expectations of knowledge and understanding (see [Working knowledge of pensions](#)).
- review their own knowledge and understanding and identify any gaps at least annually, particularly in relation to changes in legislation or their scheme
- keep records of any review of knowledge and understanding and steps taken to address any gaps
- keep records of any alternative or further learning activity (eg reading, attending conferences, sessions with the scheme advisers)

BU1 Sections 247, 248 and 248A of The Pensions Act 2004 [Articles 224, 225 and 225A of The Pensions (Northern Ireland) Order 2005]

BU2 See section 58 of the Employment Rights Act 1996 [Article 86 The Employment Rights (Northern Ireland) Order 1996]

BU3 Sections 247 and 248 of The Pensions Act 2004 [Articles 224 and 225 of The Pensions (Northern Ireland) Order 2005]

Questions for: Building and maintaining knowledge (TGB003)

BUQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

BUQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

Encourage trustees not to be reliant on their existing advisers. This should lead to trustees gaining an appreciation of the wider market and will make it easier for them to compare their advisers with others.

The code should encourage the Chair and other experienced trustees to mentor other trustees.

BUQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

No comment

BUQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

BUQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Value for scheme members

Value for members (TGB009)

Unless exempt^{VA1}, governing bodies of trust-based occupational pension schemes providing defined contribution (DC) benefits must, at least annually:

- calculate the charges and, as far as they can, the transaction costs borne by members' funds
- assess the extent to which the charges and costs represent good value for members^{VA2}
- explain their assessment of value for members (VFM) in the annual chair's statement.^{VA3} Learn more in the [Chair's statement](#).

The list below describes how governing bodies should assess, determine and manage VFM.

Assessing VFM

- Engage early with relevant parties, such as fund managers, administrators and scheme advisers, and establish the lead in time required to provide information about charges and costs.
- Record any problems encountered in obtaining the necessary information and the steps taken to resolve them.
- Document the evidence used to arrive at conclusions.

VA1	Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]. See the definition of 'relevant scheme' for the exemptions.
VA2	Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 25(1) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]
VA3	Regulation 23(1)(c) Occupational Pension Schemes (Scheme Administration) Regulations 1996 [Regulation 25(1)(c) Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997]

Determining VFM

- Make efforts to understand the characteristics of their members in a manner proportionate to the scale, size, and resources of their scheme.
- Consider characteristics such as scheme member demographics and, where possible, their salary profile.
- Where possible, consider members' preferences and financial needs.
- Consider all available evidence when exercising judgement about what represents VFM.
- Where direct member feedback is limited, consider what alternative methods can be used to assess VFM.
- Consider using publicly available industry research reports to compare their scheme to similar ones.
- Where the costs of a service are shared between members and employers – for example through a rebate arrangement or a proportional contribution from the employer, as opposed to a distinct division of cost – take into account all elements of services provided when carrying out their assessment.
- Clearly set out the basis of cost sharing in their explanation of the VFM assessment in the chair's statement.

Where governing bodies have identified areas of poor VFM they may wish to consider the following actions:

Managing poor VFM

- Document the issues identified, as well as the steps needed to improve VFM in those areas.
- Where it is not possible to improve VFM, document the reasons for this.
- Where they are unable to resolve matters leading to poor VFM, consider whether winding the scheme up is an appropriate action.
- Record the outcome of this consideration and regularly review it whilst poor value persists.

Questions for: Value for scheme members (TGB009)

VAQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

VAQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

No comment

VAQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

This section needs to be expanded as it does not include much details for trustees. The code should be consistent with other requirements such as the DWP requirements for Improving Member Outcomes

VAQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

VAQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Advisers and service providers

Managing advisers and service providers (TGB010)

Governing bodies often appoint professional advisers and service providers to their scheme. In some cases,^{MA1} governing bodies are required to make these appointments. Advisers and service providers may be appointed to carry out specific tasks such as administration. They also provide advice, and supplement the skills and knowledge of the governing body.

Where governing bodies appoint advisers and service providers, they retain ultimate accountability. Governing bodies should be able to demonstrate that they can manage commercial relationships.

Schemes with 100 or more members that are required to maintain an effective system of governance^{MA2} should follow our expectations for processes in place for the selection, appointment, management and replacement below. Other schemes may wish to consider them as good practice.

Selection

- Establish agreed and documented policies for making appointments to the scheme. These should be reviewed at least every two years.
- Consider running a tender process when appointing advisers and service providers, and commit sufficient time and resources.
- Carefully consider any proposed degree of delegation, as well as the experience and skill-set of the chosen service provider.
- Be familiar with and understand the impact of the terms and conditions of contracts with service providers. Learn more in our [scheme management guidance](#).
- Review relevant independent frameworks, such as ISO certification, or accreditation frameworks for specialist functions like administration.
- Assess service providers before appointment, including access to due diligence carried out as part of the appointment process.
- Fully understand the scope of the roles and responsibilities performed by service providers and advisers.

MA1 Section 47 Pensions Act 1995 [Article 47 Pensions (Northern Ireland) Order 1995]

MA2 Section 249A Pensions Act 2004 [Articles 226A of The Pensions (Northern Ireland) Order 2005]

Appointing

- Agree appropriate delegations and procedures for referral.
- Agree performance indicators on appointment and secure accountability within the service provider.
- Include a process for managing advisers, recording decisions taken as well as escalation points.
- Ensure the flow of communication with the service provider or adviser so all parties have the necessary information to make key decisions and to fulfil their assigned roles.
- Take steps to identify and manage conflicts of interest (see [Conflicts of interest](#)).
- Understand the implications of Data Protection legislation^{MA3} for any information that will be shared with or handled by service providers.

