



**SOUTH YORKSHIRE  
PENSIONS AUTHORITY**

Authorised and regulated by the  
Financial Conduct Authority

Steve Pick CPFA  
*Clerk and Treasurer*

18 Regent Street  
Barnsley  
South Yorkshire  
S70 2HG

[www.southyorks.gov.uk](http://www.southyorks.gov.uk)

**NOTICE OF AUTHORITY MEETING**

**You are hereby summoned to a meeting of the South Yorkshire Pensions Authority to be held at the offices of the South Yorkshire Joint Secretariat on Thursday 16 January 2014 at 10.30 am for the purpose of transacting the business set out in the agenda.**

**S Pick  
Clerk and Treasurer**

This Matter is being dealt with by: Gill Garrety  
Email: [ggarrety@syjs.gov.uk](mailto:ggarrety@syjs.gov.uk)

Tel: 01226 772806  
Fax: 01226 772899

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## **Distribution**

Councillors K Goulty (Chair), R Wraith (Vice-Chair), D Baker, E Butler, J Campbell, R Ford, M Lawton, K Richardson, K Rodgers, L Rooney, A Sangar and P Wootton

## **Contact Details**

For further information please contact:

<p>Gill Garrety South Yorkshire Joint Secretariat 18 Regent Street, Barnsley, South Yorkshire S70 2HG</p> <p>Tel: 01226 772806 <a href="mailto:ggarrety@syjs.gov.uk">ggarrety@syjs.gov.uk</a></p>	<p>Andrew Shirt South Yorkshire Joint Secretariat 18 Regent Street, Barnsley, South Yorkshire S70 2HG</p> <p>Tel: 01226 772207 <a href="mailto:ashirt@syjs.gov.uk">ashirt@syjs.gov.uk</a></p>
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**SOUTH YORKSHIRE PENSIONS AUTHORITY**

**16 JANUARY 2014 AT 10.30 AM AT THE OFFICES OF THE SOUTH YORKSHIRE  
JOINT SECRETARIAT, 18 REGENT STREET, BARNSELY**

**Agenda: Reports attached unless stated otherwise**

	<b>Item</b>	<b>Page</b>
1	Apologies	
2	Announcements	
3	Urgent Items  To determine whether there are any additional items of business which by reason of special circumstances the Chair is of the opinion should be considered at the meeting; the reason(s) for such urgency to be stated.	
4	Items to be considered in the absence of the public and press.  To identify items where resolutions may be moved to exclude the public and press. (For items marked * the public and press may be excluded from the meeting).	
5	Declarations of Interest.	
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14	Co-operative Bank Update	Verbal Report
15	Compliance with Myners' Principles: Self-Assessment	53 - 58
16	LGPS Reform Proposals Update	Verbal Report
17	Pensions Regulator Consultation: Draft Code of Practice for Public Service Pension Schemes	59 - 120
18	Transforming Rehabilitation Programme and the LGPS	121 - 150
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	<u>Exclusion of the Public and Press</u>	
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## SOUTH YORKSHIRE PENSIONS AUTHORITY

21 NOVEMBER 2013

PRESENT: Councillor K Goulty (Chair)  
Councillor R Wraith (Vice-Chair)  
Councillors: D Baker, E Butler, J Campbell, M Lawton,  
K Richardson, K Rodgers, A Sangar and P Wootton

Trade Unions: G Boyington (Unison)

Officers: S Pick (Clerk and Treasurer), G Chapman (Head of Pensions Administration), J Hattersley (Fund Director), M McCoole (Senior Democratic Services Officer), R Bywater (Principal Policy and External Relations Officer) and B Clarkson (Head of Finance)

Apologies for absence were received from Councillor B Ford, Councillor L Rooney, G Warwick and F Tyas

### 1 APOLOGIES

Apologies for absence were noted as above.

### 2 ANNOUNCEMENTS

Members noted arrangements were being made for a training and development session, around mergers and collaboration, at the conclusion of the Authority meeting on 16 January 2014.

### 3 URGENT ITEMS

RESOLVED – That the report entitled ‘Overall Customer Satisfaction Performance Targets’ would be taken as an urgent item at Item 23a on the agenda.

### 4 ITEMS TO BE CONSIDERED IN THE ABSENCE OF THE PUBLIC AND PRESS

RESOLVED – That agenda Item 24 ‘Requesting Approval to Purchase a New Pensions Administration System’ would be considered in the absence of the public and press.

### 5 DECLARATIONS OF INTEREST

None.

### 6 MINUTES OF THE AUTHORITY MEETING HELD ON 10 OCTOBER 2013

The Head of Pensions Administration informed Members that he had been told that a decision on the Councillors’ Pension Scheme was imminent.

RESOLVED – That the minutes of the Authority meeting held on 10 October 2013 be signed by the Chair as a correct record.

7 MINUTES OF THE CORPORATE PLANNING AND GOVERNANCE BOARD HELD ON 27 JUNE 2013

RESOLVED – That the minutes of the Corporate Planning and Governance Board held on 27 June 2013 be noted.

8 MINUTES OF THE CORPORATE PLANNING AND GOVERNANCE BOARD HELD ON 29 JULY 2013

Councillor Wootton referred to the Co-operative Bank PLC, and the downgrade of its credit rating in April 2013.

The Clerk and Treasurer remarked that Co-operative Bank PLC had announced that it was gradually withdrawing from local authority business. This would, of course, affect the Authority. Although the Co-op would support current contracts it was thought that new banking arrangements would need to be in place before the end of 2014/15 and probably sooner. He explained that the Authority's contract was bound in with those of the Joint Secretariat and Police and Crime Commissioner.

Members requested the matter be dealt with urgently, and to be provided with regular update reports.

RESOLVED – That the minutes of the Corporate Planning and Governance Board held on 29 July 2013 be noted.

9 MINUTES OF THE INVESTMENT BOARD HELD ON 19 SEPTEMBER 2013

RESOLVED – That the minutes of the Investment Board held on 19 September 2013 be noted.

10 MINUTES OF THE PENSIONS ADVISORY PANEL HELD ON 1 OCTOBER 2013

RESOLVED – That the minutes of the Pensions Advisory Panel held on 1 October 2013 be noted.

11 WORK PROGRAMME

The Authority considered its Work Programme to 20 March 2014.

Members noted that regular updates regarding the Co-operative Bank PLC would be included onto the Work Programme.

RESOLVED – That the contents of the Work Programme be noted.

12 SECTION 41 FEEDBACK FROM DISTRICT COUNCILS

Councillor Wraith referred to a recent Governance Board meeting, where Barnsley MBC's Service Level Agreement performance had been disappointing. Councillor Wraith had met with the Treasury Spokesperson, and a forward plan had been

agreed; it was hoped that the plan would be in place, when they next met in January 2014.

13 REVENUE ESTIMATES - ADMINISTRATION AND INVESTMENT MANAGEMENT EXPENSES

A report of the Clerk and Treasurer was submitted to consider the Authority's draft revenue estimates for 2014/15 and to approve the levy under the Levying Bodies (General) Regulations 1992.

The Authority had consistently achieved an underspend over the last few years, and had strived to manage the Fund within budgetary constraints. It had been agreed in 2013/14, in order to maintain expenditure at a cash standstill on the net controllable budget, that reserves would be used where necessary.

Councillor Lawton suggested in the future budgetary reports ought to include estimated costs per Fund member so that comparison with other LGPS funds could be made more easily. He was concerned that by concentrating too much on keeping absolute costs very low, it could damage the level of service provided to contributors and pensioners. The Clerk and Treasurer commented that the current climate had led the Authority into a position of being cautious of putting more money into anything. A further discussion would be held around the issue.

RESOLVED – That Members:-

- i) Approved the revised estimates for 2013/14 in the sum of £5,381,200 including the use of reserves of £23,500.
- ii) Approved a levy of £543,000 for 2014/15 in accordance with The Levying Bodies (General) Regulations 1992.
- iii) Noted the preliminary forecasts for 2014/15, and referred the estimates to the District Councils for comment.

14 PERFORMANCE SNAPSHOT REPORT 2013/14: Q2

A performance snapshot report for 2013/14: Q2 was submitted for Members' information.

During the quarter one member of staff had left, and recruitment was underway; staff training continued to be up to date. Sickness absence was up 0.2% on the previous quarter, due to a couple of longer term absences.

Seven Members had attended training on Governance Arrangements, 75% of Members had attended Days 1, 2 and 3 of the Fundamentals Training, and 58% of Members had attended the Fundamentals Refresher Training.

RESOLVED – That the report be noted.

15 ACTUARIAL VALUATION UPDATE

The Head of Pensions Administration updated Members on the Actuarial Valuation. District Councils were currently considering the latest results; it was expected that the other employers' results would be received tomorrow, and would be delivered onto them over the upcoming weeks. The revised funding strategy would then be developed, and a report would be brought to the January 2014 Authority meeting for Members to approve.

RESOLVED – That the update be received.

16 BOARD CHAIRS' REPORTS

Councillors Goult, Wraith and J Hattersley visited the Fund's investment property at Warrington on 15 October 2013. One of the two buildings was currently vacant and was subject to a dilapidations claim. The visit had helped to ascertain the work required, and a comparison of other premises in the vicinity had been made.

RESOLVED – A full report would be brought to the next Investment Board meeting.

17 LGPS 2014: UPDATE

The Head of Pensions Administration commented that work was underway on implementing the Regulations, together with preparing staff and employers, who had been informed of the changes at the recent Employers' Forum.

Transitional Regulations were awaited, which would indicate how to deal with people already in the current scheme, moving into the new scheme, together with governance issues arising from consultation and councillors.

CLG had received a good response to the consultation in relation to merged funds attracting an above average number of replies from administering authorities.

The Government had employed the actuarial consultancy firm, Hymans Robertson, to provide a report on various options relating to LGPS fund mergers. The report was expected by the end of this month.

A consultation or proposals paper was expected to be available early in the New Year, and would be sent onto Members once available.

RESOLVED – That the update be received.

18 PENSIONS ADVISORY PANEL FEEDBACK

Members noted that all points raised had been answered at the Pensions Advisory Panel meeting held on 1 October 2013.

19 SCHEME MEMBERS' ANNUAL FUND MEETING

A report of the Communications Manager was submitted, which reported on the Scheme Members' Annual Fund Meeting held at The Source, Sheffield on the evening of 10 October 2013.



The meeting was only attended by 56 members:-

- 40 Pensioners
- 6 Contributors
- 3 Deferred Members
- 2 Representatives from employing bodies
- 5 Councillors

The number of attendees was disappointing especially for a Sheffield venue. It was suggested this could have resulted from the invitation being issued too late. Next year the newsletter and invitation would be sent out with the Annual Statement in August 2014. The meeting would be held in Rotherham next year.

Councillor Wraith commented that the number of attendees was disappointing, and if numbers continued to fall, the cost of venues would need to be reviewed.

The Head of Pensions Administration commented that Greater Manchester traditionally had 300/400 attendees at similar meetings, which were held throughout the day and included guest speakers and a hot lunch; West Yorkshire had a similar experience. Our Meeting had been changed from lunchtime to early evening in response to feedback; many members had said they were unable to attend during the day due to work commitments. A report regarding attendance and meeting format would be brought to a future meeting.

RESOLVED – That Members:-

- i) Noted the contents of the report.
- ii) Agreed a report would be brought to a future Authority meeting on suggestions on how to improve member attendance.

20 ADVISORY AND INVESTMENT MANAGEMENT AGREEMENTS WITH SOUTH YORKSHIRE INTEGRATED TRANSPORT AUTHORITY

A report of the Clerk and Treasurer was submitted, to remind Members of the Authority's advisory and investment agreements with the South Yorkshire Integrated Transport Authority.

Members were aware of Government's consultations over the potential abolition of SYITA, to be replaced with a Combined Authority; it was unclear where the South Yorkshire Passenger Transport Pension Fund Committee's present responsibilities would transfer to.

RESOLVED – That the report be noted.

21 LOCAL GOVERNMENT PENSION SCHEME FUNDS DATA ENGLAND 2012-13

A report of the Fund Director was submitted to bring to Members' attention the publication by Communities and Local Government of data relating to the LGPS in England.

Members noted the LGPS expenditure on benefits in 2012/13 was £7.5bn which was unchanged from the previous year; employees' contributions were £1.8bn, which was a 2.9% decrease from 2011/12 of £54m.

RESOLVED – That the report be noted.

**22 MEMBER LEARNING AND DEVELOPMENT - SUB-REGIONAL COLLABORATION**

A report of the Clerk and Treasurer was submitted which provided Members with an update on the increased collaboration in respect of learning and development across the four South Yorkshire District Councils, and the three Joint Authorities.

Members noted the following upcoming events:-

- i) Treasury Management, on 27 November 2013 – There had been a good sign up from Authority Members and Pensions Advisory Panel Members.
- ii) Effective Audit Committees, on 5 December 2013 (p.m. after ITA)

Members were advised to contact R Bywater if they wanted to book a place on the above events.

RESOLVED – That Members:-

- i) Noted the contents of the report.
- ii) Supported the continued collaboration on Member Learning and Development across the three Joint Authorities and four District Councils, and Police and Crime Panel where appropriate.

**23 POOLING ARRANGEMENTS FOR ACADEMIES WITHIN THE LOCAL GOVERNMENT PENSION SCHEME**

A report of the Head of Pensions Administration was submitted, to inform Members of the Authority's response to recent consultation on Academies.

The DCLG had launched its consultation 'Pooling arrangements for Academies within the LGPS' in October 2013, and the consultation period had been brought forward from the original date of 25 November to 15 November 2013.

Members noted the wide disparity between categories of academies and discussed the possibility of the liabilities of any "failed" employers falling upon other employers or being transferred back to local education authorities.

RESOLVED – That the report be noted.

**23A OVERALL CUSTOMER SATISFACTION PERFORMANCE TARGETS**

A report of the Communications Manager was submitted to inform Members of the results of the overall customer satisfaction ratings from surveys carried out amongst scheme members and employers over the period 1 July 2012 to 30 June 2013.

RESOLVED – That Members:-

- i) Noted the contents of the report
- ii) Agreed to set revised targets for the period 1 July 2013 to 30 June 2014 as follows:-
  - Employers 'Very Satisfied' to be increased to 60%
  - Overall 'Satisfied' to be increased to 60%.

24 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That, under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the Act and the public interest not to disclose information outweighs the public interest in disclosing it.

25 REQUESTING APPROVAL TO PURCHASE A NEW PENSIONS ADMINISTRATION SYSTEM

A report of the Clerk and Treasurer was submitted to seek Authority permission to purchase a new LGPS Pensions Administration System, to replace the current system which would be decommissioned on 31 December 2014.

RESOLVED – That Members:-

- i) Approved the purchase of a new system from Supplier B as described in the report.
- ii) Agreed a report would be brought back to the Authority regarding funding.

**The meeting was re-opened to the public and press.**

26 LAPFF PRESENTATION

The Authority received a presentation from Keith Bray, Forum Officer of LAPFF, regarding the role of the LAPFF.

The aim of LAPFF was to protect the shareholder value.

The Forum:-

- Optimised local authority pension funds' influence as shareholders to promote Corporate Social Responsibility, and high standards of Corporate Governance.
- Facilitated commissioning of research and policy analysis of issues, relating to areas of concern more effectively than individual members.
- Provided a forum for consultation on shareholder initiatives, information exchange and discussion about investment issues.

## **Pensions Authority: Thursday 21 November 2013**

- Provided a forum to consider any issues of common interest to all pension fund administrators and trustees.

LAPFF membership currently consisted of 58 Local Authority pension funds, with a value of £120 billion; membership was open to all LGPS pension funds.

Public support for the Forum was growing, with cross party political support and constant media interest.

LAPFF provided a customised, cost effective vehicle for local authority pension funds, to improve both their effectiveness as responsible investors and their compliance with Myners Principle 5 – responsible ownership.

Councillor Lawton queried whether LAPFF's publicity on climate change included investing in fossil fuels. K Bray commented that LAPFF's main contract was with PIRC, and he would forward the latest information onto the Fund Director.

RESOLVED – That Members:-

- i) Thanked K Bray for an informative presentation.
- ii) Noted the contents of the presentation.

CHAIR

## South Yorkshire Pensions Authority – cycle of future meetings

### Authority Meetings

<b>Agendas</b>	<b>21 November 2013</b>	<b>16 January 2014</b>	<b>20 March 2014</b>	<b>12 June 2014 AGM/Ordinary Meeting</b>
<b>Strategic Overview of Business</b>	Meeting Overview & Context	Meeting Overview & Context	Meeting Overview & Context	Meeting Overview & Context
	S41 Feedback	S41 Feedback	S41 Feedback	S41 Feedback
<b>Board Scrutiny</b>	Call-Ins	Call-Ins	Call-Ins	Call-Ins
<b>Review of Strategies</b>	Budgets and Revised Estimates	Budgets and Revised Estimates	Qtr 3 Performance Snapshot Report	Qtr 4 Performance Snapshot Report
	Qtr 2 Performance Snapshot Report	Revised Funding strategy	Treasury Management Strategy Annual Report	Annual Review of Risk Management Policy??
	Actuarial Valuation Update (verbal)	Corporate Strategy Review	Review of Funding Strategy Statement	CPGB Audit Committee Functions Annual Report
			Confirmation Actuarial Valuation Certificate	
<b>Business</b>	Board Chairs' Reports	Board Chairs' Reports	Board Chairs' Reports	Board Chairs' Reports
	LGPS Reform Proposals Update (verbal)	Responsible Investment Strategy	LGPS Reform Proposals Update	LGPS Reform Proposals Update
	Scheme Members Annual Fund Meeting	Co-op Bank Update	AVC's Annual Review	Loyalty Awards??
		Members Self-Assessment Process		

	Customer Satisfaction Performance Targets	LGPS Reform Proposals Update	Write Off's	Members Self-Assessment Report
<b>Business</b>	<b>21 November 2013</b>	<b>16 January 2014</b>	<b>20 March 2014</b>	<b>12 June 2014</b> <b>AGM/Ordinary Meeting</b>
	Pensions Advisory Panel Feedback (verbal)	Pensions Regulator Consultation on Scheme Governance	Meeting Cycle Dates	SYPF Annual General Meeting
	SYITA Agreements Update		Clerk & Treasurer position	Webcasting
	LGPS Funds Data	Probation transfer	Co-op Bank update	
	Member Learning and Dev. Sub-Regional Collaboration	SYCA update	SYCA update	
	Pooling Arrangements for Academies	Administration System Financing		
	New Pensions Admin System	Release of preserved benefit on compassionate grounds		
<b>Training &amp; Development</b>	LAPFF Presentation			

## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 January 2014

### Report of the Clerk and Treasurer

#### REVENUE ESTIMATES 2014/15

##### **1**     Matter for consideration

Following various consultations, to formally confirm the draft budget proposals considered by the Authority on 21 November 2013 and summarised herewith.

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##### **2**     Recommendations

**The Authority is asked to formally confirm the budget proposals and approve the budget of £5,387,700 for 2014/15.**

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##### **3**     Background Information

- 3.1     At its meeting on 21 November, the Authority considered draft budget proposals for the 2014/15 financial year. The key elements of these proposals were subsequently the subject of consultations with various interested parties and no changes were suggested.
- 3.2     A summary of the draft budget as considered at the Authority meeting on 21 November is attached at Appendix A. The full report considered by members at that meeting can be accessed on the Pensions website .

##### **4**     Implications

- 4.1     Financial  
None additional
- 4.2     Legal  
None
- 4.3     Diversity  
None
- 4.4     Risk  
None

**S Pick**  
**Clerk and Treasurer**

**Officer responsible:** Bev Clarkson, Head of Finance, South Yorkshire Pensions Authority  
**Background papers** used in the preparation of this report are available for inspection at the South Yorkshire Pensions Authority.

