

Public Document Pack

Date: 12 July 2017

To: MEMBERS OF THE SOUTH YORKSHIRE JOINT
LOCAL PENSION BOARD



**SOUTH YORKSHIRE
LOCAL PENSION BOARD**

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Barnsley
South Yorkshire
S70 2HG

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This matter is being dealt with by: Gill Richards

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Dear Member

SOUTH YORKSHIRE JOINT LOCAL PENSION BOARD

Thursday 20 July 2017

A meeting of the South Yorkshire Joint Local Pension Board will be held at 12.00 pm on Thursday 20th July, 2017 at the offices of the South Yorkshire Pensions Authority, 18 Regent Street, Barnsley, S70 2HG.

Car parking will be available at the rear of the building.

The agenda is attached.

Yours sincerely



D Terris
Clerk

Encs

Distribution: Glyn Boyington (Chair), Geoff Berrett, Steve Carnell, Nicola Doolan, Cllr Phillip Lofts, Kevin Morgan, Susan Ross, Jill Thompson (Vice-Chair) and Garry Warwick.

Terms of Reference

1. Administration

- 1.1 Monitor and review the performance of Scheme administration including suggesting any changes to the Pensions Administration Strategy.
- 1.2 Monitor, review and report on the receipt of contributions.
- 1.3 Monitor investment manager reports.
- 1.4 Review the format, timing and source of management information presented to the Board.

2. Auditors

- 2.1 Monitor and review the appointment and performance of the auditors.
- 2.2 Monitor and review the Annual Report and accounts.
- 2.3 Review the recommendations produced by audit and give consideration to what action should be taken and make recommendations to the Scheme Manager as appropriate.
- 2.4 Monitor and Review the Work Programmes for the Pensions Authority and its Boards and the South Yorkshire Passenger Transport Pension Fund Committee.

3. Internal Controls and Risk Register

- 3.1 Monitor and review the Authority's Risk Register.
- 3.2 Monitor internal controls and procedures of the Pensions Authority.

4. Communications

- 4.1 Monitor and make recommendations as appropriate on:-
 - The information available on the SYPA internet site
 - The information provided to Scheme members on leaving, retirement etc.
- 4.2 Produce an Annual Report upon its activities to be submitted to the Pensions Authority.
- 4.3 Produce reports and make recommendations to the Pensions Authority that relate to the work of the LPB. Any reports must be provided at least ten working days in advance of the next Pensions Authority meeting.

5. Budgets

- 5.1 Agree a yearly budget for the operation of the Local Pension Board and submit to the Authority for approval.
- 5.2 Monitor the level of fees against the annual budget set for the Pensions Board.

SOUTH YORKSHIRE JOINT LOCAL PENSION BOARD

THURSDAY 20 JULY 2017 AT 12.00 PM

AGENDA

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Agenda Item 4

SHEFFIELD CITY REGION COMBINED AUTHORITY/SOUTH YORKSHIRE PENSIONS AUTHORITY

JOINT LOCAL PENSION BOARD

16 MARCH 2017

PRESENT: G Boyington (Scheme Member) (Chair)

G Berrett (Employer, SYP), S Carnell (Scheme Member), N Doolan-Hamer (Unison), A Hurst (Employer, Sheffield CC), K Morgan (Unite), S Ross (Scheme Member), J Thompson (Employer, Action Housing) and G Warwick (GMB)

Officers: S Barrett (Interim Fund Director), G Chapman (Head of Pensions Administration), M McCarthy (Deputy Clerk), S Bradley (Audit Manager, BMBC) and G Richards (Democratic Services Officer)

Apologies for absence were received from Councillor T Corden

1 WELCOME AND APOLOGIES

The Chair welcomed everyone to the meeting noting that it was the first meeting for Councillor A Hurst, representing Sheffield CC as an employer.

Apologies were noted as above.

2 DECLARATIONS OF INTEREST

None.

3 MINUTES OF THE MEETING HELD ON 6 OCTOBER 2016

With regard to the vacancy for an Academy representative on the Board, M McCarthy informed members that after advertising the position again recently, there had been seven requests for information and two completed application forms returned. The closing date was Friday 17 March. He would be in touch with the Chair and Vice-Chair with regard to the interview process.

There had been no material changes to the Risk Register, therefore it had not been included on the agenda. It would be on the agenda for the July meeting.

With regard to an employer representative for the Passenger Transport Pension Fund, in view of the likelihood of the Fund being transferred to Greater Manchester Pension Fund in the future, it was decided to seek an alternative employer representative. It was agreed that if there were suitable applicants to appoint two Academy representatives.

It was agreed to remove item 5.1 – Monitor the validity of any discretions made by the employers/Administering Authority from the Terms of Reference as it wasn't relevant to the Board.

With regard to the need for indemnity insurance for the Board, although the risk was remote, officers were looking into including cover for the Board in the new insurance policy which was due for renewal if the cost was not prohibitive.

M McCarthy informed the Board that the website had recently been updated so the Local Pension Board section was on the front-facing page; further information would be added in the near future.

RESOLVED – That the minutes of the meeting of the Board on 6 October 2016 be agreed as a true record.

4 WORK PROGRAMME

The Board considered its Work Programme.

G Berrett questioned whether the Administration Strategy would be reviewed annually.

G Chapman replied that it would be looked at in April and any revisions taken to the October meeting of the Authority.

The Chair requested that the Board review this at their July meeting for input before the Authority meeting in October.

G Chapman agreed that if there were to be any revisions a report would be brought to the Board.

With regard to the Board's input into the Authority's Annual Report, this would have to be done by email due to the timings of the Board's meetings.

G Berrett questioned when the Board was going to review Internal Audit recommendations. It was noted that this was already done by the Corporate Planning and Governance Board but the Board received electronic links to all agendas and therefore could access all reports.

It was agreed that an email would be sent to members to flag any reports that were relevant to the LPB and invite comments.

With regard to the appointment of external auditors, the Authority had decided to opt in to a sector led procurement scheme where an Appointed Person appointed the external auditor on the Authority's behalf.

5 THE ROLE OF INTERNAL AUDIT

Audit Manager, Sharon Bradley informed the Board that Barnsley MBC delivered the Internal Audit Service for the Pensions Authority (this is a statutory function), their other clients were:

- South Yorkshire Fire & Rescue
- South Yorkshire Police & Crime Commissioner and Chief Constable
- Sheffield City Region Combined Authority
- South Yorkshire Passenger Transport Executive
- Berneslai Homes; and
- Barnsley MBC

Sharon explained the Institute of Internal Auditors definition of Internal Audit – the most recent developments being around the consultancy approach for Internal Audit, to enable Internal Audit to work with Clients (not “do to”) and therefore provide an added value service.

The Internal Audit Team was governed by the Public Sector Audit Standards and there are several principles within these. The Internal Audit service were required to undertake a comprehensive self-assessment annually and also commission an external assessment every five years. The external assessment was undertaken last year and the Service were found to be fully compliant. The assessments form part of the effectiveness of Internal Audit reports that were presented annually/six-monthly to the CP&GB.

Each year an Internal Audit Charter and Strategy was presented to the Authority (CP&GB). This details the purpose, objectives and approach adopted by Internal Audit. Additionally, the Head of Internal Audit prepared an Annual Audit for the CP&GB, to provide for an overall assurance opinion of the effectiveness on the Risk, Governance and Control Framework, based on the broad coverage of Internal Audit work undertaken during the year.

A risk-based Annual Internal Audit Plan was also prepared, in consultation with the Corporate Planning & Governance Board members, the Statutory Officers and the Authority’s Senior Management Team. The Plan details the number of days allocated annually to the Authority and the title and scope of the audits. This year 245 days had been assigned to the Authority, which was slightly less than the previous year. The Plan was designed to be flexible and to prioritise resources. Quarterly updates were provided to the CP&GB. Sharon also had regular plan update meetings with a member of the SMT.

The Chair thanked S Bradley for attending the meeting.

6 LGPS POOLING UPDATE

G Boyington referred the Board to a string of emails between the Chairs of Local Pension Boards regarding scheme member representation at pool level.

The first email had been received from the Chair of Tyne and Wear Local Pension Board the day before the Extraordinary meeting of SYPA to discuss their membership of the Border to Coast Pension Partnership.

At that meeting the decision was deferred and the Chair was asked to contact the other Chairs of the proposed pool members to ascertain their opinions on scheme representation at pool level.

As with the Chairs of the Local Pension Boards, the Authority Chairs' opinion was split, but with the majority being in favour of non-voting scheme member representation.

The Authority had approved an amended report at their meeting earlier in the day that supported scheme member representation.

The Board also commented on the current staff of SYPA and the need to ensure that they were not adversely affected, whether they were transferring to the pool or remaining with the Authority.

S Barrett informed the Board that discussions were in the early stages but every effort would be made to ensure that all staff were happy with the arrangements.

7 THE PENSIONS REGULATOR SELF-ASSESSMENT TOOL

The Pensions Regulator had issued a self-assessment tool for those involved in running a public service pension scheme to help identify issues and actions to take to improve governance and administration of the scheme.

G Chapman informed the Board that he had taken the assessment informally and, although there was some room for improvement, the results were generally good.

The restructure would strengthen the technical team and this would help further with achieving compliance.

The self-assessment results would go to the Authority at the October meeting to reassure the Authority regarding compliance and the plan in place to address any issues.

An interim report would be submitted to the July meeting of the Local Pension Board to enable the Board to comment on the position.

8 INVESTMENT STRATEGY STATEMENT

The Board considered the Investment Strategy Statements (ISS) for South Yorkshire Pensions Authority and the South Yorkshire Passenger Transport Pension Fund. These were updated versions of the strategies previously outlined in the Statement of Investment Principles. Pooling of investments had given rise to new regulations including a change of name to Investment Strategy Statement..

The Investment Board had approved SYPA's ISS on 9 March 2017 and the SYPTPF ISS would be submitted to the meeting on 27 March 2017.

9 FUNDING STRATEGY STATEMENT

The Board were informed that the Authority had approved a revised Funding Strategy Statement at its meeting earlier in the day; a revised Funding Strategy Statement would be submitted to the Passenger Transport Pension Fund Committee on 27th March 2017.

The Funding Strategy Statements had been amended to align with the Investment Strategy Statement.

SYPA funding level had risen to 85% and the ISS proposed a shift in investment classes to build on the long term strengths of the fund.

The Passenger Transport Pension Fund was in a different position as it was a closed fund with approximately 150 members and was 92% funded. There had been no shift in core investment strategy.

10 ANNUAL FUND MEETING SURVEY

The Board considered a report to inform of the results of a survey carried out among Scheme members who had attended the Annual Fund meeting.

The meeting had been attended by 62 delegates, 41 of whom returned a completed survey.

Members preferred the amended format where Q & A sessions were held after every presentation rather than at the end of the meeting with 95.12% of delegates agreeing this was better.

Overall the delegates were satisfied with most elements of the meeting, the main concern being the length of the bus journey from Sheffield. Officers had agreed to look at this before the next meeting.

11 FEEDBACK FROM CIPFA LPB SPRING SEMINAR

Several members of the Board had attended the CIPFA/Barnett Waddingham Local Pension Board Spring Seminar in Leeds on 1 March 2017.

Members had found it useful to varying degrees; it was thought that the section on record keeping had not been relevant.

S Ross felt that it had been useful to meet other Board members and learn what their Boards were doing.

Members were disappointed there had not been a more involved discussion on the subject of member-nominated representatives' involvement in pensions pooling

arrangement, despite the lack of guidance from the government or the Scheme Advisory Board.

Members were unsure overall if the event had been a worthwhile use of expenditure.

12 COMMUNICATIONS BETWEEN THE SY JOINT LOCAL PENSIONS BOARD, SCHEME MEMBERS AND EMPLOYERS

The Board discussed their ability to communicate with Scheme members.