Managing

- Be aware of any obligations, professional conduct rules and whistleblowing requirements that may be placed on some advisers.
- Ensure service providers are able to demonstrate that they are fulfilling the requirements of any legal obligation that has been delegated to them.
- Regularly assess performance against agreed key performance indicators (KPIs) and service level agreements (SLAs). Record outcomes and ensure all actions are allocated for remedy and progress is tracked.
- Review the performance of providers of investment consultancy services against the objectives set for them. Learn more in our [objective setting guidance](#).
- Periodically review the market of service providers and consider if the scheme continues to receive quality of service and value for money.
- Have the breadth of knowledge and understanding sufficient to enable them to fully understand any advice or information they receive.
- Understand how any advice or information they receive affects decisions or activities for which they are legally responsible.
- Have a process to ensure that improvements are made where poor service is identified.
- Work with service providers to understand and secure any necessary resources to deal with forthcoming legislative or scheme changes.
- Have clearly documented procedures in place to enable a continuous and consistent service in the event of a change of service provider, or provider failure (see [Continuity planning](#)).

MA3 Data Protection Act 2018 and UK GDPR

There may be circumstances where it is necessary for a governing body to replace an adviser or service provider. This may include cases where service has been consistently poor or no longer demonstrates good value, or where a contract is not, or cannot be renewed. In such circumstances, it would be appropriate for the governing body to act to ensure that there is no member detriment from their actions.

Replacing

- Consider the interests of the scheme members when replacing the adviser or service provider.
- Understand the impact of the terms and conditions of contracts, including any fees or penalties, and procedures for releasing relevant information to governing bodies and new advisers.
- Understand the risks associated with transitioning to a new provider and put plans in place to mitigate them.
- Plan effectively for the transition to a new adviser or service provider, setting out the key steps, actions, decisions, owners and timescales, including how costs will be met.

Glossary

Advisers

In the context of the code of practice, advisers is a broad reaching term and may refer to one or more of the following: actuary, benefit consultant, lawyer, independent financial adviser, investment consultant, insurance broker, professional trustee, fund manager, fiduciary manager

Key performance indicator

A quantifiable measure which can be used to evaluate success

Service level agreements

An agreement between a service provider and governing body setting legally binding service levels that must be met by the service provider in providing the service

Service providers

Any person or body providing services to a pension scheme, including advisers. Examples include insurer, administrator, accountant and auditor

Questions for: Managing advisers and service providers (TGB010)

MAQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

MAQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

No comment

MAQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

The code should make it clear that governing bodies are there to take a lead in running the pension scheme. However, many governing bodies, especially those without a professional trustee, are adviser led and cede their responsibilities to their advisers. It should be made clear that this is not how they should run the scheme on behalf of their members.

MAQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

MAQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Risk management

Identifying and assessing risks (TGB031)

Under section 249A of the Pensions Act 2004,^{ID1} governing bodies of certain schemes must establish and operate an effective system of governance (see [Scheme governance](#)) including internal controls (see [Managing risk using internal controls](#)). However, there are certain exemptions.^{ID2}

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes^{ID3} are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,^{ID4} and with the requirements of the law.

The legal obligations for scheme funding, scheme investment, and environmental, social and governance concerns are different for public service pension schemes.^{ID5} However, as far as these matters are either set out in the scheme rules^{ID6} or in the requirements of the law, scheme managers of public service pension schemes must establish and operate adequate internal controls in relation to them.

It is not necessary, nor possible, to eliminate all risks from a pension scheme. Governing bodies should use risk management as a tool to identify risk and develop internal controls. As part of their risk management approach, governing bodies should assess all the risks faced by their scheme and define acceptable parameters for each.

The range of risks will vary from scheme to scheme and may include matters such as investment, employer covenant, funding, administration, communications, fraud and pension or decumulation options. Separately, some investment risks may be accepted by the governing body in their desire to seek greater returns.

ID1 Articles 226A of The Pensions (Northern Ireland) Order 2005

ID2 Section 249A(3) of the Pensions Act 2004 (Article 226A (3) of The Pensions (Northern Ireland) Order 2005)

ID3 As defined in section 318(1) of the Pensions Act 2004 (Article 2(2) of The Pensions (Northern Ireland) Order 2005)

ID4 As defined in Section 318(2) of the Pensions Act 2004 (Article 2(3) of The Pensions (Northern Ireland) Order 2005)

ID5 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

ID6 'Scheme rules' as defined in section 318(2) Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Governing bodies should consider risks such as:

- scheme investments, including asset liability management (if applicable). (see [Investment governance](#)).
- insurances, compensation funds and other risk mitigation techniques
- environmental, social and governance risks (if applicable) (see [Stewardship](#) and [Climate change](#)).
- scheme funding and the strength of the employer covenant (if applicable)
- the risk that existing controls are not operating as intended
- the risk of fraud
- failure to comply with the law and/or scheme rules
- poor record-keeping, poor administration, and IT and database failures
- cyber security risks (see [Cyber controls](#)).
- governance and decision-making not operating to the standard required by pensions legislation
- actual or potential conflicts of interest

Risk management function

Under section 249A of the Pensions Act 2004,^{ID7} governing bodies of certain schemes^{ID8} with 100 members or more^{ID9} should have in place a risk management function. Governing bodies should achieve this in a manner that is proportionate to their size and internal organisation, as well as to the size, nature, scale and complexity of their activities. This is different from the requirements on governing bodies to prepare an own risk assessment, learn more in [Own risk assessment](#).