**Other sources and references:** none

**SOUTH YORKSHIRE PENSIONS AUTHORITY**

**ADMINISTRATION AND INVESTMENT EXPENSES**

**REVENUE ESTIMATES 2014/15 AT OUTTURN PRICES**

**SUMMARY**

	2013-14 ORIGINAL ESTIMATE £	2013-14 PROBABLE OUTTURN £	2014-15 ESTIMATE £
ADMINISTRATION EXPENSES	2,955,600	2,874,600	2,934,900
INVESTMENT EXPENSES	<u>2,462,300</u>	<u>2,506,600</u>	<u>2,498,700</u>
	5,417,900	5,381,200	5,433,600
CONTINGENCIES	-60,200	-23,500	-45,900
<b>TOTAL EXPENDITURE REQUIREMENT</b>	<b>5,357,700</b>	<b>5,357,700</b>	<b>5,387,700</b>
INVESTMENT COSTS LINKED TO MARKET VALUES	950,000	950,000	980,000
NET CONTROLLABLE BUDGET	4,407,700	4,407,700	4,407,700
RECHARGED TO:			
FUND	5,207,700	5,207,700	5,237,700
SYPT PENSION FUND	150,000	150,000	150,000
	<b>5,357,700</b>	<b>5,357,700</b>	<b>5,387,700</b>
ACTUARIAL WORK CHARGED TO FUND	90,000	95,000	95,000
<b><u>MEMORANDUM ITEM</u></b>			
DISTRICT OFFICES			
Barnsley	98,100	94,700	97,300
Doncaster	105,100	107,200	111,100
Rotherham	81,200	80,200	83,300
Sheffield	115,900	115,700	115,700
	400,300	397,800	407,400



**SOUTH YORKSHIRE PENSIONS AUTHORITY**

**ADMINISTRATION EXPENSES**

**REVENUE ESTIMATES 2014/15 AT OUTTURN PRICES**

	2013-14 ORIGINAL ESTIMATE £	2013-14 PROBABLE OUTTURN £	2014-15 ESTIMATE £
<b>EXPENDITURE</b>			
<b>EMPLOYEES</b>			
Administration and Clerical	1,874,500	1,775,000	1,894,300
Training Expenses	14,500	14,500	14,500
Other Indirect Expenses	26,000	55,200	25,000
<b>PREMISES RELATED EXPENSES</b>			
Rents - Office Accommodation	140,000	140,000	140,000
<b>TRANSPORT RELATED EXPENSES</b>			
Public Transport	3,000	3,000	3,000
Car Allowances	7,000	7,000	7,000
<b>SUPPLIES AND SERVICES</b>			
Equipment, Furniture and Materials	13,800	13,800	13,800
Publications	200	200	200
Printing and Stationery	75,500	74,000	75,500
Communications and Computing			
Postages and Telephones	110,000	110,000	110,000
Computer Services	25,000	25,000	25,000
Imaging maintenance	18,000	18,000	18,000
AXIS	109,500	109,500	120,500
Subsistence and Conferences	2,200	2,000	2,200
Subscriptions	9,000	9,000	9,000
Actuarial Fees	90,000	90,000	50,000
Legal Services	2,000	6,000	2,000
Other Professional Fees	50,000	45,000	50,000
Miscellaneous Expenses	9,000	11,000	9,000
<b>CENTRAL EXPENSES</b>			
Joint Secretariat	310,000	310,000	301,500
IT Network	47,000	47,000	47,000
Insurances	26,000	26,000	26,000
Subscriptions	5,000	5,000	5,000
Audit Fee	50,000	45,000	50,000
Bank Charges	22,000	22,000	22,000
Democratic Representation	14,000	10,000	14,000
Member Training	8,000	7,000	8,000
Disaster Recovery	5,900	5,900	5,900
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<b>GROSS EXPENDITURE</b>	<b>3,067,100</b>	<b>2,986,100</b>	<b>3,048,400</b>
MISCELLANEOUS INCOME	111,500	111,500	113,500
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<b>NET EXPENDITURE</b>	<b>2,955,600</b>	<b>2,874,600</b>	<b>2,934,900</b>
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**SOUTH YORKSHIRE PENSIONS AUTHORITY**

**INVESTMENT GENERAL AND INVESTMENT MANAGEMENT EXPENSES**

**REVENUE ESTIMATES 2014/15 AT OUTTURN PRICES**

	2013-14 ORIGINAL ESTIMATE £	2013-14 PROBABLE OUTTURN £	2014-15 ESTIMATE £
<b>EXPENDITURE</b>			
<b>EMPLOYEES</b>			
Administration and Clerical	921,000	909,600	913,100
Training Expenses	4,100	3,300	4,100
Other Indirect Expenses	4,700	55,900	4,800
<b>PREMISES RELATED EXPENSES</b>			
Rents - Office Accommodation	40,000	44,000	44,000
<b>TRANSPORT RELATED EXPENSES</b>			
Public Transport	8,400	8,400	8,400
Car Allowances	3,500	3,500	3,500
<b>SUPPLIES AND SERVICES</b>			
Equipment, Furniture and Materials	6,700	5,500	6,700
Publications	4,100	4,100	4,300
Printing and Stationery	3,000	3,000	3,000
Communications and Computing			
Postage and Telephones	300	300	300
Computer Services	8,500	8,500	8,500
Subsistence and Conferences	1,500	1,500	1,500
Subscriptions	30,000	43,000	48,000
Actuarial Fees	40,000	40,000	20,000
Legal Fees	1,000	1,000	1,000
Other Professional Fees	35,000	25,000	35,000
Miscellaneous Expenses	2,000	2,000	2,000
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<b>INVESTMENT GENERAL EXPENSES</b>	<b>1,113,800</b>	<b>1,158,600</b>	<b>1,108,200</b>
<b><u>INVESTMENT MANAGEMENT EXPENSES</u></b>			
Internal Information Systems	304,000	304,000	313,500
Custodian & Other Investment Expenses	251,000	251,000	261,000
External Management Fees	793,500	793,000	816,000
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<b>INVESTMENT MANAGEMENT EXPENSES</b>	<b>1,348,500</b>	<b>1,348,000</b>	<b>1,390,500</b>
<hr/>			
<b>NET EXPENDITURE</b>	<b>2,462,300</b>	<b>2,506,600</b>	<b>2,498,700</b>
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## SOUTH YORKSHIRE PENSIONS AUTHORITY

16th January 2014

### Revised Funding Strategy

#### 1. Purpose of the Report

To seek confirmation of changes to the funding strategy

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#### 2. Recommendations

**Members are recommended to confirm the changes**

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#### 3. Information

- 3.1 The Pension Regulations require the Authority to prepare, maintain and publish a written statement setting out its funding strategy. In doing so, regard must be had to the guidance published by CIPFA and its own Statement of Investment Principles (SIP). It must be revised in accordance with any change in policy on the matters set out in the Statement and any material change to the SIP. In particular, it must be revised so that the actuary can take account of it when preparing his report on the triennial valuation.
- 3.2 At their October meeting, Members received a presentation from the Fund Actuary which shared the preliminary whole-fund valuation results. The results were based on a continuation of the plan agreed at the last valuation to return the Fund to full solvency by 2036.
- 3.3 Before adopting a revised funding strategy the regulations require the Authority to consult with interested parties. Employers have been issued with a copy of the revised funding strategy along with their preliminary results and in particular have been invited to comment on the following key areas,

##### Short-Term Pay Restraint

The long term average assumption would be CPI inflation plus 1.75% per annum suggesting an overall increase of 4.35% pa. However as most employers continue to view pay budgets as constrained in the current economic climate it is suggested that short-term pay growth is restricted to 1% per annum.

##### The allowance for take up of the 50/50 section option

This has been set to zero for most employers but for the larger employers the allowance has been set at 10%.

### Allowance for post-valuation date experience

Despite good investment performance the low interest rate environment over a number of years has increased the liabilities of most employers and, thereby, increased past-service deficit. Since the valuation date bond yields have increased from their historically low levels sufficiently for the actuary to consider recognising the changes and building into the contribution rates for some employers an allowance for them : this should stabilise deficit contribution requirements for those employers. The provisional agreement is to use the improved position of 31<sup>st</sup> August for employers in deficit with the proviso that no employer with a deficit will pay less than they would have paid under the 2010 valuation assumptions.

### Termination Funding Policy

The policy informs employers how we will manage the deficit/surplus when an employer terminates their participation in the Fund. The policy has been in operation for some time but separate to the funding strategy statement. We have therefore taken the opportunity at this valuation to consolidate the policy within the strategy and thereby bring it to the attention of all employers who may have otherwise missed it earlier.

- 3.4 Discussions have been taking place with the district councils throughout the valuation process. Officers and the actuary are fully aware of the major affordability challenges the councils face over the next few years. At the time of writing we are close to agreement on a contribution plan for the next six years. Details of the plan have been included in the Funding Strategy Statement in anticipation of the councils' agreement and I hope to provide verbal confirmation at today's meeting.
- 3.5 The letter to employers invited comments by 14<sup>th</sup> January so that they could be considered at today's meeting. At the time of writing six employers have given their overall approval to the revised strategy and the individual questions posed in 3.3. One employer commented that the short-term pay restraint of 1% was not low enough for their organisation. I will report verbally should any further comments materialise in the interim period.

If Members confirm their agreement to the revised funding strategy statement, including the actuarial and financial assumptions, it will allow the actuary to complete the triennial valuation and issue revised employer contribution rates by the 31<sup>st</sup> March deadline.

#### **4. Implications and risks**

- Financial – none
- Legal – the actuarial valuation report must be signed off by 31 March. Confirmation of the funding strategy will enable the actuary to complete the triennial valuation and issue revised employer contribution rates by the deadline.
- Diversity – none
- Risk – The key revisions to the funding strategy statement are designed to stabilise contribution requirements for employers at a time when affordability is an issue for them. The risk in taking this approach is that employers may find themselves in a worse position if the assumptions made are not borne out at the next valuation.

**Gary Chapman**  
**Head of Pensions Administration**  
Phone 01226 772954  
E-mail [gchapman@sypa.org.uk](mailto:gchapman@sypa.org.uk)

**Background papers** used in the preparation of this report are available for inspection in the Pensions Administration Unit.

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## **South Yorkshire Pension Fund (SYPF) 2013 Funding Strategy Statement (FSS)**

*This Statement has been prepared by South Yorkshire Pensions Authority (the Administering Authority) to set out the funding strategy for the South Yorkshire Pension Fund (the SYPF), in accordance with Regulation 35 of the Local Government Pension Scheme (Administration) Regulations 2008 (as amended) and the guidance paper issued by the Chartered Institute of Public Finance and Accountancy (CIPFA) Pensions Panel.*

### **1. INTRODUCTION**

The Local Government Pension Scheme (Administration) Regulations 2008 (as amended) (“the Administration Regulations”) provide the statutory framework from which the Administering Authority is required to prepare a FSS. The key requirements for preparing the FSS can be summarised as follows:

- After consultation with all relevant interested parties involved with the Fund, the Administering Authority will prepare and publish their funding strategy.
- In preparing the FSS, the Administering Authority must have regard to :-
  - the guidance issued by CIPFA for this purpose; and
  - the Statement of Investment Principles (SIP) for the SYPF published under Regulation 12 of the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended);
- The FSS must be revised and published whenever there is a material change in either the policy on the matters set out in the FSS or the Statement of Investment Principles.

Benefits payable under the SYPF are guaranteed by statute and thereby the pensions promise is secure. The FSS addresses the issue of managing the need to fund those benefits over the long term, whilst at the same time, facilitating scrutiny and accountability through improved transparency and disclosure.

The Scheme is a defined benefit arrangement with principally final salary related benefits from contributing members up to 1 April 2014 and Career Averaged Revalued Earnings (“CARE”) benefits earned thereafter. There is also the introduction of a “50:50 Scheme Option”, where members can elect to accrue 50% of the full scheme benefits and pay 50% of the normal member contribution.

The benefits provided by the SYPF are specified in the governing legislation (the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) (“the BMC Regulations”) and the Administration Regulations referred to above. New legislation contained in the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”) governs the SYPF from 1 April 2014. The required levels of employee contributions from 1 April 2014 are also specified in the 2013 Regulations.

Employer contributions are determined in accordance with the Administration Regulations which require that an actuarial valuation is completed every three years by

the actuary, including a rates and adjustments certificate. Contributions to the SYPF should be set so as to “secure its solvency”, whilst the actuary must also have regard to the desirability of maintaining as nearly constant a rate of contribution as possible. The actuary must have regard to the FSS in carrying out the valuation.

## **2. PURPOSE OF THE FSS IN POLICY TERMS**

Funding is the making of advance provision to meet the cost of accruing benefit promises. Decisions taken regarding the approach to funding will therefore determine the rate or pace at which this advance provision is made. Although the Regulations specify the fundamental principles on which funding contributions should be assessed, implementation of the funding strategy is the responsibility of the Administering Authority, acting on the professional advice provided by the actuary.

The purpose of this Funding Strategy Statement is:

- to establish a clear and transparent fund-specific strategy which will identify how employers' pension liabilities are best met going forward;
- to support the regulatory requirement to maintain as nearly constant employer contribution rates as possible; and
- to take a prudent longer-term view of funding those liabilities.

The intention is for this strategy to be both cohesive and comprehensive for the SYPF as a whole, recognising that there will be conflicting objectives which need to be balanced and reconciled. Whilst the position of individual employers must be reflected in the statement, it must remain a single strategy for the Administering Authority to implement and maintain.

## **3. AIMS AND PURPOSE OF THE SYPF**

**The aims of the Fund are to:**

- enable employer contribution rates to be kept as nearly constant as possible and at reasonable cost to the taxpayers, scheduled, resolution and admitted bodies
- manage employers' liabilities effectively
- ensure that sufficient resources are available to meet all liabilities as they fall due, and
- maximise the returns from investments within reasonable risk parameters.

**The purpose of the Fund is to:**

- receive monies in respect of contributions, transfer values and investment income,
- and pay out monies in respect of scheme benefits, transfer values, costs, charges and expenses as defined in the Local Government Pension Scheme (Administration) Regulations 2008 (as amended), the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended), the 2013 Regulations and in the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended).



#### 4. RESPONSIBILITIES OF THE KEY PARTIES

**The Administering Authority** should:

- collect employer and employee contributions
- invest surplus monies in accordance with the Regulations
- ensure that cash is available to meet liabilities as and when they fall due
- manage the valuation process in consultation with the SYPF's actuary
- prepare and maintain an FSS and a SIP, both after due consultation with interested parties, and
- monitor all aspects of the SYPF's performance and funding and amend FSS/SIP.

**The Individual Employer** should:

- deduct contributions from employees' pay correctly after determining the appropriate employee contribution rate (in accordance with the Regulations)
- pay all contributions, including their own as determined by the actuary, promptly by the due date
- exercise discretions within the regulatory framework
- make additional contributions in accordance with agreed arrangements in respect of, for example, augmentation of scheme benefits, early retirement strain, and
- notify the Administering Authority promptly of all changes to membership or, as may be proposed, which affect future funding.

**The Fund actuary** should:

- prepare valuations including the setting of employers' contribution rates after agreeing assumptions with the Administering Authority and having regard to the FSS
- prepare advice and calculations in connection with bulk transfers and individual benefit-related matters,
- advise on funding strategy, the preparation of the FSS, and the inter-relationship between the FSS and the SIP.

#### 5. SOLVENCY ISSUES AND TARGET FUNDING LEVELS

##### **Funding Objective**

To meet the requirements of the Administration Regulations the Administering Authority's long term funding objective is for the Fund to achieve and then maintain sufficient assets to cover 100% of projected accrued liabilities (the "**funding target**") assessed on an ongoing past service basis including allowance for projected final pay. In the long term, the employer rate would ultimately revert to the Future Service Rate.

## **Determination of the Funding Target and Recovery Period**

The principal method and assumptions to be used in the calculation of the funding target are set out in Appendix 1.

Underlying these assumptions are the following two tenets:

- that the Scheme is expected to continue for the foreseeable future; and
- favourable investment performance can play a valuable role in achieving adequate funding over the longer term.

This allows us to take a longer term view when assessing the contribution requirements for certain employers. As part of this valuation when looking to potentially stabilise contribution requirements we will consider whether we can build into the funding plan the following:-

- some allowance for interest rates and bond yields to revert to higher levels over the medium to long term; and
- whether some allowance for increased investment return can be built into the funding plan over the agreed recovery period.

In considering this the Administering Authority, based on the advice of the Actuary, will consider if this results in a reasonable likelihood that the funding plan will be successful.

As part of each valuation separate employer contribution rates are assessed by the actuary for each participating employer or group of employers. These rates are assessed taking into account the experience and circumstances of each employer, following a principle of no cross-subsidy between the distinct employers in the Scheme. In attributing the overall investment performance obtained on the assets of the Scheme to each employer a pro-rata principle is adopted. This approach is effectively one of applying a notional individual employer investment strategy identical to that adopted for the Scheme as a whole.

The Administering Authority, following consultation with the participating employers, has adopted the following objectives for setting the individual employer contribution rates arising from the 2013 actuarial valuation:

- In the current circumstances, as a general rule, the Fund does not believe it appropriate for deficit contribution reductions to apply compared to the 2010 funding plan where substantial deficits remain.
- In addition, a maximum deficit recovery period of [22] years will apply for scheduled and resolution bodies and those admission bodies that are backed by scheduled body guarantees. Employers will have the freedom to adopt a recovery plan on the basis of a shorter period if they so wish. A shorter period may be applied in respect of particular employers where the Administering Authority considers this to be warranted (see Deficit Recovery Plan below).
- For “transferor admission bodies” operating outsourced services under a contract which expires within the [22] year maximum recovery period, the recovery period to apply will be limited to the lifetime of that contract unless the body is in surplus (see comment below).
- Due to their weaker covenant, admission bodies that are not backed by a guarantee will adopt a shorter recovery period (up to [17] years) unless their defined (or

expected) lifespan within the Fund is limited – such known (or expected) events that may impact on their participation in the Fund should be declared by the admission body as soon as practicable.

- For any employers assessed to be in surplus, their individual contribution requirements will be adjusted to such an extent that any surplus is used (ie run-off) over a 22 year period (if surpluses are sufficiently large, contribution requirements will be set to a minimum nil total amount). The current level of contributions will be phased down to the reduced level as appropriate.
- The employer contributions will be expressed and certified as two separate elements:
  - a percentage of pensionable payroll in respect of the future accrual of benefit
  - a schedule of lump sum amounts over 2014/17 in respect of the past service deficit subject to the review from April 2017 based on the results of the 2016 actuarial valuation.
- Where increases in employer contributions are required from 1 April 2014, following completion of the 2013 actuarial valuation, the increase from the rates of contribution payable in the year 2013/14 may in appropriate circumstances be implemented in steps, normally over a maximum period of [3] years . This period can be extended at the discretion of the Administering Authority.
- For those employers where a phasing plan has been implemented, the administering authority will look to recover any underpayment of contributions over 2014/17 via employer contributions payable following the 2016 valuation. The period for the recovery will be set at the administering authority's discretion but will typically be over a period of 3 years i.e. recovered over 2017/20.
- On the cessation of an employer's participation in the Scheme, the actuary will be asked to make a termination assessment. Any deficit in the Scheme in respect of the employer will be due to the Scheme as a termination contribution, unless it is agreed by the Administering Authority and the other parties involved that the assets and liabilities relating to the employer will transfer within the Scheme to another participating employer. [The full termination policy is set out in Appendix 2.]

In determining the above objectives the Administering Authority has had regard to:

- the responses made to the consultation with employers on the FSS principles
- relevant guidance issued by the CIPFA Pensions Panel
- the need to balance a desire to attain the target as soon as possible against the short-term cash requirements which a shorter period would impose, and
- the Administering Authority's views on the strength of the participating employers' covenants in achieving the objective.

### **Deficit Recovery Plan**

If the assets of the scheme relating to an employer are less than the funding target at the effective date of any actuarial valuation, a recovery plan will be put in place, which requires additional contributions from the employer to meet the shortfall.

Additional contributions will be expressed as annual monetary lump sums, subject to review based on the results of each actuarial valuation.

In determining the actual recovery period to apply for any particular employer or employer grouping, the Administering Authority may take into account some or all of the following factors:

- the size of the funding shortfall;
- the business plans of the employer;
- the assessment of the financial covenant of the Employer; and the security of future income streams
- any contingent security available to the Fund or offered by the Employer such as guarantor or bond arrangements, charge over assets, etc.
- length of expected period of participation in the Fund.

For all employers, any additional annual monetary lump sums in respect of any deficit (or surplus adjustments) identified by the Actuary at the valuation will be subject to annual increases in line with expected increases in the Consumer Prices Index (CPI). In order to assist with budgeting requirements for employers in the Fund, the annual increases will be set in line with the assumption for CPI inflation adopted at the valuation, as set out in Appendix 1.

The assumptions to be used in these Recovery Plan calculations are the same as those used to set the Funding Target and are set out in Appendix 1.

It is acknowledged by the Administering Authority that, whilst posing a relatively low financial risk to the Fund as a whole in terms of the overall position, a number of smaller employers may be faced with significant contribution increases that could seriously affect their ability to function in the future. The Administering Authority therefore, [after specific agreement has been obtained by Fund Officers from the South Yorkshire Pension Fund Panel], would be willing to use its discretion to negotiate an **evidence based** affordable level of contributions for the organisation for the three years 2014/17. Any application of this option is at the ultimate discretion of the Administering Authority and will only be considered after the provision of the appropriate evidence and agreement with the Actuary.

#### **The Normal Cost of the Scheme (Future Service Contribution Rate)**

In addition to any contributions required to rectify a shortfall of assets below the funding target, contributions will be required to meet the cost of future accrual of benefits for members after the valuation date (the “normal cost”). The method and assumptions for assessing these contributions are also set out in Appendix 1.

For certain employers in the Fund, at the discretion of the Administering Authority, an allowance for members to opt into the 50/50 Scheme under the new LGPS from 1 April 2014 may be built into the assessment of the required future service contribution rate payable.

With regard to costs for ill-health or voluntary early retirement, for certain employers in the Fund, the Actuary has again included an allowance, based on the employer’s workforce and discretionary policies, within the certified future service contribution rate which is published in the valuation report and monitored by the Administering Authority. Additionally, any “strain” costs generated on redundancy, efficiency, or flexible retirements are collected by additional capital payments over a maximum of three years.

For those employers for whom the certified future service contribution rate excludes an allowance for ill-health or voluntary early retirement costs, the Administering Authority will require the Fund's Actuary to review the that employer's contribution rate on all early retirements occurring during the period of the rates and adjustments certificate issued by the Actuary following the 2013 valuation (unless the costs are paid in full by the employer).

## **6. LINK TO INVESTMENT POLICY SET OUT IN THE STATEMENT OF INVESTMENT PRINCIPLES (See Appendix [3])**

The results of the 2013 valuation show the liabilities at 31 March 2013 to be 76% covered by the current assets, with the funding deficit of 24% being covered by future deficit contributions. Further details on the change in funding level since the valuation date will be shown in the full valuation report.

In assessing the value of the SYPF's liabilities in the valuation, allowance has been made for asset out-performance as described in Appendix 1, taking into account the investment strategy adopted by the SYPF, as set out in the SIP.

It is not possible to construct a portfolio of investments which produces a stream of income exactly matching the expected liability outgo. However, it is possible to construct a portfolio which closely matches the liabilities and represents the least risk investment position. Such a portfolio would consist of a mixture of long-term index-linked and fixed interest gilts. Investment of the SYPF's assets in line with the least risk portfolio would minimise fluctuations in the SYPF's ongoing funding level between successive actuarial valuations.

Departure from a least risk investment strategy, in particular to include equity type investments, gives the prospect that out-performance by the assets will, over time, reduce the contribution requirements. The funding target might in practice therefore be achieved by a range of combinations of funding plan, investment strategy and investment performance.

The current benchmark investment strategy was established as at January 2013 and is set out in the current SIP :-

<b>Asset Class (Summary)</b>	<b>%</b>
UK Equities	20.0
Overseas Equities	40.0
UK Corporate / Other Bonds	11.0
UK Index-Linked	12.0
Absolute Return / Private Equity	5.5
Property Funds	10.0
Cash	1.5
<b>TOTAL</b>	<b>100.0</b>

This strategy will be reviewed in the light of the outcome of the 2013 actuarial valuation. Although it is not expected that there will be any significant changes there maybe some.

The funding strategy adopted for the 2013 valuation is based on an assumed asset out-performance of 1.4% per annum.