It was felt that this was an area that could be progressed; active Trade Union representatives already had the ability to communicate with their members whereas it was more difficult for other members of the Board.

G Chapman informed the Board that all the Authority's channels of communication was at their disposal, including social media, the website, employer systems and space in the newsletter. Surveys could also be conducted if the Board required feedback.

The Chair commented that it was important for Scheme members to know who the Board were, what they did and how to get in touch with the Board.

G Warwick thought that communications could be used to advise Scheme members in certain areas e.g. capping final payments, although it would be important to make clear that any views expressed were those of the Board and not the Authority.

The Chair requested the Board be informed when the next newsletter was in production so the Board could consider if they wanted to have something included.

M McCarthy suggested including a Communications Strategy in the Annual Report; this was agreed.

13 LPB BUDGET

The Board noted its budget, the majority of which had been spent on training and travel costs.

It was agreed the budget would remain at £10,000 for the next financial year; there may need to be some provision for indemnity insurance.

14 MEETING CYCLE REPORT

The Board considered the meeting cycle for 2017/18.

Meetings were scheduled after meetings of the Authority or Corporate Planning and Governance Board; it was felt that Investment Board meetings were too long to schedule a further meeting afterwards. Members were always welcome to attend an Investment Board meeting if they so wished.

Meeting dates were confirmed as:

20 July 2017
5 October 2017
18 January 2018
15 March 2018

15 LPB TRAINING EVENTS

The Board considered training events attended by members during the year.

Further events would be offered as they became available and the Board would continue to be invited to all Authority training sessions.

16 ANY OTHER BUSINESS

None.

CHAIR

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Agenda Item 5

South Yorkshire Joint Local Pension Board Work Programme

Terms of Reference Area	Jan	March	July	Oct	Author
<u>Board Arrangements</u>					
Board Work Programme	x	x	x	x	GR
Cycle of Board Meetings		x			GR
Board's Annual Report			x		MM/GR
LPB Budget Monitoring	x	x	x	x	BC
Minutes of Previous Meeting/Matters Arising	x	x	x	x	GR
Annual Review of Constitution & ToR			x		MM/GR
Learning & Development	x				MM/GR
<u>Administration</u>					
Employers Performance					GC
Pensions Administration Performance	x				GC
Review of Administration Strategy			x		GC
Investment Update	x	x	x	x	Various
Authority and Board Work Programmes				x	FB
SYP Annual Fund Meeting				x	GC
SYP Annual Fund Meeting Survey	x				GC
Employers Forum Survey		x			GC
Review of Annual Report & Accounts					GR
Treasury Management	x				TBC
Budget Monitoring					TBC
Complaints and Compliments				x	
<u>Auditors</u>					
Internal Audit Update (incl. recommendations)	x				RW
Internal Audit Annual Report					RW
External Audit Annual Governance Report					LW
External Audit Annual Audit Letter	x				LW
<u>Risk Management</u>					
Annual Review of Risk Management					AH
Risk Register	x	x	x	x	AH
<u>Communications</u>					
Information of the SYPA Website	x		x		GR
Information provided on retirement, leaving etc.		x			GR

Topical issues & requests from LPB members will be added where necessary.

Updated 06.07.17

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SOUTH YORKSHIRE PENSIONS AUTHORITY

JOINT LOCAL PENSION BOARD

20 July 2017

RISK REGISTER

1. Purpose of the Report

To monitor and review the Authority's Risk Register as per 3.1 of the Local Pension Board's Terms of Reference.

2. Background Information

The Corporate Planning and Governance Board is responsible for the oversight of the Authority's Risk Register and is involved in the identification of high level strategic risks. To enable the Corporate Planning & Governance Board to carry out these responsibilities the Risk Register is a regular item on Board agendas.

3. Risk Update

Revisions have been made to the Register since it was last presented to the Local Pension Board for consideration. These are highlighted in red on the attached Risk Register.

Four new risks have been added. These reflect the risks around:

- Reconciliations between SY Pensions and the DWP.
- Management of the transition to investment pooling.
- Transfer of the Passenger Transport Pension Fund to the Greater Manchester Pension Fund.
- European driven changes to the Markets in Financial Instruments Directive.

4. Comments

Members are asked to comment and/or make suggestions on the content of the Risk Register.

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SY PENSIONS AUTHORITY RISK REGISTER AS AT

17/05/2017

Priority	Risk No	Risk Title	Risk Consequences	Risk Owner	Existing Control Measures	Current Score	Probability and Impact	Target Score	Probability and Impact	Risk Mitigation Action	Owner	% comp	Review Date	Commentary (If Applicable)
	001	Failure to ensure there are appropriate succession plans in place to ensure employees are given opportunities to demonstrate their capability to 'step-up' to more senior roles	Leading to... Knowledge gaps; Negative impact on existing / remaining employees; Business Continuity and resilience issues; Negative impacts on service delivery; Poor performance and non-delivery of targets; Reputational damage; Potential knock on effects where knowledge gaps could appear in areas where employees have been promoted from; Inappropriate decision making by Members of the Pension Board; Poor scrutiny and challenge by Members of the Joint Local Pensions Board;	Head of Paid Service	Training of employees; Sharing of information; Use of minutes and central resources to ensure employees are well informed; Involvement in all issues of management teams to ensure continuity; No immediate competitors for recruitment in the Pensions industry; Procedures well documented; Currently carrying some vacancies to provide some flexible options; Need to provide full Business Case prior to any recruitment being undertaken; External HR support in place; Authority Management Committee in place; BMBC HR support;	2	P - H F - M OI - M	4	P - H F - L OI - L	Access to online training for all staff now available and plans being drawn up to ensure that staff are scheduled to undertake the appropriate training relative to their needs. Delivery of internal Training Programme 17/18	Head of Paid Service Head of Paid Service / Pensions Manager		30/09/2017 30/09/2017	This has been updated to recognise the development of the online training plan. The risk scoring remains the same until the training programme has been implemented and then reviewed at that point. The restructure in pensions administration has elevated a number of key staff which is positive for retention
	002	Failure to ensure that the Elected Members knowledge and understanding of Pensions related activities is robust, and meets the statutory requirements in terms of Section 248a of the Pensions Act 2004	Leading to... Improper scrutiny and challenge by Elected Members; Mistakes, Errors and omissions and non-compliance with statutory requirements; Failure to ensure contributions are collected; Failure to ensure benefits are calculated properly; Failure to ensure surplus monies are properly and prudently invested; Reputational damage in terms of censure from regulators;	Clerk to the Authority	Induction training provided to new Members which comprises a three day external training course; One day internal refresher course in 2015; Periodic awareness presentations delivered to Members; A self assessment framework for Members and Chairs is in operation but needs refining - this should assist in identifying training requirements; Lead Member for training identified; Working to the spirit of the CIPFA Code of Practice (Code of Practice on Public Sector Pensions Finance Knowledge and Skills, revised in 2013) - Treasurer is the nominated CIPFA officer; Production of Annual Report which includes commentary on Members training activities; External training augmented by internal training;	5	P - M F - VL OI - L	6	P - L F - VL OI - L	Review of Members self assessments	Treasurer		01/09/2017	
Page 13	003	Failure to ensure that required pay and contributions data from customers is provided in an accurate and timely manner	Leading to... Negative impacts on operational targets; Inaccurate information being given to employees and pensioners resulting in complaints, customer dissatisfaction and reputational damage;	Head of Paid Service	District Group Meetings between officers; Regular reports on progress submitted to Corporate Planning and Governance Board; Standard item on South Yorkshire Treasurers Association meetings; Practitioner officer working group established; Ongoing liaison with External Audit; Pensions regulator responsible for regulating schemes and is able to fine and censure those responsible for inaccurate or late information; Enhanced and more robust Service Level Agreements between customers and Authority; Pension Strategy approved by Authority - reviewed and revised version in place for 01/04/2016 - incorporates SLA's and improves upon them in terms of fines being levied for customers who are non-compliant;	2	P - M F - H OI - M	3	P - L F - H OI - H	Pensions Administration Strategy Implemented Monthly postings to be implemented for 18/19	Vice Chair (Corporate Governance and Planning Board) Pensions Manager		30/09/2017 30/09/2017	Positive steps forward in this area but the risk remains high until the change to monthly posting has been implemented.
	004	Failure to ensure that social, environmental and other factors such as the use or endorsement of fossil fuel, obesity and tobacco by companies in which the Fund invests are considered when making investment decisions	Leading to... Non-achievement of investment objectives; Failure to protect and enhance the economic value of the companies the Fund invests in; Reputational damage;	Fund Director	Internal policy documents in place; Awareness information circulated within Investments Team; Membership of various pressure groups; Reports to Members Oversight Board; Awareness of balance between risk (investing in companies that may have an interest in fossil fuel, obesity and tobacco) against reward (high yield investments); Members have embraced the approach exhorted by Professor John Kay in his 2012 'Review of equity markets and long term decision making' and the phrase 'voice over exit'; Pensions Climate Change Policy Document published and feedback received; Statement of Investment Principles in place; Performance reports include information on investments made;	4	P - M F - M OI - M	5	P - L F - L OI - L	Reports to members have been submitted during the year.	Head of Investments		30/11/2017	Members are kept up to date with reports as appropriate.
	005	Failure to ensure that the deposits held with banks and other financial institutions is repaid on the agreed due date (Credit Risk)	Leading to... Financial loss; Negative impact on overall financial viability of the scheme;	Fund Director	Treasury Management Strategy requires that deposits are not made with financial institutions unless they meet identified minimum criteria set by the Authority; Maximum sum to be invested identified for each institution; Credit monitoring arrangements in place; Financial references obtained for institutions that the Authority may potentially invest in;	5	P - L F - M OI - L	6	P - L F - L OI - L	Ongoing monitor and review	Head of Investments		31/03/2018	Treasury Management strategy reviewed and approved March 2017. Monitoring reports submitted during the year.
	006	Failure to ensure that the Authority has appropriate access to its cash resources to meet its commitments to make payments (Liquidity Risk)	Leading to... Financial loss; Negative impact on overall financial viability of the scheme; Inability to meet pensioner payroll costs and investment commitments;	Fund Director	The Fund has immediate access to its cash holdings with the majority of cash being deposited for no longer than a week, and no cash being deposited for more than a month; The latest triennial actuarial valuation undertaken in 16/17; Assumptions within Actuarial report (mortality and commutation rates) unchanged for previous evaluations; The Authority works to the principle of 'collect, handle, secure and invest';	5	P - L F - M OI - L	6	P - L F - L OI - L	Actuarial review in 2016 completed : new contribution rates in place from April 2017. Treasury management operations kept under review	Head of Investments		30/11/2017	Actuarial review completed by March 2017