The risk management function may be a sub-committee of the governing body, or an independent body that facilitates reporting to the whole governing body or the relevant sub-committee. Responsibility for identifying and evaluating risks and/or internal controls and risk management (see [Managing risk using internal controls](#)) may be delegated to the risk management function.

ID7 Articles 226A of The Pensions (Northern Ireland) Order 2005

ID8 Unless exempt within section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

ID9 Section 249A Pensions Act 2004 and Regulations 3(1)(3)(a),(5),(6) and (9) of the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 (SI 2018/1103)[Article 226A of The Pensions (Northern Ireland) Order 2005 and Regulations 3(1)(3)(a),(5),(6) and (9) of the Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018 (SR 2018 No. 214 N.I.)]

The risk management function should be structured in such a way as to enable the scheme to adopt strategies, processes and reporting procedures necessary to identify, measure, monitor, and manage risk. The function should also regularly review the risks, at an individual and aggregated level, to which the scheme is or could be exposed, and the interdependencies of such risks.

The written policies regarding the risk management function should:

- only take effect after they have been approved by the governing body, and
- be reviewed at least once every three years

In schemes where members and beneficiaries bear risks, the risk management system should also consider those risks from the perspective of members and beneficiaries.

Identification and assessment

Risk identification and assessment processes will detect weaknesses in the governance and operation of the scheme at an early stage. Our expectations for governing bodies are set out below.

Establishing a process for risk assessment

- Set the objectives of their scheme.
- Refer to the documents they are required to be familiar with (see [Working knowledge of pensions](#)).
- Consider relevant sources of information, such as records of internal disputes and breaches of the law.
- Determine the various functions and activities carried out in the running of the scheme.
- Identify and document the actual and perceived risks facing their scheme, including activities that have been outsourced.
- Assess the likelihood and impact of the risks occurring.
- Assess the likelihood and impact of separate risks coinciding and the interdependencies between such risks.

Monitoring and mitigating risk

- Record the risks identified in a risk register and ensure that it is reviewed regularly.
- In the case of funded defined benefit schemes, establish any sponsoring employer's capacity to absorb investment risk.
- Define tolerance parameters, key indicators and triggers for action.
- Document and take steps to manage or mitigate risks.
- Maintain contingency plans for actions to be taken if risks materialise (see [Continuity planning](#)).
- Develop and implement plans with target dates for mitigating or closing risks.
- Undertake 'after action reviews' and incorporate any lessons learnt.

Continually monitor existing risks and identify new ones, including significant changes affecting the scheme, employers and members.

Roles and responsibilities

- Have processes that establish ownership and a responsible party for monitoring risk and issues between meetings of the governing body, (particularly if the action is the responsibility of a third party).
- Receive information from relevant parties (administrator, investment manager etc) at least quarterly to enable the risk register to be updated.

Glossary

Asset liability management

This is the practice of managing risks that occur between the misalignment of asset classes within an investment strategy

Governing bodies

Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004. In the case of a public service pension scheme subject to the requirements under section 249B of the Pensions Act 2004, governing bodies refer to scheme managers.

Internal controls

- 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 scheme (Section 249A of the Pensions Act 2004)

Public service pension scheme

A scheme established under section 1 of the Public Service Pensions Act 2013

Scheme manager

Applies to public service pension schemes, and is the person responsible for managing or administering a public service pension scheme, and any statutory pension scheme that is connected with it (Section 4 of the Public Service Pensions Act 2013).

Sponsoring employer

The employer, or employers, responsible for making payments to a pension scheme (see our [Statement on identifying your statutory employer](#)).

Questions for: Identifying and assessing risks (TGB031)

IDQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

IDQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

Again this is an area that contains a great deal of details for governing bodies to become familiar with. The lists of potential risks that need to be managed is daunting for trustees. The code should help trustees with this in two important ways:

- emphasise the importance of focusing on the main risks rather than all risks
- case studies and practical examples which can be used to set out the expectations of trustees.

IDQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Some of the risks listed are just features of running a pension scheme such as "scheme investments" or "employer covenant". The code should explain in greater detail why scheme investment might be a risk (i.e. poor investment strategy or poor performance) or why covenant might be a risk (e.g. deteriorating covenant)

One risk that is omitted from the list which we often see is poor advice from advisers. Advisers are often under commercial pressures and this can sometimes lead to poor or inappropriate advice. This risk is very difficult for most trustees to identify as they only see one set of advisers and have nothing to compare against.

IDQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

Expectations around the use of sub committees may be disproportionate in many cases. Similarly, there is no recognition that many schemes are now governed using a PCST model and the code should reference that otherwise it will become outdated relatively quickly.

IDQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Managing risk using internal controls (TGB032)

Under section 249A of the Pensions Act 2004,^{MN1} governing bodies of certain schemes must establish and operate an effective system of governance (see [Scheme governance](#)) including internal controls. However, there are certain exemptions.^{MN2}

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes^{MN3} are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,^{MN4} and with the requirements of the law. Internal controls refer to all the following:

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

The legal responsibility in relation to internal controls rests with the governing body. In relation to public service pension schemes, 'governing bodies' in this module refers to scheme managers. Even if functions or activities are delegated to advisers or service providers, accountability still resides with the governing body. Learn more in [Managing advisers and service providers](#). Governing bodies should ensure that their internal controls are documented. The extent of documentation will depend on the size, scale nature and complexities of the activities of the scheme.