## **7. IDENTIFICATION OF RISKS AND COUNTER MEASURES**

The funding of defined benefits is by its nature uncertain. Funding of the SYPF is based on both financial and demographic assumptions. These assumptions are specified in the Appendices and the actuarial valuation report. When actual experience is not in line with the assumptions adopted a surplus or shortfall will emerge at the next actuarial assessment and will require a subsequent contribution adjustment to bring the funding back into line with the target.

The Administering Authority has been advised by the actuary that apart from the consequences of inflation the greatest risk to the SYPF's funding is the investment risk inherent in the predominantly equity (or return seeking) based strategy, so that actual asset out-performance between successive valuations could diverge significantly from the overall out performance assumed in the long term.

### **What are the Risks?**

#### **Financial**

- Investment markets fail to perform in line with expectations
- Market yields move at variance with assumptions
- Investment Fund Managers fail to achieve performance targets over the longer term
- Asset re-allocations in volatile markets may lock in past losses
- Pay and price inflation significantly more or less than anticipated
- Effect of possible increase in employer's contribution rate on service delivery and admitted/scheduled bodies

#### **Demographic**

- Longevity horizon continues to expand
- Deteriorating pattern of early retirements (including those granted on the grounds of ill health)

- The level of take-up of the 50:50 option at a higher or lower level than built into the actuarial assumptions.

### **Insurance of certain benefits**

The contributions for any employer may be varied as agreed by the Actuary and Administering Authority to reflect any changes in contribution requirements as a result of any benefit costs being insured with a third party or internally within the Fund.

### **Regulatory**

- Further changes to Regulations, e.g. more favourable benefits package, potential new entrants to scheme, e.g. part-time employees
- Changes to national pension requirements and/or HMRC rules

### **Governance**

- Administering Authority unaware of structural changes in employer's membership (e.g. large fall in employee numbers, large number of retirements)
- Administering Authority not advised of an employer closing to new entrants
- An employer ceasing to exist with insufficient funding or adequacy of a bond.
- Changes in Panel membership.
- In relation to the overall governance of the Fund, the Authority's governance statement can be found at

<http://www.sypensions.org.uk/LinkClick.aspx?fileticket=hnhCR7xxmWg%3D&tabid=280&language=en-GB>

## **8. MONITORING AND REVIEW**

The Administering Authority has taken advice from the actuary in preparing this Statement, and has also consulted with employing organisations.

A full review of this Statement will occur no less frequently than every three years, to coincide with completion of a full actuarial valuation. Any review will take account of then current economic conditions and will also reflect any legislative changes.

The Administering Authority will monitor the progress of the funding strategy between full actuarial valuations. If considered appropriate, the funding strategy will be reviewed (other than as part of the triennial valuation process), for example:

- if there has been a significant change in market conditions, and/or deviation in the progress of the funding strategy
- if there have been significant changes to the SYPF membership, or LGPS benefits
- if there have been changes to the circumstances of any of the employing authorities to such an extent that they impact on or warrant a change in the funding strategy e.g. closure to new entrants
- if there have been any significant special contributions paid into the SYPF

**Gary Chapman**

**Head of Pensions Administration**

**South Yorkshire Pensions Authority for the South Yorkshire Pension Fund**

**ACTUARIAL VALUATION AS AT 31 MARCH 2013**

**Method and assumptions used in calculating the funding target**

**Method**

The actuarial method to be used in the calculation of the funding target is the Projected Unit method, under which the salary increases assumed for each member are projected until that member is assumed to leave active service by death, retirement or withdrawal from service. This method implicitly allows for new entrants to the scheme on the basis that the overall age profile of the active membership will remain stable. As a result, for those employers which are closed to new entrants, an alternative method is adopted (the Attained Age method), which makes advance allowance for the anticipated future ageing and decline of the current closed membership group.

**Financial assumptions**

***Investment return (discount rate)***

A yield based on market returns on UK Government gilt stocks and other instruments which reflects a market consistent discount rate for the profile and duration of the Scheme's accrued liabilities, plus an Asset Out-performance Assumption ("AOA") of 1.4% per annum .

The asset out-performance assumptions represent the allowance made, in calculating the funding target, for the long term additional investment performance on the assets of the Fund relative to the yields available on long dated gilt stocks as at the valuation date.

***Inflation (Consumer Prices Index)***

The inflation assumption will be taken to be the investment market's expectation for RPI inflation as indicated by the difference between yields derived from market instruments, principally conventional and index-linked UK Government gilts as at the valuation date, reflecting the profile and duration of the Scheme's accrued liabilities, but subject to the following two adjustments:

- an allowance for supply/demand distortions in the bond market is incorporated, and
- due to retirement pensions being increased annually by the change in the Consumer Price Index rather than the Retail Price Index.
- The overall reduction to RPI inflation at the valuation date is 1.0% per annum.

***Salary increases***

The long-term assumption for real salary increases (salary increases in excess of price inflation) will be determined by an allowance of 1.75% p.a. over the inflation assumption as described above. This includes allowance for promotional increases. In addition to the long term salary increase assumption allowance has been made for expected short term pay restraint for [certain employers, as deemed appropriate by the administering authority based on evidence provided by the employers][all employers]. This results in a short term salary increase of [1%] per annum for [3] years.



### ***Pension increases/Indexation of CARE benefits***

Increases to pensions are assumed to be in line with the inflation (CPI) assumption described above. This is modified appropriately to reflect any benefits which are not fully indexed in line with the RPI (e.g. Guaranteed Minimum Pensions in respect of service prior to April 1997).

### **Demographic assumptions**

#### ***Mortality***

The mortality in retirement assumptions will be based on the most up-to-date information in relation to self-administered pension schemes published by the Continuous Mortality Investigation (CMI), making allowance for future improvements in longevity and the experience of the scheme. The mortality tables used are set out below, with a loading reflecting SYPF specific experience. The derivation of the mortality assumption is set out in a separate paper as supplied by the Actuary. Current members who retire on the grounds of ill health are assumed to exhibit average mortality equivalent to that for a good health retiree at an age 4 years older whereas for existing ill health retirees we assume this is at an age 3 years older. For all members, it is assumed that the accelerated trend in longevity seen in recent years will continue in the longer term and as such, the assumptions build in a minimum level of longevity 'improvement' year on year in the future in line with the CMI projections subject to a minimum rate of improvement of 1.5% per annum.

The mortality before retirement has also been adjusted based on LGPS wide experience.

#### **Commutation**

It has been assumed that, on average, 50% of retiring members will take the maximum tax-free cash available at retirement and 50% will take the standard 3/80ths cash sum. The option which members have to commute part of their pension at retirement in return for a lump sum is a rate of £12 cash for each £1 p.a. of pension given up.

#### ***Other Demographics***

Following an analysis of Fund experience carried out by the Actuary, the incidence of retirement in normal health and in ill health and the proportions married/civil partnership assumption have been modified from the last valuation. In addition, allowing for take-up of the 50:50 option will be made up to a maximum of [10%] of current and future members for certain employers (who have sufficient size of current contributing members). Other assumptions are as per the last valuation.

#### ***Expenses***

Expenses are met out the Fund, in accordance with the Regulations. This is allowed for by adding 0.4% of pensionable pay to the contributions as required from participating employers. This addition is reassessed at each valuation. Investment expenses have been allowed for implicitly in determining the discount rates.

#### ***Discretionary Benefits***

The costs of any discretion exercised by an employer in order to enhance benefits for a member through the Fund will be subject to additional contributions from the employer as required by the Regulations as and when the event occurs. As a result, no allowance for such discretionary benefits has been made in the valuation

## **Method and assumptions used in calculating the cost of future accrual**

The cost of future accrual (normal cost) will be calculated using the same actuarial method and assumptions as used to calculate the funding target except that the financial assumptions adopted will be as described below.

The financial assumptions for assessing the future service contribution rate should take account of the following points:

- contributions will be invested in market conditions applying at future dates, which are unknown at the effective date of the valuation, and which are not directly linked to market conditions at the valuation date; and
- the future service liabilities for which these contributions will be paid have a longer average duration than the past service liabilities.

The financial assumptions in relation to future service (i.e. the normal cost) are not specifically linked to investment conditions as at the valuation date itself, and are based on an overall assumed real return (i.e. return in excess of price inflation) of 3.0% per annum, with a long term average assumption for consumer price inflation of 2.6% per annum. These two assumptions give rise to an overall discount rate of 5.6% p.a (i.e. 3.0% plus 2.6%).

Adopting this approach the future service rate is not subject to variation solely due to different market conditions applying at each successive valuation, which reflects the requirement in the Regulations for stability in the "Common Rate" of contributions. In market conditions at the effective date of the 2013 valuation this approach gives rise to a slightly more optimistic stance (i.e. allows for a higher AOA) in relation to the cost of accrual of future benefits compared to the market related basis used for the assessment of the funding target.

At each valuation the cost of the benefits accrued since the previous valuation will become a past service liability. At that time any mismatch against gilt yields and the asset out-performance assumptions used for the funding target is fully taken into account in assessing the funding position.

**Summary of key whole Fund assumptions used for calculating funding target and cost of future accrual (the “normal cost”) and the recovery plan for the 2013 actuarial valuation**

Long-term gilt yields	
Fixed interest	3.2% p.a.
Index linked	-0.4% p.a.
Past service Funding Target financial assumptions	
Investment return/Discount Rate	4.6% p.a.
CPI price inflation	2.6% p.a.
Long Term Salary increases*	4.35% p.a.
Pension increases/indexation of CARE benefits	2.6% p.a.
Future service accrual financial assumptions	
Investment return	5.6% p.a.
CPI price inflation	2.6% p.a.
Long Term Salary increases*	4.35% p.a.
Pension increases/indexation of CARE benefits	2.6% p.a.

\* a short-term pay adjustment will also be made if appropriate

**Demographic assumptions**

The post retirement mortality tables adopted for this valuation are as follows:

Life expectancy at 65 in 2013		Base table	Adjustment	Improvement model	Long term rate
CURRENT ANNUITANTS	Normal health	S1PxA	94% / 93%	CMI_2012	1.5%
	Ill health	S1PxA	Normal health + 3 years	CMI_2012	1.5%
	Dependants	S1PMA/S1DFA	156% / 106%	CMI_2012	1.5%
	Future dependants	S1PMA/S1DFA	106% / 98%	CMI_2012	1.5%
CURRENT ACTIVES / DEFERREDS	Actives normal health	S1PxA	87% / 82%	CMI_2012	1.5%
	Actives ill health	S1PxA	Normal health + 4 years	CMI_2012	1.5%
	Deferreds	S1PxA	114% / 102%	CMI_2012	1.5%
	Future dependants	S1PMA/S1DFA	99% / 93%	CMI_2012	1.5%

**Other demographic assumptions are noted below:**

Withdrawal	As for 2010 valuation
Other demographics	Based on LG scheme specific experience.
50:50 Option	Up to [10%] take-up for certain employers

**South Yorkshire Pension Fund**

**Policy on Termination Funding for Employers  
("Termination Policy")**

TO BE UPDATED AND INSERTED

DRAFT

STATEMENT OF INVESTMENT PRINCIPLES TO BE INSERTED

DRAFT

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## **Policy on Termination Funding for Admission Bodies (“Termination Funding Policy”)**

### **1 Introduction**

- 1.1 This document details the South Yorkshire Pension Fund’s (SYPF) policy on the methodology for assessment of the funding position of an admission body on the cessation of its participation in the SYPF. It supplements the general policy of the SYPF as set out in the Funding Strategy Statement (FSS).
- 1.2 Admission bodies are required to have an “admission agreement” with the SYPF. In conjunction with the Regulations, the admission agreement sets out the conditions of participation of the admission body including which employees (or categories of employees) are eligible to be members of the SYPF.
- 1.3 A list of all current admission bodies participating in the SYPF is attached as an Appendix to this document. This appendix is kept as a live document and will be updated as new bodies are admitted to or existing bodies depart from the SYPF.

### **2 Principles**

#### **Termination of an admission agreement**

- 2.1 When an admission agreement comes to its end, or is prematurely terminated for any reason, employees may transfer to another employer, either within the SYPF or elsewhere. If this is not the case the employees will retain pension rights within the SYPF i.e. either deferred benefits or immediate retirement benefits.
- 2.2 In addition to any liabilities for current employees the SYPF will also retain liability for payment of benefits to former employees, i.e. to existing deferred and pensioner members.
- 2.3 Where SYPF obtains advance notice of an admission agreement coming to an end, the Regulations enable the Authority to commission a funding assessment leading to a revised contribution certificate which is designed to eliminate, as far as possible, any surplus or deficit by the cessation date.
- 2.4 Whether or not an interim contribution adjustment has been initiated, the Regulations require the Authority to obtain a valuation at the date of cessation, together with a revision of the rates and adjustment certificate showing any contributions due from the admission body.
- 2.5 In the event that unfunded liabilities arise that cannot be recovered from the admission body, these will normally fall to be met by the SYPF as a whole (i.e. all employers) unless there is a guarantor or successor body within the SYPF.
- 2.6 Whilst reserving the right to consider the options on a case by case basis, the SYPF’s policy is that a termination assessment will be made based on a Least

Risk Funding Basis, **unless** the admission body is a Transferee Admission Body and a Transferor Body exists to take over the admission body's liabilities (including those for former employees). This is to protect the other employers in the SYPF as, at termination, the admitted body's liabilities will become "orphan liabilities" within the SYPF, and there will be no recourse to the admission body if a shortfall emerges in the future (after the admission has terminated).

- 2.7 If the body is a Transferee Admission Body and a Transferor Body exists to take over the admission body's liabilities, the SYPF's policy is that the most recent Valuation Funding Basis will be used for the termination assessment. The Transferor Body will then, following any termination payment made, subsume the assets and liabilities of the admission body within the Fund (sometimes known as the "novation" of the admission agreement). This will include the novation to the Transferor Body of any funding deficit (or surplus) on closure, which the Authority has been unable to resolve with the Transferee Admission Body or its insurer, indemnifier or bondsman.

### 3 Implementation

#### Transferee Admission Bodies

- 3.1 Transferee Admission Bodies generally will have a guarantor since the Regulations require that, in the event of any unfunded liabilities on the termination of the admission, the contribution rate for the relevant Transferor Body should be revised. Accordingly, in general, the least risk approach to funding and termination will not apply for Transferee Admission Bodies. The exception to this is where the Transferee Admission Body has entered the SYPF as a result of approval from the Secretary of State (known as a "6(2)(b) Transferee Admission Body"), in which case, and to reflect the fact that there is no de facto guarantor within the SYPF, any termination assessment will be made based upon a least risk funding basis.
- 3.2 On termination of a Transferee Admission Body agreement, any orphan liabilities in the SYPF will be subsumed by the relevant Transferor Body or, in the case of a 6(2)(b) Transferee Admission Body, the SYPF as a whole.
- 3.3 The Transferor Body, or in the case of a 6(2)(b) Transferee Admission Body the body itself, is required to carry out an assessment of the level of risk on premature termination of the contract by reason of the insolvency, winding up or liquidation of the Transferee Admission Body. This assessment would normally be based on advice in the form of a "risk assessment report" provided by the actuary to the SYPF but may be commissioned separately from any qualified actuary, if preferred. As the Transferor Body is effectively the ultimate guarantor for these admissions to the SYPF the decision over the level (if any) of any bond requirement for the Transferee Admission Body is the responsibility of the Transferor Body.
- 3.4 Deficit recovery periods for Transferee Admission Bodies will be set in line with the SYPF's general policy as set out in the FSS but subject to a target of full funding at the end of the contract period.
- 3.5 Where the initial transfer of assets to the Transferee Admission Body was on a fully funded basis, any surplus upon cessation will be passed back to the Transferor Body by way of subsuming the notional surplus assets. *The only exception to this* is where the Transferee Admission Body has been paying



- additional contributions, either of its own volition, or because of a smoothing exercise initiated outside of the normal triennial scheme valuation.
- 3.6 Where the initial transfer of assets to the Transferee Admission Body was on a partially funded basis, any surplus upon cessation may be returned to the TAB in so far as the regulations permit.
- 3.7 Under both 3.5 and 3.6, where a contribution rebate is available for the Transferee Admission Body, this rebate cannot exceed the surplus amount (with appropriate regard to the actuarial certificate in force). Any residual surplus will be subsumed by the Transferor Body.

### **Community Admission Bodies**

- 3.8 At present under the Regulations, there is no **requirement** to carry out an assessment of the level of risk on termination of the admission agreement for a Community Admission Body. The Authority may nevertheless decide to carry out such a risk assessment where appropriate.
- 3.9 The SYPF's policy is to consider applications on a case-by-case basis, in line with the principles set out above. As stated, no Community Admission Body will be permitted to join the SYPF without having a guarantor body. If a guarantor (of sufficient standing acceptable to the SYPF) is not forthcoming the admission will not be approved.
- 3.10 Deficit recovery periods will be determined consistent with the policy set out in the FSS but the Authority reserves the right to determine that an employer specific deficit recovery period will apply.

## **Glossary**

**Authority:** South Yorkshire pensions Authority (SYPA) as the body required to maintain the pension fund under the Regulations.

**Admission bodies:** A specific type of employer under the LGPS who do not automatically qualify for participation but are allowed to join if they satisfy the relevant criteria set out in the Regulations.

**Community Admission Bodies:** These are the traditional type of admission bodies – bodies who operate in the public sector and/or are connected to Scheme Employers. They also include admission bodies that are not associated to local government, as follows:

- Bodies which provide a public service in the UK otherwise than for the purposes of gain and which have sufficient links with a Scheme Employer to be regarded as having a community of interest.
- Bodies which provide a public service in the UK otherwise than for the purposes of gain and which are approved by the Secretary of State to be admitted to the LGPS. Approval may be subject to such conditions as the Secretary of State thinks fit and he may withdraw approval at any time if such conditions are not met.
- Bodies to which any Scheme Employer provides funding. Where at the date that the admission agreement is made with such a body the total contribution from any one or more Scheme Employers to its contribution income equals 50% or less of the funding contributed by third parties it must be a term of the admission agreement that the Scheme Employer who provides funding (and, if more than one, all of them) guarantees the liability of the admission body to pay all amounts due from it under the Regulations.

**Least Risk Funding Basis:** more cautious funding basis than the existing valuation basis. The relevant discount rate used for valuing the present value of liabilities is consistent with that used under the most recent valuation but removing the allowance for asset out-performance. In addition, the basis contains a full allowance for the market implied rate of inflation.

**LGPS:** *Local Government Pension Scheme.*

**Orphan liabilities:** liabilities in the SYPF for which there is no sponsoring employer within the SYPF. Ultimately orphan liabilities must be underwritten by all other employers in the SYPF.

**Regulations:** means the LGPS (Administration) Regulations 2008, the LGPS (Benefits, Membership and Contributions) Regulations 2007 and the LGPS (Transitional Provisions) Regulations 2008, which collectively provide the statutory framework for administering the LGPS.

**Scheme Employer/Transferor body:** the parent employer in the SYPF which is letting the contract.

**SYPF:** means the South Yorkshire Pension Fund, an LGPS fund administered by South Yorkshire Pensions Authority.

**Transferee Admission Bodies:** An employer which participates in the SYPF for employees involved with delivery of a specific function or service for a Scheme Employer. An example is where a local authority outsources a specific service (e.g. waste management) to a private sector employer. In these cases the relevant Scheme Employer would be a party to the admission agreement, as well as the admission body itself and the Authority.

**6(2)b Transferee Admission Bodies:** An employer providing a public service which has received approval from the Secretary of State for the purposes of admission to the SYPF.

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## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 JANUARY 2014

### Report of the Clerk and Treasurer

#### REVIEW OF CORPORATE STRATEGY

1) Purpose of the Report

To ask Members to defer reviewing the Authority's Corporate Strategy until such time as the outcome of the various Government consultations regarding the future of the Local Government Pension Scheme is known.

-----

2) Recommendation

**Members agree that no further review of the Authority's Corporate Strategy be considered until such time as the implications of the various proposed changes to the structure of the Local Government Pension Scheme have been clarified.**

-----

3) Background Information

3.1 At it's meeting in November 2011 the Authority considered reviewing its Corporate Strategy for the period 2011/14. The Authority concluded that it would be inappropriate to implement changes until such time as the implications of the various consequences of the report produced by the Independent Public Service Pensions Commission (IPSPC), led by Lord Hutton, and its application to the Local Government Pension Scheme could be assessed.

3.2 As Members are aware the Government has since determined that there will be a new LGPS with effect from April 2014 (switching from defined benefit final salary to career average) and has initiated other consultations upon the structure of the LGPS and how it is administered. Clearly, the outcome of these will have direct implications for this Authority.

3.3 At this stage it is not possible to second guess what these implications could be. Pushed to an extreme they could result in the abolition of the Authority or in contrast lead it to being a lead authority of a much larger fund.

3.4 Accordingly, whilst it would normally be good practice to start reviewing the strategy now it is considered unrealistic to do so until the position is clearer. It is suggested, therefore, that the present position be maintained.

4) Current Strategic Objectives

4.1 The present objectives are as follows:-

**The Best:** to be the pensions administrator and investment manager of choice, providing a high quality cost effective and efficient service to all our customers.

**Investment Returns:** to maintain an investment strategy that obtains the best financial return, commensurate with appropriate levels of risk, to ensure the Fund can meet both its immediate and long term liabilities.

**Responsible Investment:** to develop our investment options within the context of a responsible and sustainable investment strategy.

**Valuing our Employees:** to develop the capacity and capability of our workforce, including embedding equality and diversity practice and investing in our staff development.

**Pensions Planning:** to encourage and support well informed pensions planning and investment amongst our member organisations and their employees.

**Effective and Transparent Corporate Governance:** to uphold and exemplify effective governance showing prudence and propriety at all times.

5) Implications and risks

5.1 Financial

There are no immediate financial implications arising from this report.

5.2 Legal

There are not thought to be any specific legal implications arising out of this report.

5.3 Diversity

There are no diversity implications.

5.4 Risk

There are a number of possible risks for the Fund associated with the current proposals: at the present time it is impossible to be sure what the risks might be or how best to respond to them. Once the position is clearer the Authority will need to consider its position carefully.