SY PENSIONS AUTHORITY RISK REGISTER AS AT

17/05/2017

Priority	Risk No	Risk Title	Risk Consequences	Risk Owner	Existing Control Measures	Current Score	Probability and Impact	Target Score	Probability and Impact	Risk Mitigation Action	Owner	% comp	Review Date	Commentary (If Applicable)
	007	Failure to ensure the Authority protects the data it owns, and the data it handles	Leading to... Loss of personal information resulting in reputational damage and censure by Information Commissioner; Loss of trust from partnering organisations; Successful attacks by hackers or third parties; Disruption and delays;	Head of Paid Service / Fund Director	Data back up undertaken daily and backed up information removed from site; Disaster Recovery procedures and Business Continuity Plan in place; External Audit by third party organisations the Authority works with; Security of emails via GSX accounts or the use of Mimecast software; IT Security Policy in place; Reporting of incidents to Information Commissioner; Information Governance training included in training programme; BOLD training available via BMBC; Data Protection Officers no longer in post within SY Pensions; Contract management arrangements regarding the software provided by SY Pensions to third parties includes performance management consideration; Liaison with Landlord regarding improvements to physical security of Regents Street Offices such as lock on doors undertaken; Mandatory Data Protection training in place;	3	P - L F - H OI - H	5	P - VL F - M OI - H	Bi-Annual review of BCP Roll-out of Windows 10 to enable hard drives to be encrypted Review of where data is stored to ensure is can not be extracted Provision of online training to employees 16/17. Investigate GDPR and provide relevant training if necessary	IT Manager IT Manager IT Manager IT Manager		31/03/2018 Complete 30/09/2017 31/03/2018	The IT plan is tested on an annual basis. No issues from the last test. The review of data storage is well underway. The online training course has been completed. The impact of GDPR from May 2018 needs to be considered.
	008	Failure to ensure that the reconciliations between SY Pensions and the DWP relating to the end of the contracting out window (31/03/2016) are undertaken within an appropriate timescale	Leading to... SY Pension will have to guarantee minimum pension levels, and essentially have to underwrite the risk of miscalculation or lack of / poor information;	Head of Paid Service	Details from central Government are still emerging; Current lack of resources within SY Pensions makes this a challenging area to comply with; Approval received to outsource arrangements to I.T.M. Ltd;	2	P - H F - M OI - M	4	P - M F - M OI - M	Review of work undertaken by I.T.M. Ltd to ensure members benefits are correct. Reconciliation work has been undertaken and recalculations ready to be done.	Pensions Manager		30/09/2017	Progress has been made but recalculations are now in a queue along with other work waiting to be done. Risk still high until recalculations are undertaken
	009	Transition to the new investment 'pooling' arrangements is not well managed	Poorer value for money Negative impact on the staff involved in the transition Reputational damage for SYPA and the LGPS	Clerk to the Authority	Member Steering Group in place (MSG) Chair of SYPA fully engaged in MSG Officer Steering Group with SYPA senior officers involved Sec151/Monitoring Officer oversight of arrangements Regular reports to SYPA & LPB	3		3		Member and officer participation in pooling arrangements and supports individual workstreams	Fund Director		Jun-17	Regular reporting in place at SYPA meetings. Key BCPP appointments to be made June/September 2017
	10	Transfer of the Sheffield City Region Comined Authority (SCRCA) Passenger Transport Fund to the Greater Manchester pension Fund effective 1.4.17	Whilst this relates to the PTF rather than SYPA there is nonetheless a potential reputational impact if this is not well managed by SYPA officers.	Fund Director	Project Magpie has been set up by GMP supported by Hymans (Actuary) and the Head of Pensions is a member of the project team. Consultation is currently underway via DCLG expecting to confirm the transfer, retrospectively, from 1.4.17 with some months of post transfer transition.	4		6		Maintain as standing item on SMT Head of Pensions a member of the project team and reports to SMT Head of Investments engaged as required on asset transfers. Head of Finance exercises oversight of financial implications.	Fund Director/ Head of Pensions / Head of Investments/ Head of Finance		30/09/2017	SMT standing agenda item
	11	The MiFID II (Markets in Financial Instruments Directive) arrangements are somewhat complex European driven changes which could impact adversely on all LGPS funds.	The changes are currently set to take effect from 3 January 2018, part of a process of harmonising regulations for investment services across market operations in the European Economic Area. The main issue that funds could face is a re-classification from 'per se professional' to 'retail' client status. Funds could see significant restrictions on their investment activities as retail clients e.g. in terms of the types of investment funds and asset classes which they could invest in.	Fund Director / Head of Investments	The Financial Conduct Authority (FCA) is the body responsible for implementing the requirements in the UK, in the context of the EU and UK regulatory frameworks. Funds will however, have the opportunity to "opt-up" to 'elective professional client', i.e. professional client status. The FCA believes that the ability to access financial markets will not be fundamentally affected by broader changes if classified as a professional client. The specific procedure for opting-up will include both qualitative and quantitative assessments	3		5		There are no immediate financial consequences for the Fund. BCPP officers working with the FCA and others to forge an acceptable way forward for the operation of LGPS funds within MiFID II is crucial to future operating practices.	Fund Director / Head of Investments		30/09/2017	Kept under review within BCPP Officer operating Group

SOUTH YORKSHIRE PENSIONS AUTHORITY
LOCAL PENSION BOARD EXPENDITURE TO Q/E 30/06/17

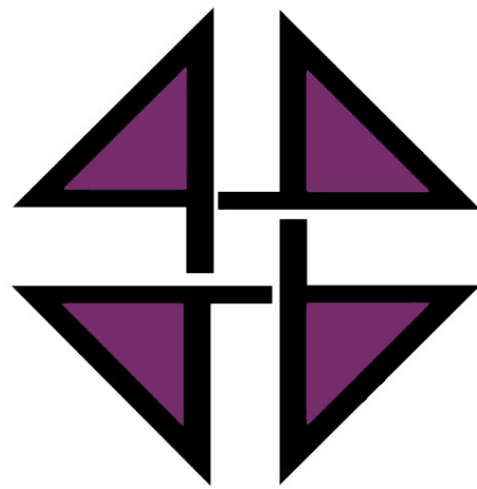
Agenda Item 7

	ORIGINAL OUTTURN	ACTUAL OUTTURN	2017-18 VARIANCE	Note
LOCAL PENSION BOARD				
Travel, Accommodation and Subsistence	3,500	338	3,162	1
Training	8,000	350	7,650	1
Professional Advice	3,500	-	3,500	1
	15,000	688	14,312	

1. Expenditure has been minimal against this budget as the Local Pension Board has only incurred travel expense claims, subsistence and training expenses at the end of Qtr1

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**South Yorkshire Pensions Authority and the
South Yorkshire Passenger Transport Fund**



SOUTH YORKSHIRE
LOCAL PENSION BOARD

ANNUAL REPORT 2016/17

Foreword

Welcome to the second annual report of the South Yorkshire Joint Local Pension Board (LPB).

The Board seeks to assist the South Yorkshire Pensions Authority and the South Yorkshire Passenger Transport Fund to maintain effective and efficient administration and governance. Members of the scheme can now have direct influence on how the fund is managed. The LPB comprises both scheme members, retired and active, together with employer representatives. Employer representation is not restricted to the four large local Councils.

Throughout the year we have discharged our duties by seeking information from our scheme management and have offered advice as necessary. Members have continued to equip themselves to fulfil their duties by undertaking training, as set out elsewhere in this report, and have a work programme that enables us to meet our obligations ensuring that the two funds comply with the relevant codes of practice and current legislation.

As I indicated last year, your pension funds face times of change and challenge as a result of the Governments decision that Local Government Pension Scheme (LGPS) funds should establish large pooled investment organisations. The two South Yorkshire funds have joined the Borders to Coast Pool. Throughout the process of establishing the Pool your LPB has been involved in the discussions with the aim of seeking to ensure that the best interests of the South Yorkshire Funds are safeguarded. In addition to discharging our duties at a local level we have engaged with several of the Local Pension Boards at other funds within the new pool.

I would like, on behalf of the Joint Local Pension Board, to thank the Officers of South Yorkshire Pensions Authority and South Yorkshire Passenger Transport Fund, and the Chairs and Members of our two local pension funds for their help, cooperation and continued commitment. Looking towards the coming year we aim to build on the foundations set and assist the Authority to move forward, integrating together South Yorkshire and the other members of the newly established Border to Coast investment pool.

Glyn Boyington, Chair



A handwritten signature in black ink, appearing to be 'Glyn Boyington', written in a cursive style.

Membership

Employee Representatives

Glyn Boyington - LGPS Member (Chairman)

Garry Warwick (GMB) - Trades Union

Kevin Morgan (UCATT) - Trades Union

Nicola Doolan (Unison) - Trades Union

Susan Ross - LGPS Member

Steve Carnell - SYPTPF Member

Employer Representatives

Jill Thompson (Action Housing) - Admitted Body (Vice-Chair)

Geoff Berrett (South Yorkshire Police) - 'Other Large Employer'

Vacancy – Academy

Councillor Phillip Lofts - Local Authority Member (Barnsley)

Vacancy - Local Authority Member (Rotherham)

Vacancy – (South Yorkshire Passenger Transport Pension Fund)

Member Attendance

Attendance at the LPB meetings has been positive with members and employer representatives freely giving their time and commitment. Indeed 6 members have achieved 100% attendance over the year.

	20 July 2016	6 Oct 2016	16 Mar 2017
Geoff Berrett	✓	✓	✓
Glyn Boyington	✓	✓	✓
Steve Carnell	✓	✓	✓
Cllr Tony Corden	x	✓	x
Cllr Ben Curran	x	x	N/A
Nicola Doolan	x	x	✓
Cllr Adam Hurst	N/A	N/A	✓
Kevin Morgan	✓	✓	✓
Melanie Priestley	x	N/A	N/A
Sue Ross	✓	✓	✓
Jill Thompson	x	✓	✓
Garry Warwick	✓	✓	✓

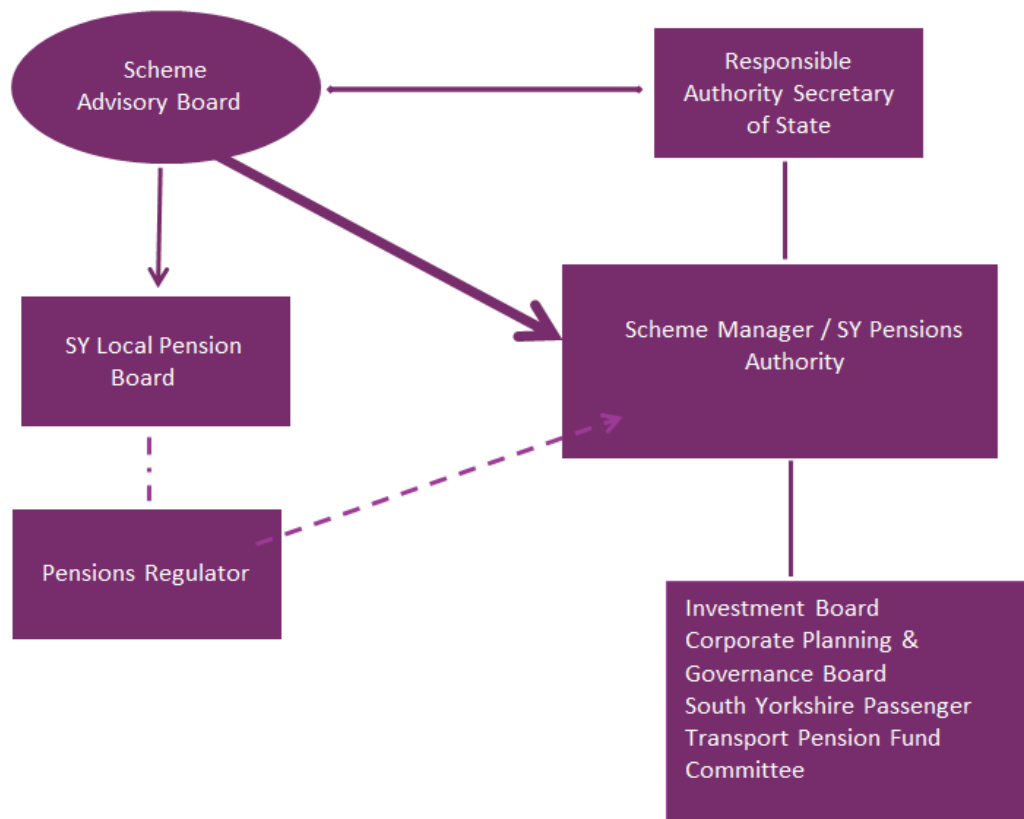
Members have also attended Pension Authority Meetings as observers

Role of the LPB

The role of the Local Pension Board as defined by Sections 5(1) and (2) of the Public Service Pensions Act 2013 is to:

- Secure the effective and efficient governance and administration of the LGPS for the South Yorkshire Pension Fund and South Yorkshire Passenger Transport Pension Fund
- Provide the Scheme Manager with such information as it requires to ensure that any member of the Local Pension Board or person to be appointed to the Local Pension Board does not have a conflict of interest
- Ensure the South Yorkshire Pension Fund and South Yorkshire Passenger Transport Pension Fund effectively complies with the Code of Practice on the Governance and Administration of Public Service Pensions Schemes issued by the Pensions Regulator and is effectively managed and administered in compliance with the Code.