A scheme's internal controls should be reviewed at least annually. However, the review of controls can be staggered if they address different areas of a scheme's operations or governance. Reviews should also be carried out when substantial changes take place. These include changes to pension scheme personnel, service providers, scheme advisers, or administration and other IT systems. Similarly, reviews should take place if a control is not working as intended or if there is a deterioration in funding in schemes which are subject to Part 3 of the Pensions Act 2004.

A persistent failure to put in place internal controls could be a cause of an administrative breach. If this failure is likely to be of material significance to us in carrying out any of our functions, we would expect to receive a breach of law report. Learn more about reporting breaches in [Decision to report](#).

MN1 Articles 226A of the Pensions (Northern Ireland) Order 2005

MN2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

MN3 As defined in in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

MN4 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Governing bodies should carry out a prior risk assessment to understand the various risks facing the scheme and its members. We also expect that the process for monitoring, recording and mitigating risk is closely integrated with the operation of internal controls (see [Identifying and assessing risks](#)).

Governing bodies should ensure they design internal controls that ensure the scheme is managed in accordance with the law and the scheme rules. The internal controls should also:

- include a clear separation of duties for those performing them, and processes for escalation and decision-making
- require the exercise of judgement where appropriate, in assessing the risk profile of the scheme and in designing appropriate controls
- be integrated into the decision-making processes of the governing body

The rest of our expectations for internal controls can be found below.

[Maintaining internal controls](#)

- Regularly consider performance of internal controls in mitigating risks and, where appropriate, achieving long-term strategic aims.
- Consider obtaining external assurance about controls (see [Assurance of governance and internal controls](#)).

Ensure service providers meet their own standards for internal controls (see [Managing advisers and service providers](#)).

When designing internal controls, consider:

- how the control will be implemented and the skills of the person performing the control
- the level of reliance that can be placed on information technology solutions where processes are not automated
- whether a control is capable of preventing future recurrence or merely detecting an event that has already happened
- the frequency and timeliness of a control process
- how the control will ensure that data are managed securely
- the process for identifying errors or control failures, and approval and authorisation controls

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004. In the case of a public service pension scheme subject to the requirements under section 249B of the Pensions Act 2004, governing bodies refer to scheme managers.

Public service pension scheme

A scheme established under section 1 of the Public Service Pensions Act 2013

Sponsoring employer

The employer, or employers, responsible for making payments to a pension scheme (see our [Statement on identifying your statutory employer](#)).

Questions for: Managing risk using internal controls (TGB032)

MNQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

MNQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

No comment

MNQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

As before case studies would be useful for this section too.

MNQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

Trustees should use a risk based framework for their internal controls with greater focus on those risks which are more likely to come to fruition.

MNQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

MNQ6:

The expectations set out apply differently to different schemes. Is this clear from the module, and are governing bodies provided with enough leeway to address the expectations in the most appropriate way for their scheme?

No comment

Assurance of governance and internal controls (TGB033)

Under section 249A of the Pensions Act 2004,^{AS1} governing bodies of certain schemes must establish and operate an effective system of governance (see [Scheme governance](#)) including internal controls (see [Managing risk using internal controls](#)). However, there are certain exemptions.^{AS2}

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes^{AS3} are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,^{AS4} and with the requirements of the law.

In relation to public service pensions schemes, governing bodies in this module refer to scheme managers but not to pensions boards.

There are various assurance frameworks suitable for use in relation to pension scheme operations. Governing bodies should understand the limits of each type of assurance, and the limits to the scope of any assurance process and how each can play a part in the internal controls framework of a scheme.

For each assurance report, the governing body should:

- consider the process for appointing service providers (see [Managing advisers and service providers](#))
- understand the scope, methodology and supporting evidence used in making an assurance report
- recognise the control objectives that have been included, excluded or modified in any assessment and how the scope is relevant to their scheme
- understand the level of interrogation that has been carried out in assessing the scheme, for example if a site visit was carried out
- identify and act upon any issues or concerns they consider to be material

AS1 Articles 226A of the Pensions (Northern Ireland) Order 2005

AS2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

AS3 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

AS4 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

Statutory audit

Most governing bodies of occupational pension schemes will be familiar with the annual statutory audit^{AS5} (see [Audit requirements](#)). But governing bodies should not solely rely on the output of the audit as a means of assurance reporting. It provides assurance about a limited number of financial elements, but it does not, for example, communicate that benefits are being paid correctly.

Under certain circumstances, the statutory auditor may be prepared and able to undertake an audit with a wider scope. However, this may be limited by their profession's ethical guidelines. For example, statutory auditors cannot hold the office of 'internal auditor'.

Internal audit

The scope and nature of internal audit work can be tailored to meet the requirements of the governing body. The audit may include financial and non-financial processes and controls. When selecting a suitable internal auditor, the governing body should consider:

- the candidate's independence
- any actual or potential conflicts of interest (see [Conflicts of interest](#))
- the candidate's knowledge of the subject

Governing bodies may have access to internal auditors within a participating employer who could provide similar scrutiny to an independent external assessment. This is a different role to the internal audit function that we discuss in [Managing risk using internal controls](#).

Note: Not all internal auditors within a sponsoring employer will have sufficient pensions knowledge to perform an adequate assessment of all scheme operations.

Assurance reporting by service providers

Some service providers may be able to supply assurance reports about their own operations. The governing body should satisfy themselves of the scope of such reports and the degree to which these are applicable. For example, whether the reports cover the specific team or office providing services to the scheme.

AS5 Section 47(1)(a) of the Pensions Act 1995 with exemptions in Regulation 3 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715) [Exemption in The Occupational Pension Schemes (Scheme Administration) Regulations (Northern Ireland) 1997 (SR 1997 No. 94 N.I.)]