The Authority is the formal decision-making body for all matters regarding the LGPS and needs to be in a position to monitor and respond to changes that affect the working of the Scheme. There is an unquantifiable reputational risk associated with failing to do so.

S Pick  
Clerk and Treasurer

Officer responsible:-  
John Hattersley, Fund Director.  
Telephone contact 01226 772873

**Background papers** used in the preparation of this report are available for inspection at the offices of the Authority in Barnsley

**Other sources and references**

## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 JANUARY 2014

### Report of the Fund Director

#### RESPONSIBLE INVESTMENT POLICY AND FOSSIL FUEL DIVESTMENT

1) Purpose of the report

To inform Members of the recommendations made by the Investment Board following their review of the Authority's Responsible Investment (RI) policy.

-----

2) Recommendation

**That Members consider the recommendations put forward by the Investment Board.**

-----

3) Background information

3.1 At the October meeting of the Authority the Sheffield Climate Alliance submitted a petition (said to be 370 signatures) requesting the Fund to review its fossil fuel investments and assess the risk to its financial strategy from continuing to invest in the 'carbon bubble'. It also asked the Authority to consult Fund members about the ethics of investing in fossil fuels that hold high financial and climate risks and about reinvestment in renewable energy.

3.2 Members asked that the Investment Board consider the implications of the petition and at its meeting in December I presented a paper which attempted to set out the arguments involved. However, the consideration of these and other responsible investment issues need to be set in the context of the investible universe and the practical constraints imposed by fiduciary duty. It should also be borne in mind that other like-minded pressure groups are seeking similar sort of action on other issues such as obesity and public health. It would appear to be reasonable, therefore, to argue that the response to one lobby group should not be dissimilar to that given to others.

3.3 At its May 2013 meeting the Investment Board approved the publication of a statement on its Responsible Investment policy. It was also agreed not to commission a fresh legal opinion on the fiduciary duties of Local Government Pension Funds. This followed a review of the policy at the time, an examination of case law and comparison with the policies followed by other pension funds.

3.4 For Members' reference the December report submitted to the Investment Board is attached as an appendix. As can be seen, the paper set out (albeit briefly) the arguments for and against taking action on fossil fuels and attempted to place some monetary values on the issues. The paper also tried to place those arguments into the context of a practical construction of an investment portfolio and gave linkages and contact details for other information sources. Reference was also made to the Authority's established Responsible Investment Policy and its own membership of lobby groups.

#### 4) Way forward

4.1 The Investment Board determined the following:-

- i) Recommend to the Authority that the current Responsible Investment policy be affirmed and that it continued to engage with pressure groups and maintain a watching brief upon industry developments; and
- ii) Recommend to the Authority that a response as set out in (i) above be sent to Sheffield Climate Change Alliance.

4.2 The Board did not consider further whether there was any merit in commissioning an independent carbon audit report or in officers undertaking any immediate changes to policy.

#### 5) Implications

5.1 Financial

It is difficult to predict what the effect upon investment performance will be of implementing or not implementing any of the suggestions referred to. A carbon audit of the portfolio is estimated to cost roughly £5,000. An increase in officer and Member training requirements and more time involved in monitoring investments will involve indirect costs.

5.2 Legal

The ongoing reviews upon the concept of fiduciary duty need to be understood.

5.3 Diversity

There are no diversity implications.

5.4 Risk

Although the Investment Board is the formal decision-making body for investment issues relating to the Fund and, as such, is responsible for its responsible investment strategy, because responsible investment is an investment objective of the Authority and because the Sheffield Climate Alliance submitted its petition to the Authority it is appropriate that this meeting considers the matter. There may be an unquantifiable risk if the Authority's policies are not reviewed regularly in order to reflect legislative changes. There is a reputational risk associated with



non-compliance with its objectives. The appointment of independent investment advisors assists with these matters.

Officer responsible:  
John Hattersley, Fund Director

Contact telephone: 01226 772873

Background papers used in the preparation of this report are available for inspection for at the offices of the Authority.

Other sources and references:

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## APPENDIX 1

### Pressure Groups

#### Share Action/Green Light

The report is the first stage in ShareAction's three year Green Light campaign. Backed by, amongst others, the UK's two largest unions, Unite and Unison and some of its largest NGOs including Oxfam, Christian Aid, Friends of the Earth, WWF and Greenpeace; it aims to transform pension funds into climate conscious investors. These organisations will reach out to their supporters across the UK to encourage an unprecedented level of pension saver interaction with pension providers on climate change. An online action allows savers to question their pension providers on shifting capital to low carbon assets.

#### Recommendations for pension funds

- Take action to understand climate risk by measuring and reporting portfolio carbon risk through a portfolio carbon footprint. Trustees and pension fund officers should undertake training on financial implications of climate risk. During 2014 ShareAction will run a series of trustee training.
- Develop a climate policy: translate their understanding into a concrete policy setting out the way in which they address the identified risks.
- Develop an action plan with clear goals by setting targets to reduce portfolio carbon risk, by reducing exposure to high-carbon, high-risk activities and by investing in low carbon opportunities.
- Address climate risk management with their service providers: ensure that asset managers (across asset classes) and consultants are instructed to help funds meet their goals.
- Report regularly to members on how the fund is managing climate risk.
- Engage with policy makers by co-ordinating with groups such as the Institutional Investors Group on Climate Change.

[www.greenlightcampaign.org.uk](http://www.greenlightcampaign.org.uk)

#### Carbon Tracker

The Carbon Tracker Initiative's aim is to improve the transparency of the carbon embedded in equity markets. It has produced a number of reports on unburnable carbon and stranded assets, and accounting for emissions hidden in reserves. Carbon Tracker is aware that funds may not be able to divest wholly from carbon intensive holdings and have therefore proposed a number of things that funds can do.

#### Recommendations for pension funds

- Request research from analysts on the implications of regulations and other constraints for valuations of carbon-intensive industries.

- Engage with extractive companies on Capex strategies and challenge decisions that may result in stranded assets.
- Engage with regulators regarding disclosure of potential carbon emissions in reserves.
- Urge ratings agencies to factor climate risk into procedures.

[www.carbontracker.org](http://www.carbontracker.org)

### Seize Your Power

WWF's campaign is committing to increase the use of renewable energy by asking financial institutions and governments to invest more money in a renewable energy future.

### 350.org Fossil Free

The Fossil Free campaign was launched in the US in 2012 and aims to convince “educational and religious institutions, city and state governments, and other institutions that serve the public good” to divest from fossil fuels, stating that it is ‘morally wrong to profit by investing in companies that are causing the climate crisis’. The Fossil Free UK campaign was launched in October this year with the key demands to funds being:

- To exclude the fossil fuel industry from investment portfolios.
- Funds immediately freeze any new investment in fossil fuel.
- To divest from fossil fuel public equities and corporate bonds within 5 years.

Key demands to fossil fuel industry are:

- Stop exploring for new hydrocarbons.
- Stop lobbying to preserve tax breaks and subsidies.
- To pledge to keep 80% of current reserves underground.

[www.GoFossilFree.org](http://www.GoFossilFree.org)

## APPENDIX 2

### List of research resources:-

**Stranded assets and the fossil fuel divestment campaign: what does divestment mean for the valuation of fossil fuel assets?**

<http://www.smithschool.ox.ac.uk/research/stranded-assets/SAP-divestment-report-final.pdf>

**Aperio Group: “Do the Investment Math: Building a Carbon-Free Portfolio”**

[http://www.aperiogroup.com/system/files/documents/building\\_a\\_carbon\\_free\\_portfolio.pdf](http://www.aperiogroup.com/system/files/documents/building_a_carbon_free_portfolio.pdf)

**Impax Asset Management: “Beyond Fossil Fuels: The Investment Case for Fossil Fuel Divestment”.**

**MSCI: Responding to the Call for Fossil-fuel Free Portfolios**

[http://www.msci.com/resources/factsheets/MSCI%20ESG%20Research\\_FAQ%20on%20Fossil-Free%20Investing\\_June%202013.pdf](http://www.msci.com/resources/factsheets/MSCI%20ESG%20Research_FAQ%20on%20Fossil-Free%20Investing_June%202013.pdf)

**Carbon Constraints Could Negatively Impact The Global Oil Sector, Says Report Mar 13**

[http://www.researchandmarkets.com/reports/2484569/carbon\\_constraints\\_could\\_negatively\\_impact\\_the.pdf](http://www.researchandmarkets.com/reports/2484569/carbon_constraints_could_negatively_impact_the.pdf)

**Institutional Pathways to Fossil-free Investing**

<http://631nj1ki9k11gbkx39b3qpzua.wpengine.netdna-cdn.com/files/2013/06/institutional-pathways-final-061813.pdf>

**Carbon Tracker: Unburnable Carbon –Are the world’s financial markets carrying a carbon bubble?**

<http://www.carbontracker.org/wp-content/uploads/downloads/2011/07/Unburnable-Carbon-Full-rev2.pdf>

**Unburnable Carbon 2013: Wasted capital and stranded assets**

<http://carbontracker.live.kiln.it/Unburnable-Carbon-2-Web-Version.pdf>

**Carbon Avoidance? Accounting for the Emissions Hidden in Reserves**

<http://www.accaglobal.co.uk/content/dam/acca/global/PDF-technical/sustainability-reporting/tech-tp-ca.pdf>

**The Green Light Report: Resilient portfolios in an uncertain world**

[http://www.shareaction.org/sites/default/files/uploaded\\_files/investorresources/Green-Light-Report-web.pdf](http://www.shareaction.org/sites/default/files/uploaded_files/investorresources/Green-Light-Report-web.pdf)

**Investing in a changing climate: A guide for trustees to address climate change**

<http://www.lapfforum.org/TTx2/Publications/latest-research/files/ClimatechangeGuideA4.pdf>

**IIGCC Trustees Guide to Understanding and Addressing Risk**

<http://www.iigcc.org/publications/publication/a-climate-for-change-a-trustees-guide-to-understanding-and-addressing-risk>

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## LAPFF Statement on Climate Change

LAPFF recognises the impacts that climate change is likely to have on the global economy and society as a whole. It is LAPFF's view that the scale of these impacts is such that a proactive and precautionary approach is needed in order to address them.

As long term investors, LAPFF members are aware that the risks and opportunities associated with climate change may have a material impact on the financial performance of their portfolios.

The Forum believes that companies have a unique role to play in addressing the challenges posed by climate change not only because they are emitters of greenhouse gases, but also as they are providers of short and long-term solutions to decarbonising the economy and adapting to climate change. The LAPFF mission is to 'promote the investment interests of local authority pension funds, and to maximise their influence as shareholders whilst promoting corporate social responsibility and high standards of corporate governance amongst the companies in which they invest'. In line with this mission, the Forum aims to encourage companies to incorporate relevant considerations into their business strategy and to identify and disclose related- performance indicators including appropriate long-term emissions targets. In so doing, the Forum's aim is to reduce the carbon footprint of the companies in which its members invest.

Companies will be exposed to risk if they are unprepared for the potential impacts associated with climate change. Such impacts include direct physical changes in the form of more extreme weather conditions and other impacts such as legislative measures enacted by government, reputational risk and overall systemic market risk. The degree to which a company is prepared for these changes will impact the company's bottom line and therefore shareholder value.

Our members are interested in maintaining the long-term health and efficiency of global capital markets which are underpinned by sound underlying economics. We believe that climate risk has the potential to disrupt this goal. As such, our members are committed to addressing climate-related risk where it exists at investee companies and membership of the Forum provides a contribution to this effort. Members are also interested in investment opportunities afforded by a low-carbon future which increase diversification and provide long-term returns.

LAPFF's approach will be evidence based, pragmatic and based on collaborative engagement, focusing on research, corporate engagement, AGM voting recommendations, engagement with fund managers, collaboration with other investors and government lobbying activities. The Forum sees collaboration as a useful tool for engagement as it maximises the collective influence of a large shareholding. The Forum believes that by pooling its expertise, shareholding and resources with that of other investors, it is able to exert a greater influence than it would be able to on its own and in so doing extend its influence beyond the UK. The Forum is an active member of investor networks such as the UN Principles for Responsible Investment clearing-house as well as the Investor Network on Climate Risk.



## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 January 2014

### Report of the Clerk and Treasurer

#### COMPLIANCE WITH MYNERS' PRINCIPLES: SELF-ASSESSMENT

1) Purpose of the report

To update Members on the CIPFA Code of Practice on public sector pensions finance knowledge and skills and the requirements for the self-assessment against the Myners' Principles.

---

2) **Recommendations**

- a) **That the Authority notes the content of the report.**
  - b) **That Members confirm their commitment to the self-assessment process until the new arrangements for the Scheme come in to place and to review and update the process at this time.**
  - c) **That Members agree to any development needs arising from the results.**
- 

3) Contents

Main Report

Appendix A: Principles for Investment Governance (formerly Myners) and Best Practice Guidance

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4) Background Information

- 4.1 The Myners Report (2001) looked at institutional investment in the UK and established a best practice approach to investment decision making for pension funds. The principles were announced in 2002 following a review of institutional investment by Paul Myners, which found shortcomings in the expertise of investment decision-making by pension fund trustees. The review recommended that there should be a legal requirement that where trustees are taking a decision, they should be able to take it with the skill and care of someone familiar with the issues concerned. In 2008, following extensive consultation, the ten original Myners principles were updated and consolidated into six new principles. These are attached to the report for information at Appendix A. Local Authorities are required to publish a statement of compliance in the Statement of Investment Principles.

- 4.2 Members adopted a system of self-assessment in October 2011 and agreed to use a template to gauge compliance. Members received individual copies in January 2013 and were asked to retain them until the end of the financial year (March 2013) and return them, duly completed, to the Clerk and Treasurer.
- 4.3 The self-assessment process consists of three separate forms:
- (i) Assessment of Authority Members.
  - (ii) Assessment of the Board Chair by Members of the Investment Board.
  - (iii) Assessment of the Board Chair by the Members of the Corporate Planning and Governance Board.
- 4.4 In order to benchmark, forms will be personalised to show the scores given in the previous year by individual members.
- 4.5 Assessment forms will be posted to all Authority Members immediately after the Authority meeting on 16 January. Members are asked to complete and return the forms before the end of March 2014.

## 5. Development Needs

- 5.1 Any development needs that arise from the self-assessment will be addressed as part of the Member learning and development schedule.

## 6 Implications

There are no direct financial, legal or diversity implications with this report.

There may be some reputational risk implications in relation to the quality of internal governance if results are not reported and acted on appropriately.

S Pick  
Clerk and Treasurer

Officer responsible:  
R Bywater  
Principal Policy Officer  
01226 772851

Background papers used in the preparation of this report are available for inspection at the offices of South Yorkshire Joint Secretariat, Barnsley.

Other sources and references:  
CIPFA Code of Practice  
CIPFA Knowledge and Skills Framework

## Appendix A

### Principles for Investment Governance (formerly Myners) and Best Practice Guidance

Principle	Best Practice guidance
<p><b>Principle 1: Effective decision-making</b></p> <ul style="list-style-type: none"> <li>• Trustees should ensure that decisions are taken by persons or organisations with the skills, knowledge, advice and resources necessary to take them effectively and monitor their implementation.</li> <li>• Trustees should have sufficient expertise to be able to evaluate and challenge the advice they receive, and manage conflicts of interest.</li> </ul>	<ul style="list-style-type: none"> <li>• Trustees should ensure that decisions are taken by persons or organisations with the skills, knowledge, advice and resources necessary to take them effectively and monitor their implementation.</li> <li>• Trustees should have sufficient expertise to be able to evaluate and challenge the advice they receive, and manage conflicts of interest.</li> <li>• The board has appropriate skills for, and is run in a way that facilitates, effective decision-making.</li> <li>• There are sufficient internal resources and access to external resources for trustees and Boards to make effective decisions.</li> <li>• It is good practice to have an investment subcommittee, to provide the appropriate focus and skills on investment decision-making.</li> <li>• There is an investment business plan and progress is regularly evaluated.</li> <li>• Consider remuneration of trustees.</li> <li>• Pay particular attention to managing and contracting with external advisers (including advice on strategic asset allocation, investment management and actuarial issues).</li> </ul>
<p><b>Principle 2: Clear objectives</b></p> <ul style="list-style-type: none"> <li>• Trustees should set out an overall investment objective(s) for the fund that</li> </ul>	<ul style="list-style-type: none"> <li>• Benchmarks and objectives are in place for the funding and</li> </ul>

<p>takes account of the scheme's liabilities, the strength of the sponsor covenant and the attitude to risk of both the trustees and the sponsor, and clearly communicate these to advisers and investment managers.</p>	<p>investment of the scheme.</p> <ul style="list-style-type: none"> <li>• Fund managers have clear written mandates covering scheme expectations, which include clear time horizons for performance measurement and evaluation.</li> <li>• Trustees consider as appropriate, given the size of fund, a range of asset classes, active or passive management styles and the impact of investment management costs when formulating objectives and mandates.</li> <li>• Consider the strength of the sponsor covenant.</li> </ul>
<p><b>Principle 3: Risk and liabilities</b></p> <ul style="list-style-type: none"> <li>• In setting and reviewing their investment strategy, trustees should take account of the form and structure of liabilities.</li> <li>• These include the strength of the sponsor covenant, the risk of sponsor default and longevity risk.</li> </ul>	<ul style="list-style-type: none"> <li>• Trustees have a clear policy on willingness to accept underperformance due to market conditions.</li> <li>• Trustees take into account the risks associated with their liabilities valuation and management.</li> <li>• Trustees analyse factors affecting long-term performance and receive advice on how these impact on the scheme and its liabilities.</li> <li>• Trustees have a legal requirement to establish and operate internal controls.</li> <li>• Trustees consider whether the investment strategy is consistent with the scheme sponsor's objectives and ability to pay.</li> </ul>
<p><b>Principle 4: Performance assessment</b></p> <ul style="list-style-type: none"> <li>• Trustees should arrange for the formal measurement of the performance of the investments, investment managers and advisers.</li> <li>• Trustees should also periodically make a formal policy assessment of their own effectiveness as a decision-making body and report on this to scheme members.</li> </ul>	<ul style="list-style-type: none"> <li>• There is a formal policy and process for assessing individual performance of trustees and managers.</li> <li>• Trustees can demonstrate an effective contribution and commitment to the role (for example measured by participation at meetings).</li> <li>• The chairman addresses the results of the performance evaluation.</li> <li>• State how performance evaluations have been conducted.</li> <li>• When selecting external advisers take into account relevant factors, including past performance and price.</li> </ul>
<p><b>Principle 5: Responsible ownership</b></p> <ul style="list-style-type: none"> <li>• Trustees should adopt, or ensure their investment managers adopt, the Institutional Shareholders' Committee Statement of Principles on the responsibilities of shareholders and agents.</li> </ul>	<ul style="list-style-type: none"> <li>• Policies regarding responsible ownership are disclosed to scheme members in the annual report and accounts or in the Statement of Investment Principles.</li> <li>• Trustees consider the potential for engagement to add value when</li> </ul>

<ul style="list-style-type: none"> <li>• A statement of the scheme's policy on responsible ownership should be included in the Statement of Investment Principles.</li> <li>• Trustees should report periodically to members on the discharge of such responsibilities.</li> </ul>	<p>formulating investment strategy and selecting investment managers.</p> <ul style="list-style-type: none"> <li>• Trustees ensure that investment managers have an explicit strategy, setting out the circumstances in which they will intervene in a company.</li> <li>• Trustees ensure that investment consultants adopt the ISC's Statement of Practice relating to consultants.</li> </ul>
<p><b>Principle 6: Transparency and reporting</b></p> <ul style="list-style-type: none"> <li>• Trustees should act in a transparent manner, communicating with stakeholders on issues relating to their management of investment, its governance and risks, including performance against stated objectives.</li> <li>• Trustees should provide regular communication to members in the form they consider most appropriate.</li> </ul>	<p>Reporting ensures that:</p> <ul style="list-style-type: none"> <li>o the scheme operates transparently and enhances accountability to scheme members; and</li> <li>o best practice provides a basis for the continuing improvement of governance standards.</li> </ul>

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## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 JANUARY 2014

### Report of the Fund Director

#### PENSIONS REGULATOR CONSULTATION: DRAFT CODE OF PRACTICE FOR PUBLIC SERVICE PENSION SCHEMES

1) Purpose of the report

To advise Members' that the Pensions Regulator is out to consultation on a draft code of practice providing governance and administration requirements for public service pension schemes.

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2) Recommendation

**That Members consider the report.**

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3) Background information

3.1 On 10 December the Pensions Regulator (TPR) published a draft consultation paper regarding a proposed code of practice relating to governance and administration requirements for public service pension schemes. The TPR is also consulting upon a draft regulatory strategy describing how it will educate and enable public service schemes to meet those standards of practice. It has reiterated that it will take enforcement action where it deems fit in order to ensure that the underlying legal requirements are adhered to.

3.2 The TPR was given an expanded role under the Public Service Pensions Act 2013 and from April 2015 it will set standards of practice for the Local Government Pension Scheme. The TPR's stated aim is to improve the efficiency of the schemes and to make them more cost effective.

3.3 The consultation period runs until 17 February 2014. It is anticipated that the Code will be laid before Parliament during Autumn this year.

3.4 Members are asked, firstly, if they wish to respond to the consultation and secondly, consider and put forward suggestions for the documents referred to under section 4.4 below.

3.5 The draft code of practice is attached as an appendix.

4) Consultation

4.1 The TPR acknowledges that given the legislative backing to the schemes it will not focus on protection of member benefits. Rather it sees its role as one of considering the risks that poor governance and administration standards and practices, as well as the failure to meet legal requirements, might present

to the schemes. As part of that approach TPR will focus on mitigating those risks by action to education, enable and enforce.