Governance Structure



Work of the Board 2016/7

The Board held three meetings during the year.

The Board continued to develop their **Work Programme** which evolves as Members knowledge and understanding of their role evolve. Agreement has been reached to ensure specific issues set out in Government Guidance were cross referenced and any gaps included in the Work Programme. Members of the Board receive all **agenda papers** issued to Members of the Pensions Authority.

In considering all agenda papers presented to the Authority, the Board has in particular sought clarification on the following:

- **Annual Fund Member Survey** – Additionally Members of the Board were invited to the Annual Fund Member Event held at The Holiday Inn Barnsley
- **2016 Actuarial Valuation** – The Board have been kept informed on progress in compiling relevant data in support of the valuation
- **Risk Management Strategy** – The Board were kept up to date on the development and adoption of the Risk Management Strategy and reviewed the Authority's Risk Register
- **Internal Audit** – The Board received a presentation on the work of Internal Audit from BMBC's Audit Manager
- **Work Programmes** – The Board considered the Work Programmes of the Authority and its Boards
- **Investment Pooling** – The Board were invited to all meetings regarding the process involved in the intention to join the Border to Coast Pensions Partnership
- **Budget** – the Board regularly reviewed their budget
- **External Audit Arrangements** – The Board, through the receipt of all Authority papers was kept fully briefed on the work of the Authority's External Auditors KPMG.

Training and Development

The Board has in place a Training and Development Strategy similar to that of the Authority and both bodies have acknowledged the requirement to undertake training and development in tandem for mutual benefit and to provide value for money in training delivery.

During the year, Board Members have received the following training/development support:

- The Effective Audit Committee – Head of Audit, Barnsley MBC
- Treasury Management Training - Associate Director, Capita Asset Solutions
- LGA Fundamentals Days 1, 2 & 3

- Internal Audit & Risk Management – Head of Audit & Risk Manager, Barnsley MBC
- Asset & Liability Information Session
- CIPFA/Barnett Waddingham Local Pension Board Spring Seminar

In addition, the Chair and Vice-Chair attended the CIPFA/Barnett Waddingham event – Local Pension Boards One Year on.

Future Plans

We aim to:

- Continue to work with the Officers and Members of the Authority and Transport Fund with a view to becoming more integrated into their decision making forums in order to be able to have influence on the outcome of events
- Marketing the work of the LPB through articles within the news letters issued by the Pensions Authority and participation at the annual fund meetings
- Undertake training/workshop style events for members of the LPB as appropriate
- Seek to establish a working relationship with Local Pension Boards in other Funds within Border to Coast pool.

**SOUTH YORKSHIRE PENSIONS AUTHORITY
LOCAL PENSION BOARD EXPENDITURE TO
31/3/17**

	ORIGINAL OUTTURN	ACTUAL OUTTURN	2016-17 VARIANCE	Note
LOCAL PENSION BOARD				
Travel, Accommodation and Subsistence	3,000	1,987	1,013	1
Training	5,000	3,550	1,450	1
Professional Advice	2,000	-	2,000	1
	-	-	-	
	10,000	5,537	4,463	

1. Expenditure is within budget expectations as the Local Pension Board has incurred travel expense claims, subsistence and training expenses at the end of Qtr4

SOUTH YORKSHIRE PENSIONS AUTHORITY

JOINT LOCAL PENSION BOARD

20 July 2017

ANNUAL REVIEW OF THE CONSTITUTION AND TERMS OF REFERENCE

1. Purpose of the Report

To review the Board's Constitution and Terms of Reference.

2. Background

The Board approved its Constitution and Terms of Reference at its inaugural meeting on 23 July 2015; there have been minor changes to the documents since then.

Members will be aware that First Group are in the process of merging their three pension schemes (South Yorkshire, West Yorkshire and Greater Manchester Pension Fund) into one, which will be held under the Greater Manchester Pension Fund. The Terms of Reference and Constitution will need to be updated to reflect this by the removal of all mention of South Yorkshire Passenger Transport Pension Fund, an update to the governance structure and membership and to change the name of the Board to 'South Yorkshire Local Pension Board'.

3. Comments

Members are invited to comment and/or make suggestions for amendments to the Terms of Reference and Constitution.

Gill Richards
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SOUTH YORKSHIRE
LOCAL PENSION BOARD

CONSTITUTION

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1. Name

- 1.1 The name of the Board is “the Sheffield City Region Combined Authority/South Yorkshire Pensions Authority Joint Local Pension Board” (to be known as South Yorkshire Joint Local Pension Board) and is established by South Yorkshire Pensions Authority (“the Authority”) as the administering authority under the provisions of Section 5 of the Public Sector Pensions Act 2013 (“the Act”).

2. Purpose and Role

- 2.1 The role of the Local Pension Board as defined by Sections 5(1) and (2) of the Public Service Pensions Act 2013 is to:
- 2.1.1 Secure the effective and efficient governance and administration of the LGPS for the South Yorkshire Pension Fund and South Yorkshire Passenger Transport Pension Fund.
 - 2.1.2 Provide the Scheme Manager with such information as it requires to ensure that any member of the Local Pension Board or person to be appointed to the Local Pension Board does not have a conflict of interest.
 - 2.1.3 Ensure the South Yorkshire Pension Fund and South Yorkshire Passenger Transport Pension Fund effectively complies with the Code of Practice on the Governance and Administration of Public Service Pensions Schemes issued by the Pensions Regulator and is effectively managed and administered in compliance with the Code

3. Powers of the Local Pension Board

- 3.1 Where any breach of legislation or duties is committed or is alleged to have been committed by the Pensions Authority or its Boards or the South Yorkshire Passenger Transport Pension Fund Committee, the Local Pension Board shall:
- 3.1.1 Within one month of the possible breach, meet with the Authority Chair (supported by the Section 151 officer) to discuss the breach.
 - 3.1.2 Ask the Authority Chair to explain the actions taken and provide evidence of the legitimacy of the actions taken.
 - 3.1.3 Consider the matter on the facts available and evidence provided by the Chair and shall:
 - 3.1.3.1 Refer it back to the Authority to consider afresh and correct any areas of concern/breaches of duty; or
 - 3.1.3.2 Determine that no breach of duty has taken place.
- 3.2 If under clause 3.1 above it is decided that a breach has occurred, the Local Pension Board shall (as required by the Code of Practice and the Pensions Act 2004):
- 3.2.1 Report the breach to the Scheme Manager who should take prompt and effective action to investigate and correct the breach and its causes and, where appropriate, notify any affected members; or
 - 3.2.2 Where prompt and effective action to remedy the breach has not been taken and/or where scheme members have not been informed when they should

have been, report the breach as a breach of material significance to the Pensions Regulator.

- 3.3 As per Regulation 106(6) and subject to the terms in this Constitution, the Local Pension Board shall have the power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

4. Scheme Manager Consents

- 4.1 The Local Pension Board shall not:

- 4.1.1 Consider or become involved in any internal dispute resolution appeals or the process itself.
- 4.1.2 Enter into contracts on behalf of the Administering Authority.
- 4.1.3 Use the Local Pension Board to act on behalf of a particular constituency or Pension Fund member in general or in relation to a specific complaint at any time.
- 4.1.4 Compromise the Pensions Authority's ability to comply with its fiduciary duty to the Pension Fund and its members.

- 4.2 The Local Pension Board must seek written consent from the Scheme Manager before it:

- 4.2.1 instructs the Pension Fund actuary to provide a report of any kind;
- 4.2.2 requests any external advisor to attend a meeting of the Local Pension Board which shall require any remuneration of any level;
- 4.2.3 incurs a cost to the Pension Fund;
- 4.2.4 can amend this constitution.

5. Membership

- 5.1 In accordance with Regulation 107 of the LGPS (Governance) Regulations 2014 the South Yorkshire Local Pension Board will be made up of an equal number of employer and member representatives which is no less than four in total. The South Yorkshire LPB will comprise of 12 members in total.

- 5.1.1 Employer representatives will consist of:

- 2 Local Authority members (rotated every 2 years)
- 1 'Other Large Employer' (appointed for 3 years)
- 1 Academy (appointed for 3 years)
- 1 Admitted Body (appointed for 3 years)
- 1 South Yorkshire Passenger Transport Pension Fund (SYPTPF) Employer

- 5.1.2 Employee representatives will consist of:

- 3 Trades Unions (appointed for 3 years)
- 2 members selected from active, pensioner and deferred members (appointed for 3 years)

- 1 member selected from active, pensioner and deferred members of SYTPF (appointed for 3 years)

5.1.3 Appointment of employer and Trades Union representatives will be by nomination, Scheme member representatives will be appointed by an application process.

5.1.4 A member may serve a maximum of two terms of office.

5.2 No officer or elected Member of an administering authority who is responsible for the discharge of any function under the Regulations may be a Member of a Local Pension Board.

5.3 Members of the Local Pension Board will be voting members; each member shall have one vote. It is expected that the Board will, as far as possible, reach a consensus; the Chair of the Board will have the final deciding vote which will be reported to the Administering Authority.

5.4 Regulation 107 requires that the administering authority, South Yorkshire Pensions Authority, ensures that all employer or member representatives sitting on the Board have relevant experience and capacity to represent the employers or members of the Fund.

5.5 Substitute members will not be permitted.

5.6 Each Local Pension Board member shall endeavour to attend all LPB meetings during the year.

6. Chair

6.1 The Board shall elect a Chair from amongst its members.

6.2 The Board shall elect a Vice-Chair from amongst its members.

6.3 When the Chair of the Board is from the employer representatives, then the Vice-Chair will be elected from the member representatives, and vice versa.

7. Leaving the Board

7.1 A member of the Board shall cease to hold office if:

7.1.1 He or she notifies the Board of a wish to resign.

7.1.2 He or she is an elected councillor and is appointed to the Pensions Authority.

7.1.3 He or she ceases to be employed by the body on behalf of whom he/she acts as a representative, including but not limited to Trade Unions or Scheme employers.

7.1.4 A member fails to attend meetings or otherwise comply with the requirements of being a Board member, for example fails to attend the necessary knowledge and understanding training.

7.1.5 A member dies or becomes incapable of acting.

7.1.6 There exists a conflict of interests in relation to a Board member which cannot be managed within the internal procedures of South Yorkshire Pensions Authority.

8. Standards and Interests

8.1 Members of the Board shall comply with their Local Authority's Code of Conduct for Members; members of the Board who are not Councillors shall comply with any Code of Conduct applicable to their professional body and/or the organisation they represent. All members of the Board will adhere to the Seven Principles of Public Life. These are:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

8.2 Members of the Board shall register their disclosable pecuniary interests with South Yorkshire Pensions Authority's Monitoring Officer as required under the Code, the Localism Act 2011 and Regulations made under the Localism Act 2011.

9. Conflicts of Interests

9.1 Further to the Regulations, a member shall not be appointed who has an existing conflict of interest.

9.2 For the avoidance of doubt, being a member of the Pension Scheme is not a conflict of interest.

9.3 Where a member becomes conflicted during their appointment, they shall inform the Scheme Manager without delay and their tenure shall end with immediate effect.

9.4 Where a member has been removed from the Board under this clause 9, they will be entitled to be reappointed once the conflict has been resolved.

9.5 Such reappointment shall be made to the Board only where written approval from the Scheme Manager (advised by the Monitoring Officer) has been provided.