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004. In the case of a public service pension scheme subject to the requirements under section 249B of the Pensions Act 2004, governing bodies refer to scheme managers.

Internal controls

- 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 scheme (Section 249A of the Pensions Act 2004)

Questions for: Assurance of governance and internal controls (TGB033)

ASQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

ASQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

No comment

ASQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Again it would be helpful if case studies could be provided.

Using assurance reports to evidence an effective system of governance is big step for most governing bodies to take.

ASQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

ASQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

This whole section will be very unfamiliar for small schemes and a disproportionate cost to implement. The cost will be a barrier to an effective system of governance being implemented for such schemes. Therefore, an alternative approach should also be proposed to help these schemes achieve a higher level of governance. The use of a professional trustee may be a more cost-effective way of achieving a similar outcome for such schemes.

Continuity planning (TGB022)

Under section 249A of the Pensions Act 2004^{CO1}, governing bodies of certain schemes must establish and operate an effective system of governance including internal controls (see [Scheme governance](#)). They should develop and implement continuity plans to ensure that the operations of their scheme can be maintained in the event of a disruption to the activities of the scheme. Our expectations for continuity planning are set out below.

Scheme managers of public service pension schemes^{CO2} do not have the same obligations in pensions legislation, but it is good practice for them to carry out continuity planning in the same way. Governing bodies should:

- seek to ensure continuity and regularity in the performance of the activities in the scheme
- have a resilient business continuity plan (BCP) that sets out key actions in case of a range of events occur that impact the scheme's operations
- make sure member data and general scheme administration are included in the BCP
- ensure advisers and service providers also have a BCP in place to maintain services to the scheme
- choose how to rely on reports and information about their service providers' BCP arrangements
- set out roles and responsibilities within the plan, and agree these with service providers
- regularly review process documents and maps, particularly after system or process change
- prioritise scheme activities in the event of the BCP being triggered, for example pensioner payments, retirement processing and bereavement services
- ensure continued access to resources, services and communications with key parties
- have an awareness of the timeframes required to bring new resources on board
- understand what contingency is in place to mitigate any under-resource due to, for example, increase in work volumes or the loss of staff
- seek to identify any events which may reasonably occur that may require additional resources

CO1 Article 226A of The Pensions (Northern Ireland) Order 2005

CO2 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme which is subject to the requirements under section 249A of the Pensions Act 2004

Internal controls

- 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 scheme (Section 249A of the Pensions Act 2004)

Public service pension scheme

A scheme established under section 1 of the Public Service Pensions Act 2013

Questions for: Continuity planning (TGB022)

COQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

COQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

No comment

COQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

As this is a new requirement, Trustees would benefit from having some case studies or examples to refer to when considering continuity planning

The third bullet point should make it clear to users what data and scheme administration considerations need to be included in the continuity plan. For example, keeping data safe, ensuring that processing continues etc..

There does not seem to be a focus on the scheme bank account and making sure that still operates properly in the event of a disruption to activities. From a Trustee perspective, the scheme bank account is key to ensuring the payroll continues to be paid in the normal way.

In the last bullet, there is a reference to identifying events that may occur. Again some examples or case studies would help Trustees

COQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

As with many of the requirements in the draft Code, small schemes will struggle the most to meet them. They will struggle on two levels. Firstly the operational level and having access to appropriate resources to fulfill their duties and on a financial level because the cost will often be prohibitive for them. TPR needs to be sensitive to the circumstances small schemes find themselves in.

COQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Conflicts of interest (TGB039)

Conflicts of interest may arise from time to time while running a pension scheme, either among members of the governing body themselves or with service providers, sponsoring employers, advisers and others. Conflicts can also arise for members of the governing body who, for example, are members of the scheme or who represent trade unions. Conflicts of interest may be either real conflicts or potential conflicts. Unless otherwise stated, references to 'conflicts of interest' include both real and potential conflicts.

Under section 249A of the Pensions Act 2004,^{CN1} governing bodies of certain schemes must establish and operate an effective system of governance (see [Scheme governance](#)) including internal controls (see [Managing risk using internal controls](#)). However, there are certain exemptions.^{CN2}

There are different requirements for the management of conflicts of interest for public service pension schemes. These are set out at the end of this module.

In identifying and evaluating risks (see [Identifying and assessing risks](#)), governing bodies should consider conflicts of interest.

A conflict of interest may arise when a member of the governing body:

- is obliged to act in the best interests of the members, and
- at the same time has or may have either:
 - a separate personal interest or
 - another fiduciary duty or other duty owed to a different person in relation to that decision, giving rise to a possible conflict with the first duty^{CN3}

It is possible that members of governing bodies will have other interests and responsibilities and need to understand when actual or potential conflicts arise. A member of a governing body with a conflict should consider withdrawing from decisions where that conflict occurs. Where there are acute or pervasive conflicts for a member of a governing body (for example where a trustee involved in funding negotiations is also the finance director) it is likely to be inappropriate for them to be involved in negotiations relating to the matters causing the conflict.

CN1 Article 226A of The Pensions (Northern Ireland) Order 2005

CN2 Section 249A(3) of The Pensions Act 2004 (Article 226A (3) of The Pensions (Northern Ireland) Order 2005)

CN3 Such conflicts of interest may affect not only trustees but also directors, agents, professional advisers and others

Members of governing bodies who are also directors of the sponsoring employer will also need to consider requirements of section 175 of the Companies Act 2006. This places an obligation on directors to avoid a situation where they have or can have a direct or indirect interest that conflicts, or possibly may conflict, with the interests of their company.