- 4.2 The TPR also acknowledges that funded schemes are different entities from those that operate as “pay as you go” and that schemes with a large number of employers will differ from those with a single or few participating employers.
- 4.3 It is clear that the TPR will focus upon education and will expect that pension board members will have sufficient skills, knowledge and understanding to be able to carry out their roles competently.
- 4.4 As part of this approach the TPR will expect all schemes to prepare and keep updated a list of the documents with which they consider pension board members need to be conversant. Some of the examples put forward under this category include details of employers’ contributions; service level agreements; stewardship reports; annual reports and accounts; audit reports (internal and external); Statement of Investment Principles; Funding Strategy Statement. It might include information about the setting of performance targets.
- 4.5 The phrase “being conversant with” means having a working knowledge (ie a degree of familiarity) of policy documents.
- 4.6 Schemes will need to designate a person to take responsibility for ensuring that a knowledge and understanding framework is developed and implemented.

## 5) Implications

### 5.1 Financial

Subject to the outcome of the consultation it seems likely that there will be a need for an increased training budget in due course.

### 5.2 Legal

There are potential legal implications arising out of this report.

### 5.3 Diversity

There are no diversity implications.

### 5.4 Risk

There are a number of potential risks associated with this report depending upon the detailed outcome of the consultation.

J N Hattersley  
Fund Director  
Telephone contact 01226 772873

Background papers used in the preparation of this report are available for inspection at the offices of the Pensions Authority in Barnsley  
Other sources and references



Draft code of practice no. 14

# **Governance and administration of public service pension schemes**

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# Introduction

1. This code of practice is issued by The Pensions Regulator ('the regulator'), the body that regulates occupational and personal pension schemes provided through employers.
2. The regulator's statutory objectives<sup>1</sup> are to
  - protect the benefits of pension scheme members
  - reduce the risks of calls on the Pension Protection Fund (PPF)
  - promote, and improve understanding of, the good administration of work-based pension schemes
  - maximise compliance with the duties and safeguards of the Pensions Act 2008.
3. The regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its statutory objectives.
4. Codes of practice provide practical guidance on the requirements of pensions legislation and set out standards of conduct and practice expected of those who must meet the requirements<sup>2</sup>.

## Status of codes of practice

5. Codes of practice are not statements of the law and there is no penalty for failing to comply with them. It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant provisions of a code of practice into account<sup>3</sup>.
6. If there are grounds to issue an improvement notice<sup>4</sup>, the regulator may issue a notice directing a person to take, or refrain from taking, such steps as are specified in the notice. These directions may be worded by reference to a code of practice issued by the regulator<sup>5</sup>.

1  
Section 5(1) of the Pensions Act 2004 (c.35).

2  
Section 90A(1) of the Pensions Act 2004.

3  
Section 90A(5) of the Pensions Act 2004.

4  
Where the regulator considers that legal requirements are not being met, or have been contravened in circumstances which make it likely that the breach will continue or be repeated, it may issue an improvement notice under section 13 of the Pensions Act 2004 (as amended by paragraph 3 of Schedule 4 to the Public Service Pensions Act 2013).

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

## This code of practice

7. The Public Service Pensions Act 2013 introduces the framework for the regulatory oversight of the governance and administration of public service pension schemes by the regulator, expanding its role.
8. The regulator is issuing this code of practice relating to those specific matters about which it is required to issue a code in relation to public service pension schemes<sup>6</sup>. This code of practice sets out the legal requirements for public service pension schemes in respect of those specific matters. It contains practical guidance and sets out standards of conduct and practice expected of those who exercise functions in relation to those legal requirements.
9. The practical guidance sections in this code are not intended to prescribe the process for every scenario. They do, however, provide principles, examples and benchmarks against which scheme managers and members of pension boards can consider whether or not they have understood their duties and obligations and are reasonably complying with them.
10. If scheme managers and the members of pension boards are, for any reason, unable to act in accordance with the guidance set out in this code, or an alternative approach that meets the underlying requirements, they should consider their statutory duty under section 70 of the Pensions Act 2004 to assess and if necessary report breaches of the law<sup>7</sup>. Further information can be found in the section of this code on reporting breaches of the law.

## At whom is this code directed?

11. This code relates to public service pension schemes established under the Public Service Pensions Act 2013 and to other statutory pension schemes which are connected to those schemes. It does not apply to schemes in the wider public sector.
12. This code is particularly directed at scheme managers and the members of pension boards of those public service pension schemes and connected schemes who, along with responsible authorities, have certain legal functions, including management and administration responsibilities. They may delegate some of those functions to others, if the scheme regulations allow, or outsource them. However, they will not be able to delegate their accountability for a legal responsibility. Where pension boards are not directly undertaking a particular function, they remain accountable for assisting the scheme manager in securing compliance with the legal requirements relating to the governance and administration of the scheme.

<sup>6</sup>  
Section 90A(2) of the Pensions Act 2004.

<sup>7</sup>  
As amended by paragraph 6 of Schedule 4 to the Public Service Pensions Act 2013.

13. This code should be followed by anyone to whom legal requirements or responsibilities relating to the management or administration of a public service pension scheme apply, or have been delegated or outsourced.
14. Public service pension schemes are established primarily as defined benefit (DB) schemes. Some of these schemes also enable members to make additional voluntary contributions (AVCs) on either a DB basis or to a separate defined contribution (DC) scheme. This public service code applies to any DC scheme which is connected to a public service pension scheme (and which is therefore defined as a 'public service pension scheme').

## Terms used in this code

15. **The 2013 Act** – the Public Service Pensions Act 2013, which sets out the arrangements for the creation of schemes for the payment of pensions and other benefits. It provides powers to ministers to create such schemes according to a common framework of requirements.
16. **Public service pension schemes**<sup>9</sup> – these are (a) new public service pension schemes set up under section 1 of the 2013 Act including schemes which have effect as such a scheme under section 28 of the 2013 Act; (b) new public body pension schemes set up under that Act<sup>8</sup>; and (c) any statutory pension schemes connected with a scheme described in (a) or (b). Substantially, these are the schemes providing pension benefits for civil servants, the judiciary, local government workers, teachers, health service workers, fire and rescue workers, members of police forces and the armed forces. Except where specified otherwise, the legal requirements and practical guidance set out in this code apply to any kind of public service pension scheme, whether it is established under section 1 of the 2013 Act, a new public body scheme or a connected scheme.
17. **Connected scheme** – a scheme established under the 2013 Act and another statutory pension scheme are connected if and to the extent that the schemes make provision in relation to persons of the same description. Scheme regulations may specify exceptions<sup>10</sup>.
18. **Responsible authority** – the 2013 Act identifies secretaries of state/ ministers, each being the responsible authority for their schemes, who have power to make the scheme regulations for the relevant schemes<sup>11</sup>. The responsible authority may also be the scheme manager<sup>12</sup>. In relation to a public body pension scheme, references in the code to the responsible authority are to be read as references to the public authority which established the scheme.

8  
New public body pension schemes may be set up under section 30 of the 2013 Act and are defined in that section.

9  
As defined in section 318 of the Pensions Act 2004.

10  
Section 4(6) and (7) of the 2013 Act.

11  
Section 2 of, and Schedule 2 to, the 2013 Act.

12  
Section 4(3) of the 2013 Act.

19. **Scheme regulations** – each new scheme made under section 1 of the 2013 Act has scheme regulations which set out the detail of the membership and benefits to be provided under the scheme<sup>13</sup> and must provide for the identification of scheme managers, pension boards and a scheme advisory board. These regulations constitute the scheme rules<sup>14</sup>.
20. **Scheme manager** – each public service pension scheme has one or more persons responsible for managing or administering the scheme<sup>15</sup>. Public service pension schemes can have different persons acting as scheme manager for different parts of the pension scheme. For the locally-administered schemes<sup>16</sup>, the scheme managers may be the local administering authorities or a person representing an authority or police force.
21. **Pension board** – the scheme manager (or each scheme manager) for a scheme has a pension board<sup>17</sup> with responsibility for assisting the scheme manager to comply with the scheme regulations and other legislation relating to the governance and administration of the scheme and requirements imposed by the regulator. The pension board must also assist the scheme manager with such other matters as the scheme regulations may specify. It will be for scheme regulations and the scheme manager to determine precisely what the pension board's role entails.
22. **Scheme advisory board** – each DB public service pension scheme has a scheme advisory board<sup>18</sup> with responsibility for providing advice on the desirability of changes to the scheme, when requested to do so by the responsible authority. Where there is more than one scheme manager the scheme regulations may also provide for the scheme advisory board to provide advice (on request or otherwise) to the scheme managers or the scheme's pension boards on the effective and efficient administration and management of the scheme or any pension fund of the scheme.
23. **Schemes** – in this code the term 'schemes' is used throughout where actions to comply with a legal requirement, standard or expectation may be carried out by the scheme manager, pension board or by a specified person(s) to whom responsibilities have been delegated. The scheme manager or pension board will be ultimately accountable, depending upon to whom the legal obligation applies under the legislation.
24. **Must** – in this code the term 'must' is used where there is a legal requirement.
25. **Should** – in this code the term 'should' is used to refer to practical guidance and the standards expected by the regulator.

13  
Section 3 of, and  
Schedule 3 to, the 2013  
Act.

14  
New public body pension  
schemes and some  
connected schemes  
are not established by  
regulations. References  
in the code to scheme  
regulations therefore  
should be read as  
references to the rules  
of the scheme in these  
cases.

15  
Section 4 of the 2013 Act.

16  
Locally-administered  
schemes include the  
schemes for local  
government and fire  
and rescue workers  
and members of police  
forces.

17  
Section 5 of the 2013 Act.

18  
Section 7 of the 2013 Act.

## How to use this code

26. The code is structured as a reference document to be used by scheme managers and pension boards to inform their actions in four core areas of scheme governance and administration: governing your scheme; managing risks; administering your scheme; and resolving issues.
27. Each core section includes practical guidance to help scheme managers and pension boards to discharge their legal duties. The regulator recognises that there may be alternative and justifiable actions or approaches scheme managers or pension boards may wish to adopt.
28. Schemes will need to consider and apply the practical guidance to suit their own particular characteristics and arrangements.

## Territorial extent

29. The application of this code corresponds with the scope of the public service pension schemes established under the 2013 Act and other statutory pension schemes which are connected to those schemes.
30. It therefore applies in respect of public service pension schemes for England, Wales and Scotland. It also applies in Northern Ireland so far as the public service pension schemes for the armed forces and judiciary apply in Northern Ireland.

# Governing your scheme

31. This part of the code covers:

- knowledge and understanding required by pension board members
- conflicts of interest
- information to be published about schemes.

## Knowledge and understanding required by pension board members

### Legal requirements

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

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

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

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

The degree of knowledge and understanding required is that appropriate for the purposes of enabling the individual properly to exercise the functions of a member of the pension board<sup>19</sup>.

### Practical guidance

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

35. Schemes<sup>20</sup> should establish and maintain policies and arrangements for the acquisition and retention of knowledge and understanding for their pension board members. Schemes should designate a person to take responsibility for ensuring that a framework is developed and implemented.

<sup>19</sup>  
Section 248A of the Pensions Act 2004 as inserted by paragraph 19 of Schedule 4 of the 2013 Act.

<sup>20</sup>  
For the use of 'schemes', please refer to paragraph 23.



36. It is for individual pension board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the pension board.

### **Provide clarity about the areas of knowledge and understanding required for pension board members**

37. Being 'conversant' means having a working knowledge (ie a sufficient level of familiarity) of the scheme rules (which for most public service pension schemes are set out in the scheme regulations) and documents recording policy about the administration of the scheme, so that pension board members can use them effectively when carrying out their duties.
38. Specific documents recording policy about the administration of the scheme will vary from scheme to scheme. However, the following are some examples of administration policies which the regulator considers to be particularly pertinent and would expect to be documented where applicable, and with which pension board members should therefore be conversant. This list is not exhaustive and other documented policies may fall into this category:
- Any scheme approved policies and procedures including documentation relating to:
    - a. conflicts of interest
    - b. record-keeping
    - c. internal dispute resolution
    - d. reporting breaches
    - e. maintaining contributions to the scheme
    - f. the appointment of pension board members.
  - The risk assessment/management policy(ies) for the scheme
  - Scheme booklets, announcements and other key member and employer communications, which describe scheme policies and procedures
  - Terms of reference, structure and operational procedures of the pension board and/or any sub-committee
  - The roles and responsibilities of the scheme manager, pension board and individual pension board members
  - Statements of policy about the exercise of discretionary functions

- Statements of policy about communications with members and scheme employers
  - Accounting requirements relevant to the scheme
  - The pension administration strategy, or equivalent<sup>21</sup> and
  - Any admission agreement information, or equivalent.
39. For pension board members of funded pension schemes, documents which record policy about the administration of the scheme will include those relating to investment governance. For example, where relevant they should be familiar with the statement of investment principles and the funding strategy statement.
40. Pension board members should also be familiar with other types of documents and information related to the governance and administration of the scheme. For example, where relevant they should be familiar with:
- the register of interests
  - the risk register
  - details of the contributions payable by employers participating in the scheme
  - statements of assurance (for example, assurance reports on governance arrangements)
  - third party contracts and service level agreements
  - regular stewardship reports from outsourced service providers (for example, those performing outsourced functions such as scheme administration), including about compliance issues
  - scheme annual reports and accounts
  - audit reports, including audit reports from outsourced service providers and
  - other scheme-specific governance documents.
41. Where public service pension schemes offer DC/AVC options to their members, pension board members should also be familiar with the requirements for the payment of member contributions to DC/AVC providers, the principles relating to the operation of DC/AVC arrangements, the choice of investments to be offered to members, the providers' investment and fund performance report and the payment schedule for DC/AVC arrangements.
42. Schemes should prepare and keep an updated list of the documents with which they consider pension board members need to be conversant to effectively carry out their role and make sure that both the list and the documents are accessible.

21  
For the Local Government Pension Scheme, this might include information about the setting of performance targets, making agreements about levels of performance etc.

## **Provide clarity about the degree of knowledge and understanding required for pension board members**

43. Pension board members should understand their scheme rules and documented administration policies in enough detail to know where they are relevant to an issue and where a particular provision or policy may apply.
44. Pension board members should be aware of the range and extent of pensions law which applies to public service pension schemes and have sufficient understanding of the content and effect of that law to recognise when and how it impacts on their responsibilities.
45. Schemes should assist individual pension board members to determine the degree of knowledge and understanding that is appropriate for the purpose of enabling the individual to exercise their functions. A pension board member's knowledge and understanding should be sufficient for them to effectively carry out their role.
46. Pension board members should be able to challenge any failure to comply with the scheme rules and legislation relating to the governance and administration of the scheme and/or any failure to meet the standards and expectations set out in any relevant codes of practice issued by the regulator.
47. The roles and responsibilities of pension boards and their individual members will vary between pension schemes. Pension board members' breadth of knowledge and understanding should be sufficient to allow them to understand fully any advice they are given. Pension board members should be able to challenge any information or advice they are given and understand how that information or advice impacts on any decision for which they are legally responsible.
48. Pension board members of funded pension schemes should ensure that they have the appropriate degree of knowledge and understanding of funding and investment governance matters relating to their scheme to enable them to effectively carry out their role.

## Acquiring, reviewing and updating knowledge and understanding

49. Schemes should ensure that pension board members invest sufficient time in their learning and development alongside their other duties. Training is an important part of the individual's role and will help to ensure that they have the necessary knowledge and understanding to effectively meet their legal obligations.
50. Pension board members must be aware that their legal responsibilities begin from the date they take up their post, so they should immediately start to familiarise themselves with the scheme regulations, documents recording policy about the administration of the scheme and relevant pensions law. Schemes should offer pre-appointment training or arrange for mentoring by existing pension board members. This can also ensure that historical and scheme specific knowledge is retained when pension board members change.
51. Schemes should recognise that newly appointed pension board members are likely to need additional support and training in the first few months, in order to help them attain the appropriate level of knowledge and understanding to competently carry out their responsibilities.
52. Pension board members should undertake a personal training needs analysis and regularly review their skills, competencies and knowledge to identify gaps or weaknesses. A personalised training plan should be used to document and address these promptly.
53. Learning programmes should be flexible, allowing pension board members to access specific modules, when necessary. This will enable them to update particular areas of learning where required and acquire new areas of knowledge in the event of any change. For example, pension board members who take on new responsibilities will need to have knowledge and understanding which is relevant to carry out those new responsibilities.
54. The regulator provides an e-learning programme<sup>22</sup> which has been developed to meet the needs of all pension board members, whether or not they have access to other learning. If schemes choose alternative learning programmes they should assure themselves that those programmes cover the type and degree of knowledge and understanding that is required, that they reflect the legal requirements and that programmes are delivered within an appropriate timescale.

<sup>22</sup>  
The e-learning programme is planned to be available from autumn 2014.

## Demonstrate knowledge and understanding

55. Schemes should keep appropriate records of the learning activities of individual pension board members and the board as a whole. This will assist pension board members in demonstrating their compliance, if necessary, with legal requirements and how they have mitigated risks associated with knowledge gaps. A good external learning programme will maintain records of the learning activities of individuals on the programme or of group activities, if these have taken place.
56. Pension board members who are appointed for their specific expertise and skills should be able to demonstrate to the scheme manager and to their fellow pension board members that they have the appropriate knowledge and understanding, including any relevant qualifications, from the date of their appointment to the pension board.

## Conflicts of interest

### Legal requirements

57. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the pension board. It does not include a financial or other interest arising merely by virtue of that person being a member of the scheme or any connected scheme for which the board is established<sup>23</sup>.
58. In relation to the pension board, scheme regulations must include provision requiring the scheme manager to:
  - a. be satisfied that a person to be appointed as a member of the pension board does not have a conflict of interest and
  - b. be satisfied from time to time that none of the members of the pension board has a conflict of interest<sup>24</sup>.
59. The regulations must also require each member of a pension board, or a person proposed to be appointed as a member of a pension board, to provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of meeting the requirements referred to above<sup>25</sup>.
60. Scheme regulations must include provision requiring the pension board to include employer representatives and member representatives in equal numbers<sup>26</sup>.

23  
Section 5(5) of the 2013 Act defines a conflict of interest in relation to pension board members and section 7(5) of that Act in relation to scheme advisory board members.

24  
Section 5(4)(a) of the 2013 Act.

25  
Section 5(4)(b) of the 2013 Act.

26  
Section 5(4)(c) of the 2013 Act.

61. In relation to the scheme advisory board, the regulations must also include provision requiring the responsible authority to:
  - a. be satisfied that a person to be appointed as a member of the scheme advisory board does not have a conflict of interest, and
  - b. to be satisfied from time to time that none of the members of the scheme advisory board has a conflict of interest<sup>27</sup>.

## Practical guidance

62. This guidance is to assist scheme managers in meeting their legal duty to be satisfied that pension board members do not have any conflicts of interest. The same requirements apply to responsible authorities in relation to scheme advisory boards, but the regulator does not have specific responsibility for oversight of scheme advisory boards.
63. Actual conflicts of interest, which are interests likely to prejudice a pension board member's exercise of their functions, are prohibited by the 2013 Act. They cannot be managed. Only potential conflicts of interest can be managed.
64. A conflict of interest may arise when pension board members:
  - a. must fulfil their legal duty to assist the scheme manager in securing compliance with the scheme regulations, other legislation relating to governance and administration of the scheme and the requirements of the regulator or any other matter for which they are responsible, and
  - b. at the same time they have either:
    - i. a separate personal interest (financial or otherwise), or
    - ii. another responsibility in relation to that decision, giving rise to a possible conflict with their first responsibility.
65. Some, if not all of the Seven Principles of Public Life (formerly known as the Nolan Principles)<sup>28</sup> will already apply to people carrying out roles in public service pension schemes, for example by virtue of the Ministerial Code, Civil Service Code or other codes of conduct. These principles should be applied to all pension board members in the exercise of their functions as they require the highest standards of conduct. Schemes should incorporate the Seven Principles into any codes of conduct (and across their policies and processes) and other internal standards for pension boards.

<sup>27</sup>  
Section 7(4)(a) of the 2013 Act.

<sup>28</sup>  
The Committee on Standards in Public Life has set out seven principles of public life which apply to anyone who works as a public office-holder or in other sectors delivering public services: [www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards\\_Matter.pdf](http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf).

66. There are other legal requirements relating to conflicts of interest which may apply to pension board members, scheme advisory board members or others involved in the management or administration of public service pension schemes, including scheme managers<sup>29</sup>. The regulator may not have specific responsibility for enforcing all such legal requirements, but it does have a particular role in relation to pension board members and conflicts of interest. Whilst pension board members may be subject to other legal requirements, when exercising functions as a member of a pension board the regulator expects the requirements which specifically apply by virtue of the 2013 Act to be met and the standards of conduct and practice set out in this code to be satisfied.
67. It is highly likely that pension board members will have dual interests and responsibilities. For example, a finance officer appointed as a pension board member can offer their knowledge and make substantial contributions to the operational effectiveness of the scheme, but they may, from time to time, be required to take or scrutinise a decision which may be, or appear to be, in opposition to another interest or responsibility. For example, they may be required to take or scrutinise a decision which involves the use of departmental resources to improve scheme administration, whilst at the same time being tasked, by virtue of their employment, with reducing departmental spending. A finance officer may not be prevented from being a member of a pension board, but the scheme manager must be satisfied that his/her dual interests and responsibilities would not prejudice the pension board member in the exercise of any particular function.
68. Clear guidance on the roles, responsibilities and duties of pension boards and the members of those boards should be set out in scheme regulations or in other scheme documentation which records policy and processes about the administration of the scheme. This should cover, for example, whether they have responsibility for administering or monitoring the administration of the scheme; developing or delivering governance and/or administration policies; and taking or scrutinising decisions relating to governance and/or administration. Regardless of their remit, potential conflicts of interest affecting pension board members need to be identified, monitored and managed effectively.
69. Schemes should consider potential conflicts of interest in relation to the roles, responsibilities and full scope of duties owed by pension board members. It is recommended that all those involved in the management or administration of public service pension schemes take professional legal advice when considering issues to do with conflicts of interest.

29

For example, local government legislation applicable to English local authorities contains legal requirements in relation to certain people about standards of conduct, conflicts of interest and disclosure of certain interests (eg see the Localism Act 2011 and section 117 of the Local Government Act 1972).