10. Meetings and Procedures of the Board

10.1 The Board shall hold meetings quarterly. Additional meetings may be called at any time by the Chair.

10.2 In the absence of the Chair at a meeting of the Board, the Vice-Chair will preside over that meeting. In the event that both the Chair and Vice-Chair are absent then the Board will appoint one of its members to preside at that meeting.

- 10.3 The quorum for a meeting of the Board shall be at least 2 employer and 2 employee representatives.
- 10.4 Board meetings shall be held in public. The public may be excluded from the meeting when matters are considered that, in the opinion of the Scheme Manager, contain information covered by exempt/confidential information procedures under Schedule 12A of the Local Government Act 1972 (as amended) or represent data covered by the Data Protection Act 1998.
- 10.5 All agendas and papers for Board meetings will be made publically available on South Yorkshire Pensions Authority's website unless, in the opinion of the Scheme Manager, they are covered by exempt/confidential information procedures under Schedule 12A of the Local Government Act 1972 (as amended) or represent data covered by the Data Protection Act 1998.
- 10.6 Minutes of proceedings at meetings of the Board shall be kept in accordance with statutory requirements. Following the approval of the minutes by the Chair of the Board, they shall be forwarded to all Pension Board members.
- 10.7 Minutes of meetings of the Board shall be published on South Yorkshire Pensions Authority's website.

11. Knowledge, Skills and Training

- 11.1 To be appointed as a member of the Board a person must have knowledge and understanding of and be fully familiar with:
- 11.1.1 the rules of the scheme;
 - 11.1.2 any document recording policy about the administration of the Scheme which is for the first time being adopted in relation to the Scheme;
 - 11.1.3 the law relating to pensions; and
 - 11.1.4 any other matters which are prescribed in regulations.
- 11.2 Pension Board members will undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses.
- 11.3 Pension Board members will comply with the Scheme Manager's training policies and attend all training provided by the Scheme Manager.
- 11.4 A written record of relevant training and development will be maintained for each member of the Board.
- 11.5 Training where needed, that is provided by the Scheme Manager will be charged to the Pension Fund.
- 11.6 Subject to the Regulations or any advice or requirement issued by the Pensions Regulator, the Board must agree and implement a programme of training in respect of all members of the Board to ensure that they are adequately trained to perform their respective duties.

12. Accountability

12.1 The Local Pension Board will be collectively and individually accountable to the Scheme Manager and the Pensions Regulator.

13. Expenses and Funding

13.1 Members of the Board will be reimbursed for reasonable subsistence and travel expenses in accordance with relevant policies of the Administering Authority.

13.2 For the avoidance of any doubt, Pension Board members shall not receive an annual allowance of any kind.

13.3 The Board will be provided with adequate resources to undertake its role, these will include as a minimum:

- Accommodation and administrative support to conduct its meetings;
- Training; and
- Legal, technical and other professional advice.

13.4 The expenses of the Local Pension Board shall be regarded as part of the costs of the administration of the Fund.

14. Variations

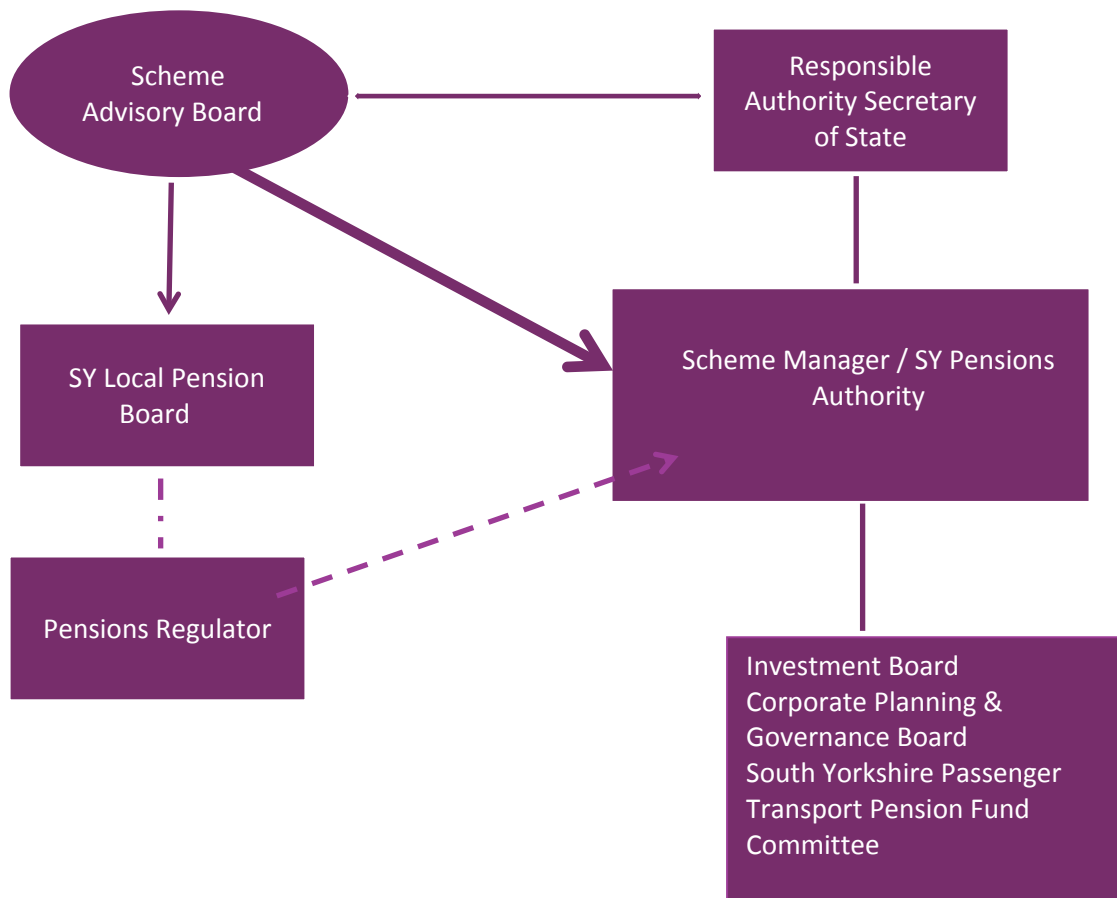
14.1 Any variation to this Constitution, considered necessary by the Board, shall be reported to the Scheme Manager for consideration and written consent.

14.2 No variation made by the Board will be valid without the express consent of the Scheme Manager.

15. Data Protection

15.1 The Local Pensions Board will adhere to the Data Protection Policies held by the Administering Authority.

16. Governance Structure



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South Yorkshire Joint Local Pension Board Terms of Reference

1 Administration

- 1.1 Monitor and review the performance of Scheme administration including suggesting any changes to the Pensions Administration Strategy.
- 1.2 Monitor, review and report on the receipt of contributions.
- 1.3 Monitor investment manager reports.
- 1.4 Review the format, timing and source of management information presented to the Board.

2 Auditors

- 2.1 Monitor and review the appointment and performance of the auditors.
- 2.2 Monitor and review the Annual Report and accounts.
- 2.3 Review the recommendations produced by audit and give consideration to what action should be taken and make recommendations to the Scheme Manager as appropriate.
- 2.4 Monitor and review the Work Programmes for the Pensions Authority and its Boards and the **South Yorkshire Passenger Transport Pension Fund Committee.**

3 Internal Controls and Risk Register

- 3.1 Monitor and review the Authority's Risk Register.
- 3.2 Monitor the internal controls and procedures of the Pensions Authority.

4 Communications

- 4.1 Monitor and make recommendations as appropriate on:-
 - The information available on the SYPA internet site
 - The information provided to Scheme members on leaving, retirement etc.
- 4.2 Produce an Annual Report upon its activities to be submitted to the Pensions Authority.
- 4.3 Produce reports and make recommendations to the Pensions Authority that relate to the work of the LPB. Any reports must be provided at least ten working days in advance of the next Pensions Authority meeting.

5 Budgets

- 5.1 Agree a yearly budget for the operation of the Local Pension Board and submit to the Authority for approval.
- 5.2 Monitor the level of fees against the annual budget set for the Pensions Board.

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Agenda Item for Local Pension Board Meeting 20th July 17

Local Pensions Board Conference Year 2, 28TH June 17

This briefing is to inform Local Pension Board members of the focus over the next year of The Pensions Regulator. In addition action points that arose during the conference for members to consider within their workplans.

Introduction

There are now 14,000 scheme employers in the LGPS scheme across the country with over 5 million members. The Pensions Regulator (TPR)'s governance and compliance focus over the forthcoming year will be:

- Governance
- Record-Keeping
- Internal Controls
- Member Contributions

With the new General Data Protections Regulations coming in from May 18 one of the primary focuses for the Pensions Authorities is to ensure compliance with the new regulations and therefore it is important that plans are set in place now in order to be able to meet this deadline.

Insurance

Insurance cover remains an issue for most of the LPB members across the country. It is understood that there is one policy on the market which would offer cover. This has been discussed a number of times at our own LPB meetings however we have not as yet received written confirmation of cover for the South Yorkshire Members.

Workplan

Consideration is sought from our members for additional items to be placed on our workplan over the next year. This is not an inclusive list however but was the suggested focus which came from the speakers and also attendees at the conference. This is open for discussion at our meeting in July as to whether or not we would like these items on our workplan and also to what degree of involvement we deem necessary in order to assist the officers in their role and also our own role to ensure compliance with the regulators.

- Cyber Security/General Data Protection Regulations from May 18
- Pooling Arrangements
- TPR Regulations – Acid Test
- Data Quality
- Succession Planning for LPB members
- Board Appraisals for LPB members

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SOUTH YORKSHIRE PENSIONS AUTHORITY

JOINT LOCAL PENSION BOARD

20 July 2017

INTERNAL DISPUTE RESOLUTION PROCEDURE

1. Purpose of the Report

To monitor and make recommendations on the Authority's Internal Dispute Resolution Procedure as per 4.1 of the Local Pension Board's Terms of Reference – Information on the SYPA internet site.

2. Background Information

The Local Government Pension Scheme has a formal dispute resolution procedure consisting of two stages. At the first stage the member submits an appeal to the organisation that made the decision being disputed. The second stage is intended to review the initial and first stage decisions and must be considered by SYPA as administering authority (delegated responsibility of the Fund Director).

In relation to appeals made against decisions taken by SYPA, first stage appeals are determined by the Head of Pensions Administration.

Once the internal dispute route has been exhausted a member may submit an appeal to the Pensions Ombudsman who can direct the fund to make payments beyond the scope of the regulations and/or award compensation for distress and inconvenience.

Attached is the information available for members on the SYPA website.

3. Internal Disputes Update

The 2016/17 position is outlined below.

During 2016/17 70,584 items of casework were completed ranging from complex benefit calculations to simple data amendments. From this casework the following appeals and complaints were received.

Appeal Type	2015/16	2016/17
Stage 1	1	3
Stage 2	1	3
Ombudsman	1	0
Complaints	31	10

The Stage 1 and Stage 2 appeals related to three scheme members whose benefits upon retirement were less than they were quoted whilst still in employment. All asked the Authority to honour the amounts they had been quoted; this could not be done as benefits can only be paid in accordance with the scheme regulations.

The three members in question all expressed an interest in asking the Pensions Ombudsman to look at their cases independently so their cases were fast-tracked and Stage 1 and Stage 2 combined (the Ombudsman requires Stage 1 and Stage 2 to have been completed before taking on a case).

As yet, the Authority has not received an enquiry from the Pensions Ombudsman for any of the three cases.

The Authority received 10 formal complaints in the year; these covered a range of issues mostly from members asking for something the scheme rules does not allow.

In addition to the formal complaints, staff successfully resolve informal issues and satisfy member requirements that could have otherwise turned into a formal complaint. The number of complaints has now reverted to pre-UPM levels.