Certain legal and professional requirements relating to conflicts of interest may apply to members of governing bodies, advisers and service providers. For example, legislation applicable to English local authorities contains requirements for certain people about standards of conduct, conflicts of interest and disclosure of certain interests. Our expectations for identifying and recording conflicts of interest can be found below.

Note: We have produced guidance on options and approaches to managing **Conflicts of interest**.

Identifying and recording conflicts of interest

- Have a clear understanding of the importance of managing conflicts of interest and the circumstances in which they may arise.
- Understand any requirements of the scheme's governing documentation, or regulations under which it may operate, in relation to conflicts of interest.
- Encourage a culture of openness and transparency in relation to conflicts of interest.
- Maintain a written policy for managing actual and perceived conflicts of interests.
- Maintain a register of interests which should be considered in every meeting of the governing body.
- Consider whether the register of interests should be published (for example on the scheme's website) redacted to the extent that it contains confidential information and/or personal data.
- Ensure all members of the governing body, advisers and service providers make declarations of interests and conflicts at their appointment, and as they arise.
- Ensure contracts and terms of appointment require advisers and service providers to operate their own conflicts policy and disclose all conflicts to the governing body.
- Record conflicts of interest in relation to a decision-making process, as well as the action taken to manage them, in the written records of the meeting (see **Meetings and decision-making**).
- If carrying out transactions with related parties, governing bodies should ensure transparency by complying with 'Financial Reporting Standard (FRS) 102 – Related Party Disclosures'
- Consider seeking independent legal advice to help decide the best approach to manage or avoid an actual or potential conflict of interest.

Under section 249B of the Pensions Act 2004, scheme managers of public service pension schemes^{CN4} are required to establish and operate internal controls which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules,^{CN5} and with the requirements of the law.

To the extent that conflicts of interests is within that section, scheme managers should consider conflicts of interest in identifying and evaluating risks (see [Identifying and assessing risks](#)). Where relevant, our expectations on scheme managers for identifying and recording conflicts of interest are the same as the list above. The specific expectations that apply will vary from scheme to scheme.

Under section 5 of the Public Service Pensions Act 2013, scheme managers of public service pension schemes have to meet certain requirements relating to conflicts of interest regarding the pensions board. In this situation, a conflict of interest is a financial or other interest which is likely to prejudice the way in which someone carries out their role as a member of the pensions board. It does not include a financial or other interest arising merely from them being a member of the scheme or any connected scheme. The scheme manager must:

- be satisfied that a prospective member of the pension board does not have a conflict of interest
- remain satisfied that none of the members of the pension board has a conflict of interest

CN4 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

CN5 As defined in section 318(2) of the Pensions Act 2004 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

Glossary

Governing bodies

Trustees or managers of an occupational pension scheme that is subject to the requirements under section 249A of the Pensions Act 2004

Internal controls

- 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 scheme (Section 249A of the Pensions Act 2004)

Pensions Board

Board set up as required by section 5 of the Public Service Pensions Act 2013 to assist the scheme manager with the matters set out in that section

Scheme manager

The person responsible for managing or administering:

- the scheme, and
- any statutory pension scheme that is connected with it (Section 4 of the Public Service Pensions Act 2013).

Sponsoring employer

The employer, or employers, responsible for making payments to a pension scheme (see our [Statement on identifying your statutory employer](#)).

Questions for: Conflicts of interest (TGB039)

CNQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

CNQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

No comment

CNQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

The use of independent trustees can help to mitigate the conflicts of interests highlighted in this Section. There are other solutions too. However, the guidance does not provide examples of how the conflicts can be managed and we believe providing such examples would be helpful to governing bodies.

CNQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

CNQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

Own risk assessment (TGB045)

Under section 249A of the Pensions Act 2004,^{OW1} governing bodies of certain schemes must establish and operate an effective system of governance including internal controls (see [Managing risk using internal controls](#)). However, there are certain exemptions.^{OW2}

Governing bodies of schemes that must maintain an effective system of governance^{OW3} should carry out and document an own risk assessment (ORA) of their system of governance. The ORA is an assessment of how well governance systems are working, and the way potential risks are managed. Governing bodies of other schemes may choose to carry out an ORA of their governance as an example of best practice.

The governing body should prepare and document its first ORA within one year of this code coming into force. Each subsequent ORA should be carried out and documented within 12 months of the last. It should also be reviewed whenever there is a material change in the risks facing the scheme or to its governance processes.

The ORA is a substantial process, and the governing body may need to expand its risk assessments to fulfil our expectations. The ORA does not need to document the steps taken to mitigate risks identified. However, the governing body should still ensure that it maintains appropriate records of mitigations as part of its ordinary risk management processes (see [Managing risk using internal controls](#)).

Records of the ORA do not need to be sent to us, but we may ask to see it as part of supervisory activity.

Use of the own risk assessment

As the ORA will identify the key governance risks facing the scheme, the governing body should incorporate the findings into its management and decision-making processes. The findings may be used to adjust or create new processes or procedures. They may also highlight areas of work that the governing body needs to undertake, and to prioritise these activities.

Carrying out the own risk assessment

The governing body should carry out an ORA that is proportionate to the size, nature and complexity of the scheme. The areas that should be covered when carrying out an ORA are set out below.