## A three-stage approach to managing potential conflicts of interest

70. Conflicts of interest can inhibit open discussions and/or result in decisions, actions or inactions which could result in the ineffective governance and administration of the scheme. They may result in pension boards acting improperly, or lead to a perception that they have acted improperly. It is therefore essential that any dual interests and responsibilities, which have the potential to become conflicts of interest and/or to be perceived as conflicts of interest, are identified and that potential conflicts of interest (whether perceived or otherwise) are monitored and managed effectively.
71. Schemes should ensure that there is an agreed and documented conflicts policy and procedure, which includes the identification, monitoring and management of potential conflicts of interest. They should keep this under regular review. Policies and procedures should include examples of scenarios giving rise to conflicts of interest, how a conflict might arise specifically in relation to a pension board member and the process to be followed by pension board members and scheme managers to address a situation where board members are subject to a potential or actual conflict of interest.
72. Broadly, when considering potential conflicts of interest, this should be done in three stages:
  - a. identification
  - b. monitoring
  - c. managing

## Identifying potential conflicts

73. Schemes should cultivate a culture of openness and transparency. The need for continual consideration of conflicts should be recognised. Disclosure of dual interests and responsibilities, which have the potential to become conflicts of interest, should not be ignored. Pension board members should have a clear understanding of their role and the circumstances in which they may find themselves in a position of conflict of interest and know how potential conflicts should be managed.
74. Pension board members and people who are proposed to be appointed to a pension board must provide scheme managers with information reasonably required by the scheme manager to enable the scheme manager to be satisfied that pension board members and proposed members do not have a conflict of interest.



75. Schemes should ensure that pension board members are appointed under procedures that require them to disclose any dual interests or responsibilities, which could become conflicts of interest and which may adversely affect their suitability for the role, before they are appointed.
76. All terms of engagement (for example appointment letters and any contracts for services) should include a clause requiring disclosure of all dual interests and responsibilities which have the potential to become conflicts of interest, as soon as they arise. All interests and responsibilities disclosed should be recorded (see the section on 'monitoring potential conflicts').
77. Schemes should take time to consider what key decisions are likely to be made during, for example, the year ahead and identify and consider any conflicts of interest that may arise in the future. Other pension board members should be notified as soon as practically possible and mitigations should be put in place to avoid these conflicts from materialising.

### **Monitoring potential conflicts**

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

## Managing potential conflicts

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

## Examples of conflicts of interest

84. Below are some examples of conflicts of interest which could arise, or be perceived to have arisen, in relation to public service pension schemes. The examples provided are for illustrative purposes only and are not exhaustive. They should not be relied upon as a substitute for the exercise of judgement based on the principles set out in this code and any advice considered appropriate, on a case by case basis.
  - a. **Investing to improve scheme administration vs. saving money:**

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

- b. **Outsourcing a function vs. keeping a function in-house:**  
In an extension of this example, a member representative, who is also an employee of a participating employer, is aware that system X would help to improve standards of record-keeping, but it would mean outsourcing a function that is currently being undertaken in-house. The member representative could be conflicted if they were likely to be prejudiced in the exercise of their functions by virtue of their employment.
- c. **Representing the breadth of membership vs. representing narrow interests:**  
A member representative, who is also a trade union representative, appointed to the pension board to represent the entirety of a public service pension scheme's membership, could be conflicted if they only serve to act in the interests of their union and union membership, which does not include all the professionals/staff who are in the scheme.
- d. **Assisting the scheme manager vs. furthering personal interests:**
- i. A pension board member may own shares in a company and be conflicted where they are involved in taking or scrutinising investment-related decisions
  - ii. A pension board member, who is also a scheme adviser, may recommend the services or products of a related party, for which they might derive some form of financial (or non-financial) benefit, resulting in them not providing, or not being seen to provide, independent advice or services
  - iii. A pension board member who is involved in procuring or tendering for services for a scheme administrator, and who can influence the award of a contract, may be conflicted where they have an interest in a particular supplier
- e. **Sharing information with the pension board vs. a duty of confidentiality to an employer:**  
An employer representative has access to information by virtue of their employment, which could influence or inform the decisions or actions of the pension board. They have to consider whether to share this information with the pension board in light of their duty of confidentiality to their employer. If their decision to withhold this information is likely to prejudice their ability to carry out their functions as a member of the pension board, this would constitute a conflict of interest.

## Information to be published about schemes

### Legal requirements

85. The scheme manager for a public service scheme must publish information about the pension board for the scheme(s) and keep that information up-to-date<sup>30</sup>.
86. That information must include information about:
  - a. who the members of the pension board are
  - b. representation on the board of members of the scheme and
  - c. the matters falling within the pension board's responsibility<sup>31</sup>.

### Practical guidance

#### Publication of pension board information

87. Scheme members and interested parties will want to know that their scheme is being efficiently and effectively managed. Public service pension schemes should have a properly constituted, trained and competent pension board, which is responsible for assisting the scheme manager to comply with the scheme regulations and other legislation relating to the governance and administration of the scheme and requirements imposed by the regulator.
88. Scheme managers must publish the information required about the pension board and keep that information up-to-date to ensure that scheme members can easily access information about who the pension board members are, how pension scheme members are represented on the pension board and the responsibilities of the board as a whole.
89. Schemes<sup>32</sup> should also publish information such as:
  - the full terms of reference for the pension board, including details of how they will operate
  - the pension board appointment process
  - who each individual pension board member represents and
  - any specific roles and responsibilities of individual pension board members.

30  
Section 6(1) of the 2013 Act.

31  
Section 6(2) of the 2013 Act.

32  
For the use of 'schemes', please refer to paragraph 23.

90. Schemes should publish additional information about the pension board, for example board papers, agendas and minutes of meetings (redacted to the extent that they contain confidential information and/or data covered by the Data Protection Act 1998) and consider any requests for additional information to be published, to encourage scheme member engagement and promote a culture of transparency.
91. Schemes must ensure that information published about the pension board is kept up-to-date. Schemes should have in place policies and processes to ensure that all data is monitored on an ongoing basis to ensure its accuracy and completeness.

## Other legal requirements

92. Schemes will need to comply with any other legal requirements relating to the publication of information about governance and administration. In particular, HM Treasury directions may require the scheme manager or responsible authority of a public service pension scheme to publish scheme information, including information about scheme administration and governance and may specify how and when information is to be published<sup>33</sup>.

33  
Section 15 of the 2013  
Act.

# Managing risks

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

## Internal controls

## Legal requirements

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

For these purposes 'internal controls' means:

- a. arrangements and procedures to be followed in the administration and management of the scheme
- b. systems and arrangements for monitoring that administration and management and
- c. arrangements and procedures to be followed for the safe custody and security of the assets of the scheme<sup>34</sup>.

## Practical guidance

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

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

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

<sup>34</sup> Section 249B of the Pensions Act 2004 as inserted by paragraph 21 of Schedule 4 to the 2013 Act.

## Identifying risks

98. Before implementing an internal controls framework, schemes<sup>35</sup> should carry out a risk assessment. They should begin by:
- setting the objectives of the scheme
  - determining the various functions and activities carried out in the running of the scheme
  - identifying the key risks associated with those objectives, functions and activities.
99. An effective risk assessment process will assist schemes in identifying a wide range of both internal and external risks, which are critical to the scheme and members. Schemes should refer to relevant sources of information, such as records of internal disputes and legislative breaches, the register of interests, internal and external audit reports and service contracts, when identifying risks.
100. Once schemes have identified risks, they should be recorded in a risk register and reviewed regularly. Schemes should keep appropriate records to assist them in demonstrating their compliance, if necessary, with legal requirements.

## Evaluating risks and establishing adequate internal controls

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

<sup>35</sup>  
For the use of 'schemes', please refer to paragraph 23.

## Managing risks by operating internal controls

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

- a. **How the control is to be implemented and the skills of the person performing the control:**  
For example, schemes should ensure that member data is correct and where employers are supplying incorrect data, schemes should ensure that the employer identifies the cause of the error and takes appropriate action to avoid recurrence (for example, remedying a systemic error)
- b. **The level of reliance that can be placed on information technology solutions where processes are automated:**  
For example, where public service pension schemes' administration processes use an automated system, internal or external auditors could audit the system on an annual basis to assess whether it is capable of performing a required function and report any issues that are identified
- c. **Whether or not a control is capable of preventing future recurrence or merely detecting an event that has already happened:**  
For example, schemes should establish and operate systems which support the maintenance and retention of good member records and implement procedures which identify where the system is not fit for purpose, there are gaps in the data, the data is of a poor quality or there has been a loss of data
- d. **The frequency and timeliness of a control process:**  
For example, schemes should ensure that data is complete and should undertake a data-cleansing or member-tracing exercise and review this on a regular basis (at least annually or at more regular intervals that they consider appropriate for the scheme)
- e. **How the control will ensure that data is managed securely:**  
For example, schemes should ensure that all staff, including temporary or contract staff, complete data security/information management training before access to sensitive data is permitted
- f. **The process or reporting mechanism for flagging errors or control failures:**  
For example, schemes should ensure that member communications are of a high standard and that they are regularly reviewed and, if necessary, redrafted.



## Effectively monitoring controls

105. Risk assessment is a continuous process and must take account of a changing environment and new and emerging risks, including significant changes in or affecting the scheme and employers who participate in the scheme.
106. For example, where relevant, schemes should put in place systems and processes for making an objective assessment of the strength of an employer's covenant (which should include analysis of their financial position, prospects and ability to continue to fund the scheme's benefits).
107. An effective risk assessment process will provide a mechanism to detect weaknesses at an early stage. Schemes should periodically review the adequacy of internal controls in mitigating risks, supporting longer-term strategic aims (eg relating to investments), identifying success (or otherwise) in achieving agreed objectives and providing a framework against which compliance with the scheme regulations and legislation can be monitored.
108. Internal or external audits and/or quality assurance processes should ensure that adequate internal controls are in place and being operated effectively. Reviews should take place if/when substantial changes take place, such as changes to pension scheme personnel, or the procurement/implementation of new administration systems or processes, or where a control has been found to be inadequate.
109. A persistent failure to put in place adequate internal controls may be a contributory cause of an administrative breach. Where the effect and wider implications of not having in place adequate internal controls are likely to be 'materially significant', the regulator would expect to receive a report, commonly referred to as a 'whistleblowing' report, outlining relevant information in relation to the breach. Detailed guidance on reporting breaches of the law can be found in this code.
110. Ultimately, the legal responsibility for establishing and operating adequate internal controls rests with the scheme manager. Scheme regulations or other documents may delegate responsibilities to pension board members or others – for example identifying, evaluating and managing risks, developing and maintaining appropriate controls and providing assurance to the scheme manager about any controls in place. However, accountability for those controls and the governance of policies, procedures and processes will reside with the scheme manager.

## Outsourcing services

111. The legal requirements relating to internal controls apply equally where schemes outsource services connected with the running of the scheme and providers should be required to demonstrate, in their tenders for delivering services, how they will meet these requirements and these should be incorporated in the terms of engagement. Outsourced services may include all aspects of scheme administration, including the maintenance of records and data and calculation of benefits. Where services are outsourced, scheme managers should be satisfied that internal controls associated with those services are adequate and effective.
112. An increasing number of service providers are obtaining independent assurance reports to help demonstrate their ability to deliver quality administration services. Schemes should ask their service providers to demonstrate how they comply with the legal standard of adequate internal controls for the services they provide.

# Administration

113. This part of the code covers:

- scheme record-keeping
- maintaining contributions
- information to be provided to members.

## Scheme record-keeping

### Legal requirements

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

- member information<sup>36</sup>
- transactions<sup>37</sup> and
- pension board meetings<sup>38</sup>.

115. The legal requirements are set out in the draft Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations ('the draft Record-keeping Regulations'). These include the period for which records must be retained<sup>39</sup>.

### Practical guidance

116. Failure to maintain complete and accurate records and put in place effective internal controls to achieve this can affect the ability of schemes<sup>40</sup> to carry out basic functions. Poor record-keeping can result in schemes failing to pay benefits in accordance with scheme rules, processing incorrect transactions and ultimately paying members incorrect benefits. For funded schemes, it may lead to schemes managing investment risks ineffectively. There is also the potential for the maladministration of members' contributions and failure to identify any misappropriation of assets. Schemes must be able to demonstrate to the regulator, where required, that they keep accurate, up-to-date and enduring (for the periods prescribed in the regulations) records to be able to govern and administer their pension scheme efficiently.

117. Scheme managers must establish and operate adequate internal controls<sup>41</sup>, which should include processes and systems to support record-keeping requirements and ensure that they are effective at all times.

36  
Regulation 3 of the draft Record-keeping Regulations.

37  
Regulation 4, *ibid.*

38  
Regulation 5, *ibid.*

39  
Regulation 6, *ibid.*

40  
For the use of 'schemes', please refer to paragraph 23.

41  
Section 249B of the Pensions Act 2004 (as inserted by paragraph 21 of Schedule 4 to the 2013 Act).

## Records of member information

118. Schemes must ensure that member data across all membership categories for the scheme is complete and accurate. Member data should be subject to regular data evaluation to enable schemes to pay the right benefits to the right person (including all beneficiaries) at the right time.
119. The requirement for good ongoing record-keeping is important for schemes, particularly with the establishment of career average re-valued earnings (CARE) schemes, so that they are able to provide a member with accurate information regarding their pension benefits (accrued benefits to date and their future projected entitlements) as required and on a timely basis.
120. For schemes to meet these requirements, they must hold specific data to be able to uniquely identify a scheme member and calculate the benefits correctly<sup>42</sup>.
121. Schemes should require participating employers to provide them with timely and accurate data in order to fulfil their legal obligations. Schemes must ensure that processes are established by employers which enable the transmission of complete and accurate data from the outset. Processes will vary from scheme to scheme, depending on factors such as employee turnover, pay periods, scheme size and the timing and number of payroll processing systems.
122. Schemes should seek to ensure that employers understand the key events which require information about members to be passed from the employer to the scheme, such as when an employee joins or leaves the scheme, changes their rate of contributions, changes their name, address or salary, or changes their member status.
123. Schemes should ensure that appropriate procedures and timescales are in place for scheme employers to provide updated information when member data changes, for checking scheme data against employer data and for receiving information which may affect the profile of the scheme. If an employer fails to act in accordance with the procedures set out above, schemes (and others under a duty to report) should consider their statutory duty under section 70 of the Pensions Act 2004 to report breaches of the law and assess whether there has been a relevant breach.

42  
Regulation 3 of the  
draft Record-keeping  
Regulations.

## Records of transactions

124. Schemes should be able to trace the flow of funds into and out of the scheme and reconcile these against expected contributions and scheme costs. In doing so, they will have clear oversight of the core scheme transactions and should be able to mitigate risks swiftly.
125. Schemes must keep, and be able to demonstrate that they keep, records of transactions made to and from the scheme<sup>43</sup>.

## Records of pension board meetings

126. Schemes must keep records of pension board meetings including any decisions made<sup>44</sup>. Schemes should also keep records of key discussions, which may include topics such as compliance with policies in relation to the administration of the scheme, where appropriate.
127. The records of pension board meetings must also include whether since the previous meeting there has been any occasion when any decisions have been taken by the pension board and, if so, the date, time, and place of the decision and the names of members participating in that decision. Schemes must keep records of all decisions made by the pension board to ensure that there is a clear and transparent audit trail of the decisions made.

## Retention of scheme records

128. Schemes must retain records for the periods prescribed in the draft Record-keeping Regulations<sup>45</sup>. Member records must be kept for six years after any entitlement to benefits has ceased for DB arrangements and for six years after the member's funds have been converted into retirement income for DC arrangements. Other records must be retained for at least six years from the end of the scheme year to which they relate.

## Ongoing monitoring of data

129. Schemes should have in place policies and processes to ensure that data is monitored on an ongoing basis to ensure its accuracy and completeness, regardless of the volume of scheme transactions. This should be in relation to all membership categories, including pensioner member data where queries may arise once the pension is in payment.
130. Schemes should adopt a proportionate and risk-based approach to monitoring, based on any known or historical issues that may have occurred in relation to the scheme's administration. This is particularly important in relation to the effective administration of CARE pension schemes, which require schemes to hold significantly more data.

43  
Regulation 4 of the  
draft Record-keeping  
Regulations.

44  
Regulation 5, *ibid.*

45  
Regulation 6, *ibid.*

## Data review exercise

131. Schemes should continually review their data and carry out a full data review exercise at least annually. This should include an assessment of the accuracy and completeness of the member information data held.
132. Where the management of scheme data has been outsourced, it is vital that schemes understand and are satisfied that the controls in place will ensure the integrity of scheme member data. They should ensure that the administrator has assessed the risks that poor or deficient member records may present to the scheme and has taken the necessary steps to mitigate them, where applicable.
133. Where there has been a change of administrator or the administration system/platform, schemes should review and cleanse data records and satisfy themselves that all data is complete and accurate.

## Data improvement plan

134. Where schemes identify poor quality data or missing data, they should have in place a data improvement plan to address these issues. The plan should have specific data improvement measures which can be monitored and tracked and a defined end date within a reasonable timeframe to have complete and accurate data for the scheme.

## Reconciliation of member records

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

## Data protection and internal controls

136. Schemes must ensure that processes that are created in respect of scheme member data meet the requirements of the Data Protection Act 1998 and the data protection principles.

137. Schemes should understand the following in relation to data management:

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

## Other legal requirements

138. There are various legal requirements for records to be kept in relation to public service pension schemes, in addition to the requirements set out in the draft Record-keeping Regulations. Those requirements apply variously to managers, administrators and employers. Not all requirements apply to all public service pension schemes, but some of the key requirements are set out under the following legislation:

- a. The Pensions Act 1995 and 2004
- b. The Pensions Act 2008 and the Employers' Duties (Registration and Compliance) Regulations 2010<sup>46</sup>
- c. The Occupational Pension Schemes (Scheme Administration) Regulations 1996
- d. The Registered Pension Schemes (Provision of Information) Regulations 2006
- e. The Data Protection Act 1998.

139. Where applicable<sup>47</sup>, schemes should be able to demonstrate that they are keeping records in accordance with these and any other relevant legal requirements. Schemes should read the relevant pensions legislation and any guidance in conjunction with this code where applicable.

46

See the regulator's guidance **Detailed guidance no. 9 – Keeping records** for more information about record-keeping requirements under this legislation.

47

Not all legal requirements will apply to all public service schemes.

## Maintaining contributions

### Legal requirements

140. Employer contributions must be paid to the scheme on or before the 'due date' (the date on which contributions are due under the scheme). Where employer contributions are not paid on or before the date they are due under the scheme and the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, the scheme manager must give a written report of the matter to the regulator as soon as reasonably practicable<sup>48</sup>.
141. Where employee contributions are deducted from a member's pay, the amount deducted is to be paid to the managers of the scheme within 19 days beginning on the day after the deduction is made, or within 22 days if paid electronically (the 'prescribed period')<sup>49</sup>.
142. Where employee contributions are not paid within the prescribed period, if the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the regulator in the exercise of any of its functions, they must, except in prescribed circumstances, give written notice of the failure to the regulator and the member within a reasonable period after the end of the prescribed period<sup>50</sup>.

48  
Section 70A of the Pensions Act 2004 as inserted by paragraph 7 of Schedule 4 to the 2013 Act. The main objectives of the regulator in exercising its functions are set out in section 5 of that Act.

49  
Section 49(8) of the Pensions Act 1995 and regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996. References to 'days' means all days (Monday to Sunday). References to 'working days' do not include Saturdays, Sundays or Bank Holidays.

### Practical guidance

143. As part of their duty to establish and operate adequate internal controls, scheme managers should ensure that there are effective procedures and processes in place to identify late payments of contributions that are – and are not – of material significance to the regulator. Schemes<sup>51</sup> should monitor pension contributions, resolve payment issues and report payment failures, as appropriate, so that the scheme is administered and managed in accordance with the scheme regulations and the law.
144. Adequate procedures and processes are likely to involve:
- developing a record to monitor the payment of contributions
  - monitoring the payment of contributions
  - managing overdue contributions
  - reporting materially significant payment failures.

50  
Section 49(8) and (9) of the Pensions Act 2004 and regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (as amended by regulation 7 of the draft Record-keeping Regulations).

This guidance will help scheme managers to meet their duty to report late payment of contributions to the regulator, as well as ensuring the effective management of scheme contributions and payment of the right pension.

51  
For the use of 'schemes', please refer to paragraph 23.



## Developing a record for monitoring the payment of contributions

145. Managers of DC public service schemes must prepare, maintain and revise from time to time if necessary, a scheme payment schedule<sup>52</sup> showing:

- the rates of contributions payable towards the scheme by or on behalf of the employer and the active members of the scheme
- such other amounts payable towards the scheme as may be prescribed and
- due date(s) on or before which payment of contributions and other amounts are to be made<sup>53</sup>.

146. Contribution rates and other matters to be included in the schedule must reflect the rules of the scheme (which for most public service pension schemes will be set out in the scheme regulations) and overriding legislation. Schemes should prepare the schedule in consultation with the employer.

147. Even for those public service pension schemes which are not legally required to prepare and maintain a payment schedule (or schedule of contributions), developing a record for monitoring the payment of contributions to the scheme (a 'contributions monitoring record') will enable schemes to check whether contributions have been paid on time and in full and if not, provide a trigger for escalation for investigation and consideration of whether they need to report to the regulator and, where relevant, members.

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

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

149. The date by when employer contributions must be paid is the date on which they are due under the scheme. The date will usually be set out in the scheme rules or other scheme documentation. Schemes should assess the timing of payments against the date specified.

52

Section 87(2) Pensions Act 1995. This requirement does not apply to schemes falling within a prescribed class or description (section 87(1) of that Act). Schemes which are provided for, or by, or under an enactment and which are guaranteed by a minister of the Crown or other public authority are a prescribed class for those purposes (regulation 17 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996).

53

Section 87(2) of the Pensions Act 1995 (c. 26), see also regulations 18 and 19 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996).

150. In relation to employee contributions, while there is a legal requirement for these to be paid to the scheme within 19 days beginning on the day after the deduction is made, or within 22 days if paid electronically, this does not override any earlier time periods set out in the scheme rules or other scheme documentation. There are special rules for the first deduction of contributions on automatic enrolment under the Pensions Act 2008<sup>54</sup>.
151. A contributions monitoring record should help schemes to identify any employers who are not paying contributions on time and/or in full and support schemes in ensuring that contributions are paid and that new processes are developed and implemented by employers, as appropriate. The contributions monitoring record should provide schemes with information to maintain records of money received and will be useful for schemes to ensure that their member records are kept up-to-date.