4. Comments

Members are asked to comment and/or make suggestions on the content of the information available concerning the Internal Dispute Resolution Procedure on the SYPA website.

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01226 772806



SOUTH YORKSHIRE
PENSIONS AUTHORITY

a guide to the . . .

Local Government Pension Scheme

Internal Dispute Resolution Procedure

This booklet provides a guide to how the internal dispute resolution procedure operates in the Local Government Pension Scheme (LGPS), and is provided for general information only. It does not cover every aspect. It is not an interpretation of the Scheme regulations. In the event of any unintentional differences, the Scheme regulations will prevail. This booklet does not confer any contractual rights.

Contents

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1 Introduction

The Internal Dispute Resolution Procedure (IDRP) is a formal procedure which is in place to resolve disagreements in relation to decisions taken regarding LGPS pension matters.

Sometimes, informal attempts to resolve disagreements fail. If this happens and you wish to instigate the formal IDRP, your first step is to complain to whoever you feel is at fault, either your employer or South Yorkshire Pensions Authority.

This booklet is only for disputes against decisions made by SYPA. For all other disputes, please contact your employer directly.

Who does it apply to?

The right to invoke the formal process is open not only to members themselves. You can use the IDRP rules if you fall into one of the following categories. You can also do so if you think you should fall into one of these categories or did so during the last six months.

1 Introduction continued...

- **A member:** this means you are paying into the Fund, you are receiving a pension from us or you have a deferred benefit in our Fund: or
- **A prospective member:** in other words, you are not a member yet but could become one if your employer brings you in or you opt to join: or
- **A dependant:** that is a widow, widower, civil partner or child of a member or prospective member.

Can someone else represent you?

You may feel happier with someone else representing you because you do not feel able to put your case yourself. You will have to give the person you have chosen written authority to act for you by signing a simple statement to that effect.

1 Introduction continued...

What type of decisions do the dispute rules cover?

From the day you join the scheme, various decisions are being taken about your pension. These include things like:

- The benefits you can have and how much they will be.
- When you die, what death benefits can be paid.
- Explaining how you are affected by Scheme changes.

How do the dispute rules work?

It is a two stage process as outlined on pages 5, 6 & 7 and will be handled at present at Stage 1 by our Head of Pensions Administration and Stage 2 by our Fund Director, referred to as adjudicators.

2 Stage 1 – Internal Dispute

Using the dispute rules

You must put your claim in writing by using the Form 17 you will find enclosed in this guide. This will help you to include the information needed to enable your claim to be investigated.

You must submit your initial claim within **six months** of the decision made by SYPA that you are disputing. If the Stage 1 adjudicator feels it is reasonable the time limit can be extended.

What happens next?

The Stage 1 adjudicator will look at the facts and your case, along with the Scheme rules and current legislation. In addition, to help with the understanding of your claim, the adjudicator may also need to ask your employer for more details.

The Stage 1 adjudicator should reply to you within **two months** of receiving your claim, giving details of the decision or acknowledging your claim and explaining when you will have a decision.

2 Stage 1 – Internal Dispute continued...

Taking your claim further

You can go to Stage 2 if:

- You have not heard from the Stage 1 adjudicator within **three months** of making your claim under the dispute rules.
- You have not had a decision from the Stage 1 adjudicator within **one month** of the date the adjudicator told you, you would get one.
- You have had a decision from the Stage 1 adjudicator but you disagree with it.

3 Stage 2 – Appeals

Using the dispute rules

If you disagree with the Stage 1 adjudicator's decision, you should appeal within **six months** of the decision. If you have not received a decision from the Stage 1 adjudicator in time, you should appeal as soon as possible after the time limit has passed.

You must make your Stage 2 claim in writing, enclosing a copy of the Stage 1 decision you disagree with. You must give full details of why you disagree with it and produce any further evidence to support your argument.

What happens next?

The Stage 2 adjudicator will re-examine your case, again referring to the Scheme rules and relevant legislation and may ask your employer for more information.

The Stage 2 adjudicator should reply to you within two months of receiving your claim under the IDRPs rules.

This will either:

- Give a decision which will confirm or replace the Stage 1 adjudicator's decision; or
- Acknowledge your claim and explain when you will have a decision.

4 Getting Outside Help

There are also two outside bodies who may be able to help, and these are the Pensions Advisory Service (TPAS) and the Pensions Ombudsman.

TPAS

TPAS offers a free service to all members of company pension schemes. They have local advisers who can help explain or get more information about your pension.

You can ask TPAS to help at any stage of the dispute procedure – for example if it is taking too long to sort out. In some cases they will refer you to the Pensions Ombudsman.

You can contact TPAS at:

11 Belgrave Road

London

SW1V 1RB

Tel: 0485 601 2923

4 Getting Outside Help continued...

Pensions Ombudsman

The Pensions Ombudsman can investigate any type of dispute about your pension, but you must first have been through Stages 1 and 2 of the dispute rules.

You can, however, complain to the Ombudsman about the way any of the adjudicators have handled your case and do not have to wait for it to be completed.

You can contact the Ombudsman at

11 Belgrave Road

London

SW1V 1RB

Tel: 020 7630 2200

Time limits under the Internal Dispute Resolution Procedure		
Your situation	To complain to	You must submit your claim in writing before
You are unhappy with a decision made regarding your pension	Stage 1 specified person	6 months from the date you were notified of the decision
Your employer or administering authority has failed to make a decision about your benefits under the pension scheme	Stage 1 specified person	6 months from the date when the decision should have been made
You are not satisfied with the Stage 1 decision	Stage 2 specified person	6 months from the date of the specified person's decision
You have not received a Stage 1 decision on your complaint or any interim reply within 3 months of your application	Stage 2 specified person	9 months from the date you submitted your complaint
You received an interim reply to your Stage 1 complaint but one month after the date they specified you still have not received their decision	Stage 2 specified person	7 months from the date by which you were promised you would receive a decision
You are still not satisfied following a Stage 2 decision	The Pensions Ombudsman	3 years from the date of the original decision about which you are complaining
You have not received a decision or any interim reply from the Stage 2 specified person within 2 months of your application to them	The Pension Ombudsman	3 years from the date of the original decision about which you are complaining
You received an interim reply to your Stage 2 complaint but one month after the date they specified you still have not received their decision	The Pensions Ombudsman	3 years from the date of the original decision about which you are complaining

Notes

The person specified in Stage 1 of the procedure can allow a longer period if he feels this is reasonable.

The Pensions Ombudsman will normally expect you to have asked TPAS for help before he is asked to look at your complaint.



Please complete this form in **BLOCK CAPITALS** using **BLACK INK**

SECTION 1 Member Details - This section must be completed

National Insurance Number	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Title	<input type="text"/>
Surname	<input type="text"/>			Forename(s)	<input type="text"/>						
Home Address (including post code)	<input type="text"/>										
Daytime Tel. No.	<input type="text"/>			Mobile Tel. No.	<input type="text"/>						
Personal Email Address	<input type="text"/>										
Pay or Pension Number	<input type="text"/>				Date of Birth	<input type="text"/>					
Employer	<input type="text"/>										

SECTION 2 Dependant's Details - Only complete this section if the dispute relates to a dependant's benefit

Surname	<input type="text"/>			Forename(s)	<input type="text"/>					
Title	<input type="text"/>	Home Address	<input type="text"/>							
	<input type="text"/>						Post Code	<input type="text"/>		
Home Tel. No.	<input type="text"/>			Mobile Tel. No.	<input type="text"/>					
Daytime Tel. No.	<input type="text"/>			Personal Email Address	<input type="text"/>					
Relationship to member	<input type="text"/>				Date of Birth	<input type="text"/>				

SECTION 3 Representative's Details

Surname	<input type="text"/>			Forename(s)	<input type="text"/>					
Title	<input type="text"/>	Home Address	<input type="text"/>							
	<input type="text"/>						Post Code	<input type="text"/>		
Contact Tel. No.	<input type="text"/>			Mobile Tel. No.	<input type="text"/>					
Email Address	<input type="text"/>									
Whose address should the letters go to? (Please tick one box)	Yourself as representative <input type="checkbox"/>									
	The person you are representing <input type="checkbox"/>									

SECTION 4 Your Dispute - In the box overleaf please give full details of your dispute

Please try to explain exactly why you are aggrieved, giving dates and periods of scheme membership that you think are relevant. If there is not enough space please continue on a separate piece of paper marked with the member's name and National Insurance number as in section one.

Please give full details of your dispute in this box

SECTION 5

Your Signature - This section must be completed

I would like the referee to look into this dispute and make a decision about it. I am a:

Scheme Member
 Prospective Member
 Former Member
 Former Member's Dependant
 Member or Dependant's Representative

Signed

Date

Please send this form together with a copy of any notification you got from us about the decision you are disputing together with any other documentation that you think might be helpful to the;
Stage 1 Referee, SYPA, 18 Regent Street, Barnsley, S70 2HG.

DATA PROTECTION

Important note

On 6 April 2015, changes to pensions legislation came into force that are directly relevant to one aspect of this code of practice.

The Occupational Pension Schemes (Charges and Governance) Regulations 2015 apply to most occupational pension schemes that offer money purchase benefits (subject to various exceptions.) You should obtain advice as to the extent to which these regulations apply to your scheme. **There is no change for trustees of defined benefit schemes that do not offer any money purchase benefits.**

The new regulations introduce one exception to the discretionary approach to taking action over reported breaches of the law, described in paragraph 71 of this code of practice. They introduce a number of new governance standards that trustees must report against, in an annual statement signed by the chair of trustees. Trustees who do not produce this chair's statement will be fined between £500 and £2,000.

We have produced a guide to the new charges and governance duties. It can be found at www.tpr.gov.uk/dc-duties.

Reporting breaches of the law

REGULATORY
Code of
practice
01

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Introduction

1. This code of practice is issued by the Pensions Regulator, the body that regulates work-based pension arrangements (occupational pension schemes, stakeholder pension schemes and certain aspects of personal pension schemes which have direct payment arrangements, whereby the employer pays contributions on behalf of the employee).
2. The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund (PPF), and to promote the good administration of work-based pension schemes.
3. The Pensions Regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its statutory objectives. The Pensions Regulator will target its resources on those areas where members' benefits are at greatest risk.
4. Codes of practice provide practical guidelines on the requirements of pensions legislation and set out the standards of conduct and practice expected of those who must meet these requirements. The intention is that the standards set out in the code are consistent with how a well-run pension scheme would choose to meet its legal requirements.

-
- The status of codes of practice**
5. Codes of practice are not statements of the law and there is no penalty for failing to comply with them. It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant codes of practice into account.
- Other regulatory requirements**
6. Pensions legislation also imposes duties to report to the regulator in some specific circumstances, for example changes in registrable information, a failure to pay contributions due¹ and certain failures in relation to the funding of defined benefit schemes.²
7. Additionally, there are requirements placed on trustees and employers to notify the Pensions Regulator about certain events that may affect the pension scheme and the sponsoring employer.³

In this code of practice, references to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland; an annex lists the corresponding references.

¹ See s228(2) of the Pensions Act 2004.

² See Part 3 of the Pensions Act 2004.

³ See for example s69 and s120 of the Pensions Act 2004. This code of practice does not cover these more specific requirements; if they arise, reference should be made to the relevant legislative provisions and any associated codes of practice.

At a glance

The requirement to report breaches

- Breaches of the law which affect pension schemes should be considered for reporting to the Pensions Regulator.
- The decision whether to report requires two key judgements:
 - (i) is there reasonable cause to believe there has been a breach of the law;
 - (ii) if so, is the breach likely to be of material significance to the Pensions Regulator?
- Not every breach needs to be reported.

Who does the requirement to report apply to?