OW1 Articles 226A of The Pensions (Northern Ireland) Order 2005

OW2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

OW3 249A of the Pensions Act 2004 [Article 226A of The Pensions (Northern Ireland) Order 2005]

Documentation

The governing body should:

- ensure the ORA is in writing
- provide the ORA documentation to all members of the governing body
- ensure the ORA documentation is available on request
- make sure the chair of the governing body signs off the ORA

The governing body should record:

- the date on which the ORA has been prepared
- the date on which the next ORA will be prepared
- details of any interim reviews or updates that the governing body has carried out or plans to carry out

The ORA documentation should cover:

- how the governing body has assessed the effectiveness of each of the policies and procedures covered by the ORA
- whether the governing body considers the operation of the policies and procedures to be effective and why

To meet our expectations, the ORA should consider the effectiveness of, and risks arising from, each element listed below.

Policies for the governing body

- How the governing body is integrating risk assessment and mitigation into its management and decision-making processes (see [Scheme governance](#)).
- The operation of policies relating to the role of the governing body, building and maintaining knowledge and governance of knowledge and understanding.

Risk management policies

- The operation of policies to identify and assess risks facing the scheme (see [Identifying and assessing risks](#)).
- The internal control policies and procedures for the scheme (see [Managing risk using internal controls](#) and [Assurance of governance and internal controls](#)).
- Management of potential internal conflicts of interest, and those with participating employers and service providers (see [Conflicts of interest](#)).
- The prevention of conflicts of interest where the employer and governing body use the same service provider.
- Continuity planning for the scheme (see [Continuity planning](#)) and, where applicable, how it has performed.

Investment

- The scheme's investment governance processes (see [Investment governance](#)).
- How investment performance is reviewed and monitored (see [Investment monitoring](#)).
- How the governing body assesses investment risks relating to climate change, the use of resources and the environment (see [Climate change](#)).
- How the governing body assesses social risks to the scheme's investments (see [Stewardship](#)).
- How the governing body considers the potential for depreciation of assets arising from regulatory or societal change (see [Stewardship](#)).
- How the governing body assesses the protection mechanisms available to the scheme, including how these might apply and the risks of them not functioning as intended.
- How the governing body ensures the security of assets and their liquidity when they are required (see [Investment decision-making](#)).
- How the governing body assesses the protection of member benefits in the event of the insolvency of a sponsoring or participating employer, or a decision to discontinue the scheme.

Additional investment matters for DB schemes

- How the governing body assesses the scheme's funding needs with reference to its recovery plan.
- How the governing body assesses the specific risks relating to the indexation of benefits provided by the scheme.

Administration

- How the governing body assesses the risks associated with the scheme's administration (see [Administration](#)), with particular reference to financial transactions (see [Financial transactions](#)), scheme records (see [Scheme records](#)) and receiving contributions (see [Receiving contributions](#)).
- Action the governing body takes to manage overdue contributions (see [Monitoring contributions](#)), considering the degree to which they represent material amounts or delays.

Payment of benefits, where applicable

- How the governing body assesses operational risks, focusing on the risk to members and beneficiaries relating to record-keeping and payment of benefits.
- The governing body's management of risks relating to circumstances where accrued pension benefits may be reduced, under which conditions and by whom.
- The governing body's management of the risk of member benefits being reduced or altered, including on the insolvency of a sponsoring or participating employer or the cessation of the scheme.

Glossary

Protection mechanisms

The mechanisms protecting retirement benefits, including, as applicable, guarantees, covenants or any other type of financial support by the employer, insurance or reinsurance, or coverage by a pension protection scheme

Questions for: Own risk assessment (TGB045)

OWQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

No comment

OWQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

It would be helpful to governing bodies to highlight that when completing their internal review, having access to information regarding best practice used by other schemes would be helpful. Most trustees will work on only one scheme and so it is difficult for them to benchmark their own scheme's performance. However, using a professional trustee who sees the actions taken by other schemes as well is a way of raising standards across simply and cost effectively. This is one of the solutions available to governing bodies. It would be helpful if the guidance provided further examples of how governing bodies can meet the ORA requirements efficiently.

OWQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Further practical examples and case studies would be helpful with particular emphasis on the difference for big schemes with large governance budgets and small schemes with small governance budgets.

OWQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

Costs will again be a major concern for smaller schemes and or smaller employers. Many such schemes are run well and effectively but there is a danger that they will be asked to spend significant time and money to comply with the ORA that adds no value to members' benefits. These resources required will take away from the Employer's budget to run the Scheme which may have a secondary and negative impact on the members' benefits (note - this comments also applies to other areas of the Code). However, there is no way round this for such schemes and they will interpret this as a great frustration with TPR.

OWQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

OWQ6:

Are there any improvements that we could make to our suggested ORA that would make it more valuable for governing bodies? Is the cycle suggested for the review and update of the ORA appropriate given the subjects that it covers?

No comment

Scheme governance

Scheme governance (TGB046)

All pension schemes need to have systems of governance and internal controls that:

- provide the governing body with oversight of the day-to-day operations of the scheme
- include any delegated activities for which the governing body remains accountable
- provide the governing body with assurances that their scheme is operating correctly and in accordance with the law

The standards of governance required by law depends on the type of scheme the governing body operates.

Under section 249A of the Pensions Act 2004,^{SC1} governing bodies of certain schemes must establish and operate an effective system of governance including internal controls (see [Managing risk using internal controls](#)). However, there are certain exemptions.^{SC2}

Under section 249B of the Pensions Act 2004,^{SC3} scheme managers of public service pension schemes^{SC4} are required to establish and operate internal controls, which are adequate for securing that the scheme is administered and managed in accordance with the scheme rules^{SC5} and with the requirements of the law.