### Monitoring the payment of contributions

152. Schemes should monitor contributions on an ongoing basis and in relation to all the membership categories within the scheme. Schemes should regularly check payments due against the contributions monitoring record.
153. Schemes should apply a risk-based approach that will help identify situations which present a higher risk of late payments occurring and which are likely to be of material significance and require the intervention of the scheme manager.
154. Scheme managers should be aware of what is to be paid in accordance with the contributions monitoring record or other scheme documentation which may be used by the pension scheme. Schemes should have in place a process to identify where payments are late or have been under or overpaid, or not paid at all.
155. For schemes to effectively monitor contributions they will require access to certain information. Employers will often provide the payment information schemes need to monitor contributions at the same time as they send the contributions to the scheme - this may be required under the scheme regulations. Payment information may include:
- the contributions due to be paid by the employer and on behalf of the member, which should be specified in the scheme rules and/or other scheme documentation
  - the pensionable pay that contributions are based upon (where required)
  - what contributions are due to be deducted from the earnings of a member.

<sup>54</sup> Regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

156. Schemes should record and retain information on transactions, including any employer and employee contributions received and payments of pensions and benefits<sup>55</sup>, which will support them in their administration and monitoring responsibilities. They should have adequate internal controls in place to monitor the sharing of payment information between the employer, pension scheme and member.
157. Where the necessary payment information is not automatically available or provided by employers, schemes should request the additional information they need. Schemes may not need to obtain payment information as a matter of course, only where it is required for effective monitoring.
158. Where the administration of scheme contributions is outsourced to a service provider, schemes should ensure that there is a process in place to obtain regular information on the payment of contributions to the scheme and a clear procedure in place to enable them to identify and resolve payment failures which may occur.

### Managing overdue contributions

159. When a problem is identified or where they receive notification of a problem, schemes should assess whether a late payment has occurred before taking steps to resolve or, if necessary, report. During their assessment, schemes should take into account:
- legitimate agreed payments made directly by the employer for scheme purposes ie where the scheme has agreed that a contributions payment can be made late due to exceptional circumstances
  - legitimate agreed payment arrangements made between the employee and the employer ie where the employer has agreed that a contribution payment can be made late due to exceptional circumstances
  - contributions paid directly to a pension provider, scheme administrator or investment manager and
  - any AVCs included with the employer's overall payment.

55  
Regulation 4 of the  
draft Record-keeping  
Regulations.

160. Where schemes identify the late payment of contributions, they should follow a process to resolve issues quickly. This should normally involve the following steps:
- a. Investigate any apparent employer failure to make payments in accordance with the contributions monitoring record or legal requirements with regards to employer/employee contributions
  - b. Contact the employer promptly to alert them to the late payment and to seek to resolve the overdue payment
  - c. Discuss it with the employer as soon as practicable with a view to finding out the cause and circumstances of the late payment
  - d. Rectify any underpayment and take steps to avoid a recurrence in the future.
161. Schemes should maintain a record of their investigation and communications between themselves and the employer. Recording this information will help to provide evidence of schemes' effective monitoring processes and could help to demonstrate that the scheme manager has met the legal requirement to establish and operate adequate internal controls. It will also feed into the consideration of whether or not to report a late payment to the regulator and, where relevant, members.
162. The regulator recognises that a monitoring process based on information provided by the employer may not be able to confirm deliberate underpayment or non-payment, or fraudulent behaviour by the employer. Schemes should develop a process which is able to detect situations where fraud may be more likely to occur and where additional checks may be appropriate.
163. Ultimately, schemes have flexibility to design their own procedures so that they can obtain overdue payments and rectify administrative errors in the most effective and efficient way for their particular scheme.

## **Reporting payment failures which are likely to be of material significance to the regulator as soon as reasonably practicable**

164. A 'late payment' is where contribution payments and other amounts are not paid to the scheme by the due date(s), or within the prescribed period. Attempts to recover contributions should be made within 90 days from the due date or prescribed period having passed without full payment of the contribution.
165. While schemes are not expected to undertake a full investigation to establish materiality or investigate whether an employer has behaved fraudulently, schemes should seek to enquire of the employer:
- a. The cause and circumstances of the payment failure
  - b. What action has been taken by the employer as a result of the payment failure
  - c. The wider implications or impact of the payment failure.

When reaching a decision about whether to report, schemes should consider these points together and establish whether they have reasonable cause to report.

166. Having 'reasonable cause' means more than merely having a suspicion that cannot be substantiated. Schemes should investigate the late payment of contributions and use their judgement when deciding whether to report to the regulator.
167. Schemes may choose to take an employer's response to their enquiries at face value if they have no reason to believe it to be untrue or where their risk-based process indicates that there is a low risk of continuing payment failure. Where no response is received, schemes may infer that an employer is unwilling to pay the contributions due.

168. Examples of late payments which are likely to be of material significance to the regulator include:

- where schemes have reasonable cause to believe that the employer is neither willing nor able to pay contributions, for example in the event of a business failure or where an employer becomes insolvent and is unable to make pension payments
- where there is a payment failure involving possible dishonesty or a misuse of assets or contributions. For example, where schemes have concerns that an employer is retaining and using contributions to manage cash flow difficulties or where schemes have become aware that the employer has transferred contributions elsewhere other than to the pension scheme, which may be misappropriation
- where the information available to schemes may indicate that the employer is knowingly concerned with the fraudulent evasion of the obligation to pay employee contributions
- where schemes become aware that the employer does not have adequate procedures or systems in place to ensure the correct and timely payment of contributions due and the employer appears not to be taking adequate steps to remedy the situation, for example where there are repetitive and regular payment failures
- in any event where contributions have been outstanding for 90 days from the due date (unless the payment failure was a one-off or infrequent administrative error, which had already been corrected on discovery or is thereafter corrected as soon as possible).

169. Examples of late payments which are not likely to be of material significance to the regulator include:

- where a payment arrangement is being met by an employer for the recovery of outstanding contributions
- where there are infrequent one-off payment failures or administrative errors such as where employees leave or join the scheme and those occasional failures or errors have been corrected within 90 days of the due date.

170. Schemes should identify and alert the regulator, as appropriate, to any late payments that taken individually may not be of material significance, but which could indicate a systemic problem. For example, a consistent failure of an employer to pay contributions by the due date or within the prescribed period, but to pay within 90 days, may be due to inefficient scheme systems and processes. Schemes may also need to report where late payments occur repeatedly and could be materially significant to the regulator.
171. Reporting late payments of employer contributions as soon as 'reasonably practicable' means as soon as the scheme manager has reasonable cause to believe that the late payment is likely to be of material significance to the regulator. Schemes should also consider whether it may be appropriate to report a late payment of employer contributions to scheme members.
172. A reasonable period for reporting would be within ten working days, depending upon the seriousness of the late payment and impact on the scheme. A written report should be preceded by a telephone call, if appropriate.
173. In the case of an employer's failure to pay employee contributions to the pension scheme, if the scheme manager has reasonable cause to believe that the late payment is likely to be of material significance to the regulator, the failure must be reported to the regulator and members within a reasonable period after the end of the prescribed period. A reasonable period for reporting to the regulator will be within ten working days and to members within thirty days of having reported to the regulator.
174. Reports in relation to the late payment of employer contributions must be made in writing (preferably electronically). In exceptional circumstances the scheme manager could make a telephone report.
175. The regulator has standardised reporting procedures and expectations regarding content, format and channel. Further information can be found in the section of this code on reporting breaches of the law.

## Information to be provided to members

### Legal requirements

176. The law requires schemes<sup>56</sup> to disclose information about benefits and scheme administration to scheme members and others. This section summarises the legal requirements relating to benefit statements and other certain information which must be provided and should be read alongside the requirements in the 2013 Act, any related Treasury directions and the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 ('the Disclosure Regulations 2013')<sup>57</sup>.

### Benefit statements

#### Benefit statements for active members of DB schemes under the 2013 Act

177. Scheme regulations must require scheme managers to provide an annual benefit information statement to each active member of a DB scheme established under the 2013 Act<sup>58</sup>. The statement must include a description of the benefits earned by a member in respect of their pensionable service<sup>59</sup>.

178. The first statement must be provided no later than 17 months after the scheme regulations establishing the scheme come into force. Subsequent statements must be provided at least annually after that date<sup>60</sup>.

179. Statements must also comply with any Treasury directions in terms of any other information which must be included and must be provided to members in any manner specified by Treasury directions.

#### Benefit statements for active, deferred or pension credit members of any DB public service pension scheme

180. Schemes must also provide a benefit statement following a request by an active, deferred or pension credit member of a DB scheme if the information has not been provided to that member on request in the previous 12 months before that request<sup>61</sup>.

181. These benefit statements must include a description of the benefits earned by a scheme member in respect of their pensionable service. The full details are dependent on the type of member making the request.

182. The information must be given as soon as practicable but no more than two months after the date the request is made<sup>62</sup>.

56  
For the use of 'schemes', please refer to paragraph 23.

57  
In addition to duties arising under the 2013 Act and Disclosure Regulations 2013, there are other legal requirements relating to the provision of information to members under other legislation not covered in this section.

58  
Section 14(1) of the 2013 Act.

59  
Section 14(2)(a) of the 2013 Act.

60  
Section 14(4) and (5) of the 2013 Act.

61  
Regulation 16 of the Disclosure Regulations 2013.

62  
Regulation 16(3), *ibid.*



## Benefit statements for members of a DC public service pension scheme

183. Schemes must provide a benefit statement to a member of a DC public service pension scheme who is not an 'excluded person', within 12 months of the end of the scheme year<sup>63</sup>. An 'excluded person' is a member or beneficiary whose present postal address and electronic address is not known to the scheme because the correspondence has been returned (in the case of postal correspondence) or has not been delivered (in the case of electronic correspondence)<sup>64</sup>.

184. The information which must be provided includes the amount of contributions (before any deductions are made) credited to the member during the immediately preceding scheme year<sup>65</sup>, the value of the member's accrued rights under the scheme at a date specified by the managers of the scheme<sup>66</sup> and a statutory money purchase illustration ie an illustration of what the member's pension may be at retirement<sup>67</sup>. The full detail of the information which must be provided is set out in the Disclosure Regulations 2013.

## Other information about scheme administration

185. The Disclosure Regulations 2013 require other information to be provided to members and others in certain circumstances (including on request), where relevant, including:

- a. basic scheme information
- b. information about the scheme that has materially altered
- c. information about the constitution of the scheme
- d. annual report
- e. information about funding principles, actuarial valuations and payment schedules
- f. information about transfer credits
- g. information about lifestyling
- h. information about accessing benefits and
- i. information about benefits in payment.

63  
Regulation 17 of the Disclosure Regulations 2013.

64  
Regulation 2, *ibid.*

65  
'Scheme year' is defined in regulation 2 of the Disclosure Regulations 2013.

66  
Regulation 17 of, and Schedule 6 to, the Disclosure Regulations 2013.

67  
Paragraph 6 of Schedule 6, *ibid.* There are certain exceptions to the requirements to provide this information.

## Who is entitled to information

186. The Disclosure Regulations 2013 make provision for scheme members and others to receive information that is relevant to their pension rights and entitlements under the scheme and specifies the type of member and others who are entitled to receive the specified information:

- active members
- deferred members
- pensioner members
- prospective members
- spouses or civil partners of members
- beneficiaries
- recognised trade unions.

187. Schemes must ensure that scheme members and others are given information in accordance with the requirements specified in the Disclosure Regulations 2013, unless they fall within the definition of an 'excluded person', as previously defined.

## What information needs to be provided

188. The information that must be provided to scheme members is set out in the Disclosure Regulations 2013. Schemes must provide the required information, along with confirmation that members may request further information if required and the type of information that is available.

68  
Regulation 6 of the  
Disclosure Regulations  
2013

## When the basic scheme information must be provided

189. Schemes must disclose certain basic information about the scheme and the benefits it provides to a prospective member (if practicable to do so) or a new member<sup>68</sup>. The timescales for providing this information depend on whether the managers of the scheme have received jobholder information<sup>69</sup> for the member. Where they have, the information must be given within a month of the jobholder information being received<sup>70</sup>. Where they have not received jobholder information for that member the information must be given within two months of the date the person became an active member of the scheme<sup>71</sup>. The information must also be provided on request, within two months of the request being made, except where the same information was provided to the same person or trade union in the 12 months prior to the request<sup>72</sup>.

69  
'Jobholder information'  
means the information  
specified in regulation  
3 of the Occupational  
and Personal Pension  
Schemes (Automatic  
Enrolment) Regulations  
2010.

70  
Regulation 6(5) of the  
Disclosure Regulations  
2013.

71  
Regulation 6(6), *ibid.*

72  
Regulations 6(4) and (7),  
*ibid.*

## What information must be disclosed on request

190. Pension scheme members and others, in some circumstances, are entitled to request certain scheme information or scheme documents including:

- information about the constitution of the pension scheme
- information about transfer credits
- the latest scheme actuarial valuation (if appropriate)
- the latest statement of investment principles (if appropriate) and
- information about the rights and options of deferred members.

## How benefit statements and other information must be provided

191. Generally, schemes may choose how they provide information to scheme members, including by post, electronically (by email or by making it available on a website) or by such other means as may be permitted by the law. For benefit statements issued under the 2013 Act, Treasury directions may specify how the information must be provided. Where schemes wish to provide information required under the Disclosure Regulations 2013 electronically there are important steps and safeguards that must first be met<sup>73</sup>.

These include:

- a. schemes providing scheme members and beneficiaries with the option to opt-out of receiving information electronically by giving written notice to the scheme
- b. schemes being satisfied that the electronic communications have been designed:
  - so that the person will be able to access and either store or print the relevant information and
  - taking into account the requirements of disabled people
- c. that members and beneficiaries who were a member or beneficiary of the public service pension scheme on 1 December 2010 (where the scheme had not provided information electronically prior to that date) have been sent a written notice (other than via email or website), informing them that:
  - it is proposed to provide information electronically in future and
  - scheme members and beneficiaries may opt-out of receiving information electronically by sending written notice.

73  
Regulation 26 of the  
Disclosure Regulations  
2013.

192. Before making information or a document available on a website for the first time, schemes must give a notice (other than via a website) to the recipient<sup>74</sup>. They must ensure that the notice includes:

- a statement advising that the information is available on the website
- the website address
- details of where on the website the information or document can be read and
- an explanation of how the information or document may be read on the website.

193. Before making any subsequent information available on a website, the scheme must give a notice (other than via a website) to recipients informing them that the information is available on the website. This notice will not be required where<sup>75</sup>:

- at least two documents have been given to the recipient by hand or sent to the recipient's last known postal address, and
- each of those letters asks the recipient to give their electronic address to the scheme and informs the recipient of their right to request (in writing) that information or documents are not to be provided electronically, and
- a third letter has been given to the recipient by hand or sent to the recipient's last known postal address and includes a statement that further information will be available to read on the website and that no further notifications will be sent to the recipient, and
- the scheme does not know the recipient's email address and has not received a written request that information or documents are not to be provided to the recipient electronically.

194. In some cases, the Disclosure Regulations 2013 specify that information must be made available by one of the following methods<sup>76</sup>:

- available to view free of charge, at a place that is reasonable having regard to the request
- published on a website (in which cases the procedure to be followed before making information available on a website does not apply, except that the person or trade union must be notified of certain details)
- given for a charge that does not exceed the expense incurred in preparing, posting and packing the information or
- publicly available elsewhere.

74  
Regulations 27 of the Disclosure Regulations 2013.

75  
Regulation 28, *ibid.*

76  
Regulation 29, *ibid.*

## Practical guidance

195. Communications to scheme members should be designed and delivered in a way that ensures members are able to engage with their pension provision. Information should be clear and simple to understand as well as being accurate and easily accessible. It is important that members are able to understand their pension arrangements and make informed decisions where required.
196. Schemes should attempt to make contact with their scheme members and where contact is not possible, schemes should consider carrying out a tracing exercise to locate the member and ensure that their member data is up-to-date.
197. For the provision of information, a member's postal address may be their last known home address or their place of work.
198. Alongside the information that must be provided to scheme members as set out in the Disclosure Regulations 2013, schemes should ensure that members are given the address and contact details for the individual(s) responsible for dealing with information requests.
199. Where a person has made a request for information, schemes should provide them with an acknowledgement of receipt if they are unable to provide the information at that stage. Schemes may encounter situations where the time period for providing information takes longer than anticipated. In these circumstances the person should be notified and their expectations managed in relation to when they will receive the information.
200. As a matter of good practice and to promote transparency, scheme managers should make information readily available at all times to ensure that prospective and existing members are able to access information when required. Schemes must also advise members that further information<sup>77</sup> is available on request and provide details of how requests can be made.

77

Further information includes, for example, information about annuities given before retirement and information about benefits at retirement.

## Other legal requirements

201. There are other legal requirements for information to be provided to members of public service pension schemes in certain circumstances. Not all requirements apply to all public service pension schemes and some may only arise in limited circumstances. Some of the requirements of which schemes may need to be aware are set out in or under the following legislation<sup>78</sup>:

- the Occupational Pension Schemes (Contracting-out) Regulations 1996
- the Occupational Pension Schemes (Transfer Values) Regulations 1996
- the Occupational Pension Schemes (Winding up etc) Regulations 2005 and
- the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 (the requirements of these Regulations are covered in the section on internal dispute resolution).

78

The legislation identified in this list is made under section 113 of the Pension Schemes Act 1993. There are other requirements relating to the provision of information to members which arise under other legislation, and which may be relevant to public service pension schemes.

# Resolving issues

202. This part covers:

- internal dispute resolution
- reporting breaches of the law.

## Internal dispute resolution

### Legal requirements

203. Scheme managers are required to make and implement dispute resolution arrangements<sup>79</sup>, which comply with the requirements of the law and support the resolution of pensions disputes<sup>80</sup> between the scheme manager and a person with an interest in the scheme.

204. There are certain 'exempted disputes' to which the internal dispute resolution procedure does not apply (section 50(9) of the Pensions Act 1995). 'Exempted disputes' include those where proceedings in respect of the dispute have been commenced in any court or tribunal, or where the Pensions Ombudsman has commenced an investigation in respect of it. Certain other prescribed disputes, for instance medical-related disputes, which may arise in relation to police and fire and rescue workers for example, are also 'exempted disputes'<sup>81</sup>.

205. A person has an interest in the scheme if:

- a. they are a member or beneficiary of the scheme
- b. they are a prospective member of the scheme
- c. they have ceased to be a member or beneficiary or prospective member
- d. they claim to be in one of the categories mentioned above and the dispute relates to whether they are such a person.

206. Dispute resolution arrangements may require people with an interest in the scheme to first refer matters in dispute to a 'specified person' in order for that person to consider and give their decision on those matters. The specified person's decision may then be confirmed or replaced by the decision taken by the scheme manager<sup>82</sup>.

207. Scheme managers and specified persons (if used as part of a scheme's procedure) must take the decision required on the matters in dispute within a reasonable period of the receipt of the application by them and notify the applicant of the decision within a reasonable period of it having been taken<sup>83</sup>.

79  
Section 50 of the  
Pensions Act 1995

80  
A 'pension dispute'  
is a dispute which is  
between the managers  
of a scheme and one  
or more people with an  
interest in the scheme  
(see section 50A of the  
Pensions Act 1995),  
about matters relating to  
the scheme and which  
is not an 'exempted  
dispute' (section 50(3) of  
that Act).

81  
Regulation 4 of  
the Occupational  
Pension Schemes  
(Internal Dispute  
Resolution Procedures  
Consequential  
and Miscellaneous  
Amendments)  
Regulations 2008.

82  
Section 50(4A) of the  
Pensions Act 1995.

83  
Section 50(5) of the  
Pensions Act 1995.

208. Internal dispute resolution procedures must state the manner in which an application for the resolution of a pension dispute is to be made, the particulars which must be included in such an application and the manner in which any decisions required in relation to such an application are to be reached and given<sup>84</sup>.

## Practical guidance

209. Scheme members expect their pension scheme to be managed effectively. Where a person with an interest in the scheme is not satisfied with any decision made affecting them, they have the right to ask for that decision to be reviewed.

210. Internal dispute resolution arrangements provide formal procedures and processes for pension scheme disputes to be investigated and decided upon quickly and effectively. They play a key role in the effective governance and administration of a scheme.

## Determining your internal dispute resolution procedure

211. The law allows schemes<sup>85</sup> to operate a two-stage procedure with a 'specified person' undertaking the first-stage decision. Alternatively, they may adopt a single-stage procedure if they consider that is more appropriate for their scheme.

212. With the exception of certain matters outlined below, the law does not prescribe the detail of the dispute resolution procedure. Schemes should decide on this and ensure it is fit for purpose.

## Determining your internal dispute resolution processes

### When applications should be submitted

213. Schemes may choose to specify time limits within which an application for the resolution of a dispute must be made by the following people:

- a. A scheme member
- b. A widow, widower, surviving civil partner or surviving dependant of a deceased scheme member
- c. A surviving non-dependant beneficiary of a deceased scheme member or
- d. A prospective scheme member.

84  
Section 50B(4) of the Pensions Act 1995.

85  
For the use of 'schemes', please refer to paragraph 23.



214. If a decision is made to specify time limits, schemes should publish and make those time limits readily available to ensure that those with an interest in the scheme are aware that they must submit an application within a prescribed time limit.
215. Schemes must specify a reasonable period within which applications must be made by the following people:
- a. a person who has ceased to be within the categories in paragraph 213 above, and
  - b. a person who claims that they were a person within the categories in paragraph 213 above and have ceased to be such a person, and the dispute relates to whether they are such a person
216. A reasonable period would be six months beginning immediately after the date on which the person ceased to be, or claims they ceased to be, a person with an interest in the scheme. However, schemes have the flexibility to exercise their judgment and take an application outside of a specified time period, if appropriate.