- There is a wide range of reporters:
 - trustees and their advisers and service providers (including those carrying out tasks such as administration or fund management);
 - managers of schemes not set up under trust; and
 - employers sponsoring or participating in work-based pension schemes.

Which pension schemes does the requirement to report apply to?

- The requirement applies to occupational and personal pension schemes (including stakeholder schemes).

Reporting arrangements

- All reporters should have effective arrangements in place to meet their duty to report breaches of the law.
- Reliance cannot be placed on waiting for others to report.
- Breaches should be reported as soon as reasonably practicable.
- Failure to report when required to do so is a civil offence.

The Code of Practice 'Whistleblowing' – the requirement to report breaches of the law

1. The requirement to report is a vital part of the regulatory framework. Whistleblowing reports will be a key source of information used by the Pensions Regulator in fulfilling its regulatory responsibilities for work-based pensions. (The relevant legislation is at Appendix A.)
2. To enable the Pensions Regulator to fulfil its responsibilities and achieve its objectives, the categories of those required to report breaches of the law was expanded from April 2005.⁴
3. The duty applies to those involved in running occupational and personal pension schemes, including stakeholder schemes, and covers breaches in certain circumstances of any legislation or rule of law concerning the administration of pension schemes. There is no requirement to report every breach.
4. In this code the term 'reporter' is used to describe any person who may have a duty to report.
5. There are other requirements placed on firms and organisations to report to other bodies; these are outside the scope of this code.⁵ Where the duty to report to another body arises, and a reporter also concludes that there is a separate duty to report to the Pensions Regulator, it would assist if the report to the Pensions Regulator referred to the other report.
6. The Pensions Regulator's expectation is that all those who may have this duty to report will have an understanding of the requirements of the law and this code of practice and, in particular, of how 'reasonable cause to believe', 'material significance' and 'as soon as reasonably practicable' should be interpreted.
7. This code and supporting guidance material issued by the Pensions Regulator will inform these judgements. Whilst it cannot cover every circumstance, it provides principles and benchmarks against which reporters can consider breaches they come across.
8. If you are concerned about whether or not to report a breach you should refer to the legislation, this code of practice, any other code of practice that may apply and any relevant supporting guidance. If you require further assistance, you can contact the Pensions Regulator for help and advice.⁶

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⁴ In particular it extends, compared with the Pensions Act 1995, the categories of those required to report.
⁵ For example, in relation to money laundering under chapter 29 of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 (SI 2003/3075), certain persons are required to make suspicious activity reports to the National Criminal Intelligence Service.
⁶ Contact details will be available on the Pensions Regulator's website: www.thepensionsregulator.gov.uk.

‘Whistleblowing’ – the requirement to report breaches of the law

Who has a duty to report?

- A legal duty falls on:**
- Trustees of trust-based schemes**
9. The duty to report applies to each individually appointed trustee. If the trustee is a corporate body, and the individuals concerned are trustee directors, the requirement to report falls on the trustee company.
- Managers of schemes not established under trust**
10. The requirement is placed on managers of personal pension schemes, including stakeholder schemes. Only breaches in relation to stakeholder schemes, or other personal pension schemes where a direct payment arrangement exists, will be of material significance to the Pensions Regulator.
- Persons otherwise involved in the administration of a scheme**
11. This category covers all those who provide services for the trustees or managers that relate to the administration and management of occupational and personal pension schemes, including stakeholder schemes. It includes:
- insurance companies and third party administrators who carry out administrative tasks relating to a scheme;
 - a participating employer who provides staff to carry out administration tasks in-house (this includes performing payroll and similar functions as well as carrying out or helping with direct administration of the pension scheme); and
 - independent financial advisers and consultants who provide services to trustees relating to administration such as record-keeping or acting as an intermediary receiving and forwarding scheme documents and other materials.
- Any employer participating in an occupational pension scheme
12. The duty to report applies to employers participating in an occupational pension scheme. In the case of a multi-employer scheme, this includes any participating employer who becomes aware of a breach regardless of whether the breach relates to, or affects, members who are its employees or those of other employers.

- Professional advisers**
13. The duty to report applies to specific groups of professionals appointed by the trustees to provide them with advice or services in relation to their occupational pension scheme. This category comprises scheme actuaries, scheme auditors, legal advisers, fund managers and custodians of scheme assets.⁷
14. Often a firm, rather than an individual, is appointed to provide the relevant services; in these circumstances the duty to report applies to the firm. The firm must put in place suitable systems and train its staff to ensure that the firm meets this duty.
15. Where an individual is appointed to provide the service, as is the case with the scheme actuary, the duty to report applies to the individual.
- Persons otherwise involved in advising a trustee (or manager of a scheme not established under trust) in relation to the scheme**
16. The duty to report applies to other firms (or individuals where the appointments are personal) providing advice to the trustees or managers of occupational and personal pension schemes, including stakeholder schemes. Included within this category are:
- independent financial advisers, pensions consultants and investment consultants;
 - actuaries and auditors providing advice to the managers of personal pension schemes;
 - actuaries and auditors engaged to provide advice to the trustees of occupational pension schemes other than would cause them to be classed as professional advisers;
 - reporting accountants appointed to stakeholder schemes; and
 - anyone acting as custodian of the assets of a personal pension scheme.
- Reporters with more than one role**
17. In most cases it will be clear into which category a reporter falls. However, sometimes a reporter may have more than one role in relation to the scheme. Where this is the case, the Pensions Regulator expects reporters to apply their wider knowledge of the scheme in judging whether a matter is likely to be of material significance to the regulator. Where appropriate, they are expected to report irrespective of the function they were performing when the breach was identified.

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⁷ Professional advisers are defined in section 47(4) of the Pensions Act 1995.

‘Whistleblowing’ – the requirement to report breaches of the law

Who has a duty to report?

- Systems and training**
18. The Pensions Regulator expects firms to ensure that their staff are adequately trained to a level commensurate with their roles. In particular, the staff of a firm appointed to provide advice or a service to trustees or managers, and which carries a reporting duty, should be trained to recognise potentially reportable situations. Firms should put adequate systems in place to ensure that staff are aware of their responsibilities and that they are familiar with reporting procedures.
- Whistleblowing protection and confidentiality**
19. The Pensions Act 2004 makes clear that the duty to report overrides any other duties a reporter may have such as confidentiality, and that any such duty is not breached by making a report. The Pensions Regulator understands the potential impact of a report on the relationship between a reporter and their client or, in the case of an employee, their employer.
20. The duty to report does not, however, override ‘legal privilege’.⁸ What this means is that communications (oral and written) between a professional legal adviser and their client, or a person representing that client, whilst obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
21. The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the Pensions Regulator. Consequently, where individuals employed by firms having a duty to report disagree with a decision not to report to the Pensions Regulator, they may have protection under the ERA if they make an individual report in good faith. The Pensions Regulator expects such individual reports to be rare and confined to the most serious cases.
22. The Pensions Regulator will, if requested, seek to protect the identity of reporters. However, this cannot be guaranteed. Even if the Pensions Regulator does not explicitly reveal the name of the reporter, their identity may become apparent in the course of an investigation.
23. In all cases, the Pensions Regulator expects reporters to act conscientiously and honestly, and to take account of expert or professional advice where appropriate.

8 See s311 of the Pensions Act 2004.

The duty to report

24. The requirement to report breaches of the law arises when a duty which is:
- imposed by or by virtue of an enactment or rule of law; and
 - relevant to the administration of a scheme
- has not been or is not being complied with.
25. Not every breach has to be reported. The judgements required in order to reach a decision to report are outlined below.
- ‘Imposed by or by virtue of an enactment or rule of law’**
26. ‘Enactment’ covers Acts of Parliament and regulations or statutory instruments. For example, the Pensions Act 2004 is an enactment as are regulations made under that Act. Breaches of criminal law, such as an offence of dishonesty under the Theft Act, would also come within the term enactment.
27. ‘Rule of law’ covers law laid down by decisions of the courts. It would, for example, include trust law and common law.
28. When considering breaches of trust law, reporters should bear in mind the basic principle that trustees are holding property on behalf of others. Trustees should act in good faith and within the terms of their trust deed and rules for the benefit of all of the beneficiaries of the scheme. If they fail to do so, they are in breach of trust law. A very basic rule of thumb in considering whether an action or failure to act is, or may be, a breach of trust is this: if the trustees have acted in a way which would appear unfair or wrong to a reasonable and objective person, then a breach of trust may have taken place.
- ‘Relevant to the administration of the scheme’**
29. In view of its statutory objectives, the Pensions Regulator interprets ‘administration’ widely in the context of the need to report breaches. It is much wider than just those tasks normally associated with the administrative function such as keeping records, dealing with membership movements, calculating benefits and preparing accounts, though all these are included within it. The Pensions Regulator interprets administration to include such matters as the consideration of funding in defined benefit schemes, investment policy and investment management, as well as the custody of invested assets; indeed anything which could potentially affect members’ benefits or the ability of members and others to access information to which they are entitled.

The decision to report

30. There are two key judgements required:
- First, does the reporter have reasonable cause to believe there has been a breach of the law?
 - If so, then, secondly, does the reporter believe the breach is likely to be of material significance to the Pensions Regulator?
- ‘Reasonable cause to believe’**
31. Having a reasonable cause to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.
32. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with the trustees or manager, or with others who are in a position to confirm what has happened. However, it would not be appropriate to check with the trustees or the manager or others in cases of theft, or if the reporter is concerned that a fraud or other serious offence might have been committed and discussion with those persons might alert those implicated or impede the actions of the police or a regulatory authority.
33. If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.
34. In establishing that there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Pensions Regulator would require before taking legal action.

- ‘Likely to be of material significance to the Pensions Regulator’**
35. The legal requirement is that breaches likely to be of material significance to the Pensions Regulator in carrying out any of its functions⁹ must be reported. What makes the breach of material significance depends on:
- (i) The cause of the breach.
 - (ii) The effect of the breach.
 - (iii) The reaction to the breach.
 - (iv) The wider implications of the breach.
- When reaching a decision whether to report, the reporter should consider these points together. Each of these aspects is considered in more detail below.
- (i) The cause of the breach**
36. Where the breach was caused by:
- dishonesty;
 - poor governance, inadequate controls resulting in deficient administration, or slow or inappropriate decision-making practices;
 - incomplete or inaccurate advice; or
 - acting (or failing to act) in deliberate contravention of the law
- the breach is likely to be of material significance to the Pensions Regulator.
37. In forming a view on whether the breach is of material significance, reporters should consider other reported and unreported breaches of which they are aware. Reporters should use historical information with care, however, particularly if changes have been made to address previously identified problems.
38. On the other hand, the Pensions Regulator will not regard as materially significant a breach arising from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had.

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⁹ To further assist reporters in reaching a judgement on material significance, examples of breaches are set out in separate guidance. The guidance is illustrative and does not form part of this code of practice.

The decision to report continued

39. **(ii) The effect of the breach**
The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund, and to promote the good administration of work-based pension schemes.
40. In the light of these objectives, the Pensions Regulator considers the following to be particularly important elements which are likely to be of material significance to the regulator.
- In relation to protecting members' benefits:
- substantially the right money is paid into the scheme at the right time;
 - assets are appropriately safeguarded;
 - payments out of the scheme are legitimate and timely;
 - defined benefit schemes are complying with the legal requirements on scheme funding;
 - trustees of occupational pension schemes are properly considering their investment policy, and investing in accordance with it;
 - contributions in respect of money purchase members are correctly allocated and invested.
- In relation to reducing the risk of compensation being payable from the PPF:
- the Pensions Regulator is informed of notifiable events;¹⁰
 - trustees comply with PPF requirements during an assessment period. This is the period starting with an insolvency event and during which the scheme's eligibility for entry into the PPF is assessed and certain restrictions apply. Reports should continue to be made to the Pensions Regulator during the assessment period.
- In relation to promoting good administration:
- schemes are administered properly and appropriate records maintained;
 - members receive accurate, clear and impartial information without delay.