A system of governance will include anything that can reasonably be considered part of the operation of a pension scheme. Internal controls are a key feature of any system of governance and are:

- the arrangements and procedures to be followed in the administration and management of the scheme
- the systems and arrangements for monitoring the administration and management
- the arrangements and procedures to be followed for the safe custody and security of the assets of the scheme^{SC6}

SC1 Article 226A of The Pensions (Northern Ireland) Order 2005

SC2 Section 249A(3) of the Pensions Act 2004 [Article 226A (3) of The Pensions (Northern Ireland) Order 2005]

SC3 Article 226B of The Pensions (Northern Ireland) Order 2005

SC4 As defined in section 318(1) of the Pensions Act 2004 [Article 2(2) of The Pensions (Northern Ireland) Order 2005]

SC5 As defined in Section 318(2) of the Pensions Act 2004 [Article 2(3) of The Pensions (Northern Ireland) Order 2005]

SC6 Section 249A(5) of the Pensions Act 2004 [Article 226A(5) of The Pensions (Northern Ireland) Order 2005]

We have broadly the same expectations for each type of scheme. However, the standard required to meet those expectations frequently differs according to scheme type and size.

Where an expectation is different or applies differently in law for a specific type of scheme, this is made clear in this code. Where an expectation does not apply to a scheme because the law doesn't apply, the governing body may wish to consider whether the principles should be adopted as best practice.

The systems and controls put in place by a scheme should be proportionate to its size, nature, scale and complexity. This proportionality is a feature of legislation for some schemes.^{SC7}

Effective system of governance

An effective system of governance should include processes and procedures to ensure compliance with the following modules.

Some of the modules contain only expectations for an effective system of governance (ESOG), and some contain expectations for ESOG and separate legal obligations. Expectations in respect of those legal obligations should be followed as part of ESOG as well as for wider legal compliance. Where a module identifies a matter as best practice, this will not form part of our expectations for ESOG.

The expectations set out are subject to some exceptions for certain schemes, which are detailed in each module listed below.

SC7 Section 249A(1A) of the Pensions Act 2004 [Article 226A(1A) of The Pensions (Northern Ireland) Order 2005]

Management of activities

- Role of the governing body
- Meetings and decision-making
- Remuneration policy
- Working knowledge of pensions
- Governance of knowledge and understanding
- Building and maintaining knowledge
- Dispute resolution procedures
- Continuity planning

Organisational structure

- Role of the chair
- Conflicts of interest
- Managing advisers and service providers

Investment matters

- Investment governance
- Investment decision-making
- Investment monitoring
- Stewardship
- Climate change

Communications and disclosure

- General principles for member communications

Internal review

Governing bodies should ensure that the elements of their ESOG are subject to a regular internal review. This should assess whether each element is functioning as intended, and whether changes are required.

The governing body should establish and maintain policies for the review of each element of the ESOG. These policies should be agreed before any review is carried out and reviewed at least every three years. An ESOG should have a process that ensures that any necessary changes are made to the ESOG or review policies.

Internal review continued...

Unless specified otherwise in law or code, each element of an ESOG should be reviewed according to a timetable established by the governing body. This should ensure that each element of the ESOG is reviewed at least every three years. It is not necessary for all elements of an ESOG to be reviewed at the same time. Options for formal internal audit and external assurance reporting are discussed in [Assurance of governance and internal controls](#).

Own risk assessment

Governing bodies of schemes with 100^{SC8} or more members should carry out and document an own risk assessment of their ESOG.

Internal controls

The modules set out below contain systems, arrangements or procedures that governing bodies should have in place to comply with the requirements for internal controls. They also apply to schemes required to maintain an ESOG.

The expectations set out are subject to some exceptions or limitations in scope for certain schemes, which are detailed in each module listed below.

Internal controls

- Identifying and assessing risks
- Managing risk using internal controls

Administration and management

- Financial transactions
- Scheme records
- Data monitoring
- Receiving contributions
- Monitoring contributions
- Maintenance of IT systems

SC8 Regulation 3(9) The Occupational Pension Schemes (Governance) (Amendment) Regulations 2018 [Regulation 3(9) The Occupational Pension Schemes (Governance) (Amendment) Regulations (Northern Ireland) 2018]

Questions for: Scheme governance (TGB046)

SCQ1:

Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

It would be helpful if the title for this section refers to the Effective System of Governance which is summarised here.

SCQ2:

Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

As Trustees we have a very full agenda of work covering regular increased BAU as well as material one-off projects such as GMP Equalisation work. The code will require additional major projects to be added to the existing requirements and for many schemes the time investment needed to set up ESOGs and ORAs will be material. Therefore, TPR needs to be sensitive to this when seeking to enforce the new requirements. This comment is particularly acute for smaller schemes.

The review cycle for the ESOG and ORA needs to be considered carefully. Too often and it will simply become a low-cost compliance / tick box exercise which may not improve practice the way TPR is hoping for. We would propose a formal review of the ESOG is required every three years.

The use of professional trustees will help ensure the ESOG a scheme uses is consistent with best practice used elsewhere in the industry. A professional trustee working on a big scheme will take their knowledge with them to their smaller scheme appointments too, helping to drive up the compliance standards for the smaller scheme. TPR could usefully refer to Accredited Professional Trustees being used to provide a high standard of compliance for all schemes and this population of pension professional will quickly become an experienced and knowledgeable resource on ESOGs and ORAs.

SCQ3:

Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

No comment

SCQ4:

Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

No comment

SCQ5:

Do you have any further comments on the module that have not been covered by the previous questions?

No comment

SCQ6:

Is it clear where all the features of an effective system of governance, are covered in code from the content of this module? If not, what needs to be clearer?

No comment

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Response form 2: **The ‘Governing body’ section of the new code of practice**

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