¹⁰

See section 69 of the Pensions Act 2004.

- (iii) The reaction to the breach**
41. The Pensions Regulator does not normally regard a breach as materially significant where the trustees or managers (or their advisers and service providers) take prompt and effective action to investigate and correct the breach and its causes, and, where appropriate, to notify any members whose benefits have been affected.
42. However, where, after a breach is identified, the trustees and their advisers or service providers involved:
- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
 - are not pursuing corrective action to a proper conclusion; or
 - fail to notify members whose benefits have been affected by the breach where it would have been appropriate to do so;
- this is of concern to the Pensions Regulator, and the breach is likely to be of material significance.
43. For example, even where only a few members are not receiving benefits due to them, the breach is likely to be materially significant unless prompt and robust action is being taken to remedy the situation.
- (iv) The wider implications of the breach**
44. The wider implications of a breach should be taken into account when assessing which breaches are likely to be materially significant to the exercise of the Pensions Regulator's functions. For example, a breach is likely to be of material significance where:
- the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future because the trustees (or the manager) lack the appropriate knowledge and understanding to fulfil their responsibilities; or
 - other schemes may be affected, for example schemes administered by the same organisation where a system failure is to blame.
45. In forming a judgement on whether a particular breach may have wider implications, the reporter should take into account such general risk factors as the level of funding (in a defined benefit scheme) or how well run the scheme appears to be. Some breaches which arise in respect of a poorly funded, poorly administered scheme will be more significant to the Pensions Regulator than the same breaches would be in a well funded, well administered scheme. Such an approach is consistent with the risk-focused approach to regulation adopted by the Pensions Regulator.

The decision to report continued

- 'As soon as reasonably practicable'**
46. If a judgement has been reached that there is reasonable cause to believe that a breach has occurred, and that it is of material significance to the Pensions Regulator, it must be reported as soon as reasonably practicable. It is important that procedures are in place to allow reporters to make a judgement within an appropriate timescale as to whether a breach must be reported.
47. What is reasonably practicable depends on the circumstances. In any event the time taken to reach the judgements on reasonable cause to believe and on material significance should be consistent with the speed implied by 'as soon as reasonably practicable'. In particular, the time taken should reflect the seriousness of the suspected breach. In cases of immediate risk to scheme assets, the payment of members' benefits, or where there is any indication of dishonesty, the Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies but only to make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently these necessary checks should be made. In cases of potential dishonesty, the reporter should avoid, where possible, checks which might alert those implicated. In serious cases reporters should consider contacting the Pensions Regulator by the quickest means possible to alert the regulator to the breach.
- Identification of breaches**
48. There is no requirement or expectation that reporters should search for breaches.
49. Reporters should nevertheless be alert to breaches relevant to the service or services which they are providing in relation to the scheme. For example, administrators and insurers are expected to be in a position to identify breaches relating to member disclosure, transfer value quotations and payments, payment of benefits and receipt of contributions.
50. There are some breaches that all reporters should be alert to, in particular any dishonest behaviour.

Reporting arrangements

51. All reporters should have effective arrangements in place to identify breaches that occur in areas relating to their functions. These arrangements should enable them to evaluate and if appropriate report any breaches they become aware of in the course of their work.
52. If possible breaches are identified that do not relate to their functions, reporters should still follow the usual steps and consider reporting. If in doubt about whether a breach has in fact occurred, reporters should seek input from others having the necessary expertise.
53. All reporters should establish a procedure for evaluating matters to determine whether a breach has occurred and, if it has, whether it is likely to be of material significance to the Pensions Regulator. The nature of the arrangements is a matter for the reporter and should be conducive both to staff raising concerns and to the objective consideration of those concerns.

A satisfactory procedure is likely to include the following features:

- obtaining clarification of the law where it is not clear to the reporter;
- clarifying the facts around the suspected breach where these are not known;
- consideration of the material significance of the breach taking into account its cause, effect, the reaction to it, and its wider implications, including where appropriate dialogue with the trustees or managers;
- a clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the Pensions Regulator;
- an established procedure for dealing with difficult cases such as a 'Regulator Committee' of experienced persons within the reporter's firm;
- a timeframe for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable;
- a system to record breaches even if they are not reported to the Pensions Regulator (the principal reason for this is that the record of past breaches may be relevant in deciding whether to report future breaches); and
- a process for identifying promptly any breaches that are so serious they must always be reported.

Reporting arrangements continued

- Collective reporting**
54. The Pensions Regulator accepts that often trustees, together with one or more of their advisers or other groups, will wish to make a collective report.
55. If that is the approach taken, the procedure put in place must allow for the evaluation of each breach as described in this code of practice and for a report to be made as soon as reasonably practicable.
56. Where the trustee is not a corporate body, the duty to report falls on the individual trustees rather than on the board of trustees. If a consensus cannot be reached, or if there is insufficient time to agree a collective approach, the Pensions Regulator will expect the individuals to report.
- Duplicate reporting**
57. The requirement to report applies to all those subject to the reporting duty who become aware of a breach that is likely to be of material significance to the Pensions Regulator; it is not automatically discharged by another party reporting the breach.
58. This gives rise to the possibility of duplicate reporting by those involved in a scheme. Duplicate reports carry a cost, which will ultimately be borne by the scheme members or the employer. Moreover, duplicate reports do not benefit the Pensions Regulator. Once aware of a particular breach, the Pensions Regulator does not regard that breach as being of material significance for the purpose of making further reports under the requirement to report breaches of the law. An exception is where another reporter has additional or different information about that breach or the circumstances relating to it.
59. The reporter coming across the breach should make the report to the Pensions Regulator. The regulator will send an acknowledgement to the reporter. The report (if not previously sent) and the acknowledgement should be sent by the reporter to the trustees or manager. The trustees or manager will be able to copy the original report and its acknowledgement to those other reporters who they consider may also be likely to come across the breach.
60. This arrangement is not intended to replace dialogue between trustees or managers and their advisers or service providers. When notified of a breach, trustees or managers may want to discuss matters with these groups. They will want to determine the best way to get things put right and may also want to discuss whether or not a report is needed. Indeed, trustees or managers should require their advisers to alert them when things appear to be going wrong and should ensure they are kept informed about matters affecting their scheme.

61. An exception to the arrangement above, and to the need for dialogue between trustees or managers and advisers or service providers, will apply in cases where there is a suspicion of dishonesty or other serious wrongdoing by the trustees or managers.

Making a report

62. Reports must be submitted in writing. Reporters should wherever practicable use the standard format available on the website at www.thepensionsregulator.gov.uk.

63. The report should be dated and should include as a minimum:

- name of the scheme;
- description of the breach or breaches;
- any relevant dates;
- name of the employer (in the case of an occupational scheme) or scheme manager (in the case of a personal pension scheme, including stakeholder schemes);
- name, position and contact details of the reporter; and
- role of the reporter in relation to the scheme.

The information that we would expect to see in addition is:

- reason the breach is thought to be of material significance to the Pensions Regulator;
- address of the scheme;
- type of scheme – whether occupational (defined benefit, defined contribution or hybrid) or personal;
- name and contact details of the trustees or scheme manager (if different to the scheme address);
- pension schemes registry number; and
- address of employer.

Reports can be sent by post or electronically, including by email or by fax.¹¹

continued over...

¹¹ Contact details are available on the Pensions Regulator’s website: www.thepensionsregulator.gov.uk.

Reporting arrangements continued

64. Urgent reports should be marked as such, and attention should be drawn to matters considered particularly serious by the reporter. A written report can be preceded by a telephone call if appropriate.
65. A reporter should ensure they receive an acknowledgement in respect of any report they send to the Pensions Regulator. Only when an acknowledgement of receipt is received by the reporter can they be confident that the Pensions Regulator has received their report.
- Follow up**
66. The regulator will acknowledge all reports within five working days of receipt.
67. The Pensions Regulator will not generally keep a reporter informed of the steps it takes in response to a report of a breach. There are restrictions on the information it can disclose. Further information or reports of further breaches should, however, be provided by the reporter, if this may assist the Pensions Regulator in exercising its functions. The regulator may in any case make contact to request further information.

Failure to report

68. Failure to comply with the obligation imposed by the requirement to report breaches of the law without ‘reasonable excuse’ is a civil offence. To decide whether the reporter has a reasonable excuse for not reporting as required, or for reporting a breach later than the regulator would have expected, the regulator will look at:
- the legislation, case law, this code of practice and any guidance issued by the Pensions Regulator;
 - the role of the reporter in relation to the scheme;
 - the training provided to the individual or staff, and the level of knowledge it would be reasonable to expect that individual or those staff to have;
 - the procedures put in place to identify and evaluate breaches and whether these procedures had been followed;
 - the seriousness of the breach and therefore how important it was to report this to the Pensions Regulator without delay;
 - any reasons for the delay in reporting;
 - any other relevant considerations relating to the case in question.
69. If the Pensions Regulator is considering imposing a civil penalty, or exercising one of its functions, directly affected parties will receive a warning notice identifying the alleged breach and specifying the relevant function. Further details can be found in the regulator’s guidance on determination procedures.
70. The Pensions Regulator may, in addition, where it considers it appropriate to do so, make a complaint to the reporter’s professional or other governing body.

The Pensions Regulator's response to a report of a breach in the law

71. When the Pensions Regulator receives a report of a breach it has discretion over whether to take action and, if so, what action to take. The decision will depend on the breach and its circumstances and other information about the scheme notified to, or known by, the regulator.
72. The Pensions Regulator has a range of measures it can take, including:
- assisting or instructing trustees and others to achieve compliance;
 - providing education or guidance;
 - appointing trustees to help run the scheme;
 - removing trustees from office;
 - freezing the scheme;
 - imposing special measures where the scheme funding requirements of the Pensions Act 2004 are not complied with;
 - ordering that the scheme's funding position be restored to the level before a breach or other detrimental event occurred; and
 - imposing fines where appropriate.

Appendix A

Section 70 of the Pensions Act 2004 is reproduced under the terms of Crown Copyright Policy Guidance issued by HMSO

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Duty to report breaches of the law

- (1) Subsection (2) imposes a reporting requirement on the following persons –
 - (a) a trustee or manager of an occupational or personal pension scheme;
 - (b) a person who is otherwise involved in the administration of such a scheme;
 - (c) the employer in relation to an occupational pension scheme;
 - (d) a professional adviser in relation to such a scheme;
 - (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.
- (2) Where the person has reasonable cause to believe that –
 - (a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with, and
 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this section.

This is subject to section 311 (protected items).

- (4) Section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this section.

Article 65 of the Pensions (Northern Ireland) Order 2005 is reproduced under the terms of Crown Copyright Policy Guidance issued by HMSO

- 65 Duty to report breaches of the law
- (1) Paragraph (2) imposes a reporting requirement on the following persons –
- (a) a trustee or manager of an occupational or personal pension scheme;
 - (b) a person who is otherwise involved in the administration of such a scheme;
 - (c) the employer in relation to an occupational pension scheme;
 - (d) a professional adviser in relation to such a scheme;
 - (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.
- (2) Where the person has reasonable cause to believe that –
- (a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of a statutory provision or rule of law, has not been or is not being complied with, and
 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) Subject to Article 283 (protected items), no duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this Article.
- (4) Article 10 of the 1995 Order (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this Article.

Annex

GB Legislation	NI Legislation
Section 70 of the Pensions Act 2004	Article 65 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 228(2) of the Pensions Act 2004	Article 207(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Part 3 of the Pensions Act 2004	Part IV of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 69 and section 120 of the Pensions Act 2004	Article 64 and Article 104 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Pensions Act 1995	Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
Section 47(4) of the Pensions Act 1995	Article 47(4) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
The Employment Rights Act 1996	The Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))
Section 311	Article 283 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

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