### When decisions should be taken

217. Scheme managers and specified persons (where applicable) should make a decision on a dispute within four months of receiving the application. Where a dispute is referred to scheme managers for a second-stage decision, the reasonable period for making a decision begins when the managers receive the referral. However, there may be cases where it will be possible to process an application sooner than the reasonable time given. Where this is the case, there should not be a delay in taking the decision.
218. There may be exceptional circumstances of a particular dispute which may prevent the process being completed within the reasonable time period stated above. For instance, where the dispute involves unusually complex and labour intensive calculations or research, or delays occur that are outside the control of the scheme manager (or 'specified person'), or because they need to obtain independent evidence.
219. The regulator recognises that the circumstances of each dispute are different and decision times may vary. Schemes should be satisfied that the time taken to provide a decision is appropriate to the situation and that the necessary action has been taken to operate arrangements within the reasonable time period and be able to demonstrate this, if necessary.

## When applicants should be informed of a decision

220. Applicants must be notified of the decision made by a scheme manager or specified person (where applicable) within a reasonable time period following the decision being made. Schemes should usually notify applicants of the decision no later than 15 working days after the decision has been made. However, there may be cases where it will be possible to notify an applicant sooner than the reasonable time given. Where this is the case, there should not be a delay in notifying them of the decision.
221. Schemes should provide the person who has made an application for a matter in dispute with regular updates on the progress of their investigation. The person should be notified where the time period for a decision is anticipated to be shorter or longer than the reasonable time period and their expectations managed in relation to when they will receive an outcome.

## Implementing your procedure and processes

222. Schemes should focus on educating and raising awareness of their internal dispute resolution arrangements and ensuring that they are followed. Once implemented, schemes should ensure that the effectiveness of the arrangements is assessed regularly and be satisfied that those adopting the process are complying with the requirements set, which includes effective decision making. This is particularly important where the arrangements require employers participating in the pension scheme to carry out duties as part of the process.
223. Scheme rules (which for most public service pension schemes will usually be set out in regulations) or other documents recording policy about the administration of the scheme, should specify internal dispute resolution arrangements and confirm and communicate those arrangements to members – for example, in the joining booklet. They should make their arrangements accessible to potential applicants – for example, by publishing them on a scheme website.
224. If appropriate, schemes should ensure that scheme employers are implementing procedures, for example where schemes have implemented the two-stage procedure and employers are acting as the ‘specified person’ for the first stage.

225. Scheme managers must provide information about the procedure and processes the scheme has in place for the internal resolution of disputes to certain people in certain circumstances<sup>86</sup>:

- a. Prospective members, if it is practicable to do so
- b. Any scheme members who have not already been given the information
- c. Certain people who request the information and who have not been given that information in the previous 12 months and
- d. Members or prospective members when schemes receive jobholder information, or when a jobholder becomes an active member, in connection with automatic enrolment.

The postal/electronic address and job title of the person to be contacted must also be provided.

226. In addition, schemes must provide information about The Pensions Advisory Service (TPAS) and the Pensions Ombudsman at certain stages<sup>87</sup>. Upon receipt of an application for the resolution of a pension dispute, schemes (or the specified person, as the case may be) must make the applicant aware (as soon as reasonably practicable) that TPAS is available to assist members and beneficiaries of the scheme and provide contact details for TPAS. When notifying the applicant of the decision, schemes must also notify the applicant that the Pensions Ombudsman is available to investigate and determine complaints or disputes of fact or law, in relation to a public service pension scheme, and provide the Pension Ombudsman's contact details.

227. Schemes should ensure the following information is made available to applicants:

- The procedure and processes for making an application for the resolution of a dispute
- The information which must be included in an application
- The process by which any decisions required are to be reached and
- An acknowledgement sent to the applicant once an application has been received.

228. The law does not stipulate what information schemes should request from applicants to enable them to reach a decision on a disputed matter. The legislation provides flexibility for scheme managers to decide what is appropriate and how applications should be submitted.

86  
Regulation 6 of, and Part 1 of Schedule 2 to, Disclosure Regulations 2013.

87  
Regulation 2 of the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations 2008.

229. When reviewing an application, scheme managers or a specified person should be satisfied that they have taken the necessary time to take a decision which is appropriate to the situation and that the necessary action has been taken to meet the reasonable time period. Scheme managers should ensure that they have all the appropriate information to make an informed decision and if required, request further information.

## Reporting breaches of the law

### Legal requirements

230. Certain people are required to report breaches of the law to the regulator where they have reasonable cause to believe that:

- a legal duty<sup>88</sup> which is relevant to the administration of the scheme has not been, or is not being, complied with and
- the failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions<sup>89</sup>.

231. The people who are subject to the reporting requirement in the context of public service pension schemes are as follows:

- a. scheme managers
- b. members of pension boards
- c. any person who is otherwise involved in the administration of a public service pension scheme
- d. employers<sup>90</sup>. In the case of a multiemployer scheme, any participating employer who becomes aware of a breach should consider their duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers
- e. professional advisers<sup>91</sup> including auditors, actuaries, legal advisers and fund managers. Not all public service pension schemes are subject to the same legal requirements to appoint professional advisers, but nonetheless the regulator expects that all schemes will have professional advisers either resulting from other legal requirements or simply as a matter of practice
- f. any person who is otherwise involved in advising the scheme manager in relation to the scheme<sup>92</sup>.

232. The report must be made in writing and should be given as soon as reasonably practicable<sup>93</sup>.

88

The reference to a legal duty is to a duty imposed by, or by virtue of, an enactment or rule of law (section 70(2)(a) of the Pensions Act 2004).

89

Section 70(2) of the Pensions Act 2004. The main objectives of the regulator in exercising its functions are set out in section 5 of that Act.

90

As defined in section 318 of the Pensions Act 2004.

91

As defined in section 47 of the Pensions Act 1995.

92

Section 70(1) of the Pensions Act 2004 (as amended by paragraph 6 of Schedule 4 to the 2013 Act).

93

Section 70(2) of the Pensions Act 2004.

## Practical guidance

233. This guidance is designed to assist those under a duty to report breaches of the law to the regulator to meet their legal obligations. Schemes<sup>94</sup> should be satisfied that those responsible for reporting breaches are made aware of the legal requirements and this guidance. Schemes should provide training for scheme managers and pension board members. All others under the duty to report should ensure they have a sufficient level of knowledge and understanding to fulfil that duty. This means having sufficient familiarity of the legal requirements and procedures and processes for reporting.

## Implementing adequate procedures

234. Identifying and assessing a breach of the law is important in reducing risk and providing an early warning of possible malpractice in public service pension schemes. Those people with a responsibility to report breaches, including scheme managers and pension board members should establish and operate appropriate and effective procedures to ensure that they are able to meet their legal obligations. Procedures should enable people to raise concerns and facilitate the objective consideration of those matters. It is important that procedures allow reporters to make a judgement within an appropriate timescale as to whether a breach must be reported. Reliance cannot be placed on waiting for others to report.

235. Procedures should include the following features:

- Obtaining clarification of the law where it is not clear to those responsible for reporting
- Clarifying the facts around the suspected breach where they 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 scheme manager or pension board
- A clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the regulator
- An established procedure for dealing with difficult cases
- A timeframe for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable
- A system to record breaches even if they are not reported to the regulator (the principal reason for this is that the record of past breaches may be relevant in deciding whether to report future breaches, for example it may reveal a systemic issue) and
- A process for identifying promptly any breaches that are so serious they must always be reported.

94  
For the use of 'schemes', please refer to paragraph 23.

## Judging whether a breach must be reported

236. Breaches can occur in relation to a wide variety of the tasks normally associated with the administrative function of a scheme such as keeping records, internal controls, calculating benefits and, for funded pension schemes, making investment or investment-related decisions.

## Judging whether there is 'reasonable cause'

237. Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.

238. Reporters must ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. For example, a member of a funded pension scheme may allege that there has been a misappropriation of scheme assets where they have seen in the annual accounts that the scheme's assets have fallen. However, the real reason for the apparent loss in value of scheme assets may be due to the behaviour of the stock market over the period. This would mean that there is not reasonable cause to believe that a breach has occurred.

239. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with the pension board or scheme manager or with others who are in a position to confirm what has happened. It would not be appropriate to check with the pension board or scheme manager or others in cases of theft, or suspected fraud or if other serious offences might have been committed and where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances a reporter should alert the regulator without delay.

240. 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.

241. In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the regulator may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

## Judging what is of 'material significance' to the regulator

242. Deciding whether a breach is likely to be of 'material significance' to the regulator requires those with a duty to report to consider the following:
- a. The cause of the breach
  - b. The effect of the breach
  - c. The reaction to the breach
  - d. The wider implications of the breach.
243. When reaching a decision about whether to report, those responsible should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the regulator. Each of these aspects is considered in more detail, below.

### The cause of the breach

244. The breach is likely to be of material significance to the regulator where it 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.
245. When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.
246. A breach will not normally be regarded as materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

## The effect of the breach

247. With the regulator's role in relation to public service pension schemes and its statutory objectives in mind, evidence in relation to any of the following matters is particularly important and likely to be of material significance to the regulator:

- Pension board members not having the appropriate degree of knowledge and understanding
- Pension board members having a conflict of interest
- Adequate internal controls not being established and operated
- The right money not being paid to the scheme at the right time
- Internal dispute resolution procedures not having been made and/or implemented
- Information about benefits and other information about scheme administration not being disclosed to scheme members and others
- Information about pension boards not being published
- Public service pension schemes not being administered properly
- Appropriate records not being maintained
- Pension board members having misappropriated any assets of the scheme or being likely to do so
- Repeated miscalculations or incorrect payment of benefits which have a detrimental impact on scheme members.

## The reaction to the breach

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

249. A breach is likely to be of concern and material significance to the regulator where a breach has been identified and those involved:

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



## The wider implications of the breach

250. The wider implications of a breach should be considered when assessing which breaches are likely to be materially significant to the regulator. For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the scheme manager or pension board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For example, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

## Submitting a report to the regulator

251. Reports must be submitted in writing and can be sent by post or electronically, including by email or by fax. Reporters should wherever practicable use the standard format available on the regulator's website.

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

- Full name of the scheme
- Description of the breach or breaches
- Any relevant dates
- Name of the employer or scheme manager (where known)
- Name, position and contact details of the reporter and
- Role of the reporter in relation to the scheme.

253. Additional information that would be helpful to the regulator:

- The reason the breach is thought to be of material significance to the regulator
- The address of the scheme
- The contact details of the scheme manager (if different to the scheme address)
- The pension scheme's registry number (if available)
- Whether the concern has been reported before.

254. 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.

255. A reporter should ensure they receive an acknowledgement in respect of any report they send to the regulator. Only when an acknowledgement of receipt is received by the reporter can they be confident that the regulator has received their report.
256. The regulator will acknowledge all reports within five working days of receipt, however it will not generally keep a reporter informed of the steps taken in response to a report of a breach as there are restrictions on the information it can disclose.
257. Further information or reports of further breaches should, however, be provided by the reporter, if this may assist the regulator in exercising its functions. The regulator may make contact to request further information.
258. Breaches should be reported as soon as reasonably practicable. What is reasonably practicable depends on the circumstances. In particular, the time taken should reflect the seriousness of the suspected breach.
259. In cases of immediate risk to the scheme for instance, where there is any indication of dishonesty, the regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently 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 use the quickest means possible to alert the regulator to the breach.

## Whistleblowing protection and confidentiality

260. 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 regulator understands the potential impact of a report on relationships, for example, between an employee and their employer.
261. The duty to report does not, however, override 'legal privilege'<sup>95</sup>. 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.

95  
See section 311 of the  
Pensions Act 2004.

262. The regulator will do its best to protect a reporter's identity (if desired) and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law ie the regulator is ordered by a court to disclose it.
263. The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the regulator. Consequently, where individuals employed by firms or another organisation having a duty to report disagree with a decision not to report to the regulator, they may have protection under the ERA if they make an individual report in good faith. The regulator expects such individual reports to be rare and confined to the most serious cases.

## How to contact us

Napier House  
Trafalgar Place  
Brighton  
BN1 4DW

T 0845 600 0707

F 0870 241 1144

E [customersupport@thepensionsregulator.gov.uk](mailto:customersupport@thepensionsregulator.gov.uk)

[www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)

Draft code of practice no. 14

### **Governance and administration of public service pension schemes**

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The Pensions  
Regulator

## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 JANUARY 2014

### Report of the Fund Director

#### TRANSFORMING REHABILITATION PROGRAMME AND THE LGPS

1) Purpose of the report

To advise Members' that the Government is out to consultation on the proposal to transfer the assets and liabilities of those current members of the Probation service in the Local Government Pension Scheme from the present thirty four administering authorities to the Greater Manchester Pension Fund.

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2) Recommendation

**That Members note the report.**

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3) Background information

3.1 On 16 December the Government introduced draft Regulations and a consultation paper regarding the transfer of the assets and liabilities of current Local Government Pension Scheme members employed by the Probation Trusts from their present administering authorities to one single administering authority e.g. the Greater Manchester Pension Fund

3.2 Under the Ministry of Justice's Transforming Rehabilitation Programme those members of probation staff who are currently entitled to LGPS membership and who are to be employed in one of the 21 Community Rehabilitation companies (which are to be established and transferred into the private and voluntary sector) or the newly formed National Probation Service will be transferred from the current thirty four administering authorities to one administering authority. This is to be Tameside Metropolitan Borough Council in its role as administering authority of the Greater Manchester Pension Fund.

3.3 The Government is expecting the transfer to become effective on 1 April 2014. The consultation period ends on 10 February 2014.

3.4 There are a number of issues arising out of the proposals and to that extent it presents an insight into the obstacles facing a merger or amalgamation of the broader LGPS.

3.5 Attached to this paper is the consultation paper itself and an explanatory note prepared by GMPF. Although both are primarily aimed at officers and practitioners Members ought to be aware of the implications arising out of this transfer on the remaining Fund.

3.6 Contained within the draft regulations is provision for a standardised mechanism for the transfer of assets and liabilities to GMPF and a proposed

timescale. This calculation will be based upon the 2013 actuarial valuation outcome.

3.7 At the time of writing there were 1433 probation members within the South Yorkshire Pension Fund. These represent 1.02% of Fund membership. According to the 2013 actuarial valuation the value of the assets allocated to the probation service liabilities was just over £101m.

3.8 Clearly the transfer will be staged over time and will involve a great deal of administration.

3.9 A verbal update will be given at today's meeting if necessary.

#### 4) Implications

##### 4.1 Financial

At the time of writing the value of assets to be transferred can only be estimated and will need to be adjusted in accordance with agreed transfer dates. However, the value of the Fund will clearly be reduced as will the size of its liabilities. Other costs will be incurred as part of the transition process.

##### 4.2 Legal

There are potential legal implications arising out of this report.

##### 4.3 Diversity

There are no diversity implications.

##### 4.4 Risk

There are a number of potential risks associated with this report depending upon the detailed outcome of the consultation.

J N Hattersley  
Fund Director

Telephone contact 01226 772873

Background papers used in the preparation of this report are available for inspection at the offices of the Pensions Authority in Barnsley

Other sources and references:



Department for  
Communities and  
Local Government

## Transforming Rehabilitation Programme and the Local Government Pension Scheme

Consultation

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If you have any enquiries regarding this document/publication, email [contactus@communities.gov.uk](mailto:contactus@communities.gov.uk) or write to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

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# The Consultation Process and how to Respond

## Basic Information

<b>To:</b>	This consultation is aimed at Local Government Pension Scheme interested parties and, in particular, Probation Trusts and Scheme administering authorities
<b>Body responsible for the consultation:</b>	The Department for Communities and Local Government
<b>Duration:</b>	This is a 8 week consultation which will conclude on 10 February 2014
<b>Enquiries:</b>	For enquiries and to respond to this consultation. Please e-mail  Robert.ellis@communities.gsi.gov.uk
<b>How to Respond:</b>	When responding, please ensure you have the words Transforming Rehabilitation and Local Government Pension Scheme.  Alternatively you can write to: Local Government Pension Scheme – Transforming Rehabilitation Programme Department for Communities and Local Government 5/F5 Eland House Bressenden Place LONDON SW1E 5DU  For more information, please see <a href="https://www.gov.uk/government/organisations/department-for-communities-and-local-government">https://www.gov.uk/government/organisations/department-for-communities-and-local-government</a>

## Freedom of information and data protection applicable to consultation

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

## Overview

<b>Topic of this consultation:</b>	<p>The Local Government Pension Scheme (Offender Management) Regulations 2014</p> <p>These draft regulations facilitate the continued participation in the Local Government Pension Scheme by employees engaged in the provision of probation services (in the context of the Secretary of State for Justice's Transforming Rehabilitation Reforms) when they are transferred to either the National Probation Service or a Commercial Rehabilitation Company. They provide for the benefits of all probation services employees (past and present) to be administered by one administering authority and for the transfer of all past service liabilities in relation to those employees to that one authority.</p>
<b>Scope of this consultation:</b>	<p>This consultation seeks responses from interested parties on draft regulations to come into force in April 2014.</p>
<b>Geographical scope:</b>	<p>England and Wales.</p>
<b>Impact Assessment:</b>	<p>No Impact Assessment is required as the proposed regulatory measures are intended to preserve the ongoing access to the Local Government Pensions Scheme for staff working in rehabilitation provision when they transfer to a new employer, and the future management of past service liabilities without requiring cessation payments when the Probation Trusts close.</p>

# Chapter 1

## Introduction

### Transforming Rehabilitation Programme

1. In “*Transforming Rehabilitation: A Strategy for Reform*”, the Secretary of State for Justice set out plans to introduce a new system for the management and rehabilitation of offenders in the community across England and Wales. The reforms comprise:
  - the opening up of the provision of probation services to a diverse range of new rehabilitation providers, incentivised through payment by results to reduce reoffending;
  - a new National Probation Service, part of the National Offender Management Service, which will retain certain key functions within the public sector;
  - the extension of supervision after release to nearly all offenders leaving custody; and
  - a new “through the prison gate” resettlement service across England and Wales.
2. The majority of probation services are currently delivered by 35 Probation Trusts under contract to the National Offender Management Service on behalf of the Secretary of State for Justice. Once the Secretary of State’s for Justice’s reforms are fully implemented, these will be replaced with 21 Community Rehabilitation Companies, which will be owned by private and voluntary sector providers, and the newly formed National Probation Service, which will be in the public sector and part of the National Offender Management Service.
3. The Community Rehabilitation Companies will initially be wholly-owned by the Secretary of State for Justice for a period of approximately six months before being transferred to the private and voluntary sector providers by way of share sales. Following the sale, the Secretary of State for Justice will retain certain rights through a special share in the Community Rehabilitation Company.
4. The Community Rehabilitation Companies will manage the majority of offenders in the community sentenced to community orders, suspended sentence orders and those subject to license conditions or supervision requirements and will deliver innovative rehabilitative support to offenders. The National Probation Service will be a function which sits within the Ministry of Justice and will discharge certain functions, such as providing assistance to courts on sentencing and dealing with high-risk offenders.
5. As part of the reforms, staff will be transferred from the Probation Trusts to the Community Rehabilitation Companies and the National Probation Service under provisions in section 3 of the Offender Management Act 2007. The aim is that the staff will be transferred from 1 April 2014 but this might be subject to change.
6. Ordinarily, National Probation Service staff would become eligible for membership of the Principal Civil Service Pension Scheme. However, staff in the Probation Trusts are currently eligible to join the Local Government Pension Scheme (the **Scheme**). The

Ministry of Justice intends to facilitate continuity in pension provision for transferring staff. .

7. To facilitate this continued pension provision, it is proposed that all Community Rehabilitation Companies and the National Probation Service will participate in one administering authority, the Greater Manchester Pension Fund.
8. The Ministry of Justice's proposals in relation to future pension provision for probation staff will require regulatory amendments to the Local Government Pension Scheme Regulations 2013 and this document commences a period of statutory consultation on those amendments.
9. The Ministry of Justice's proposals for enabling probation service staff currently employed by the Probation Trusts to continue their membership of the Scheme were shared with the Scheme's administering authorities earlier in 2013 on an informal basis. The comments received as a result of this engagement have been incorporated, where appropriate, in the draft regulations set out in this consultation.
10. The Scheme's administering authorities were also invited to put themselves forward to become the single administering authority chosen to administer the probation service liabilities under the Scheme going forward as part of the Ministry of Justice's proposals. When issuing that invitation the administering authorities were given an update on the proposals.
11. There have been discussions and meetings with the GMB and NAPO Unions and the Probation Trust chairmen, and more recently collaborative work on a first draft of the attached regulations with the Local Government Sub-committee of the Association of Consulting Actuaries. This consultation reflects these discussions where possible.
12. Your comments are invited on the set of draft regulations at **Annex A**. It is expected that the regulations will come into force on 1 April 2014.
13. **The closing date for responses on the draft regulations at Annex A and the related questions in Chapter 3 is 10 February 2014.**

# Chapter 2

## Local Government Pension Scheme (Offender Management) Regulations 2014

1. These Regulations are being made under the Superannuation Act 1972.

### **Membership in the Scheme**

2. The Ministry of Justice wants to ensure that probation service staff who are entitled to membership of the Scheme before they are transferred from a Probation Trust to a Community Rehabilitation Company or the National Probation Service as part of the Transforming Rehabilitation Programme, can continue to participate in (or be eligible for membership of) the Scheme.
3. Tameside Metropolitan Borough Council, as administering authority of the Greater Manchester Pension Fund, will become the single appropriate administering authority for all members employed by the Community Rehabilitation Companies and the National Probation Service. This change is made by **regulation 10**.
4. Each Community Rehabilitation Company will seek admitted body status in the Scheme by way of admission agreement that will allow participation in the Scheme for the employees who transfer to the Community Rehabilitation Company as part of the Transforming Rehabilitation Programme.
5. The Secretary of State for Justice will be named as a scheme employer in respect of civil servants discharging probation services as part of the National Probation Service. It will be made clear that such civil servants will be eligible for membership in the Scheme, and not the Principal Civil Service Pension Scheme. This will also be reflected in employees' contracts of employment and the transfer scheme which transfers staff under the Offender Management Act 2007. This change is made by **regulations 3, 4, 8 and 9**.
6. It is proposed that a Community Rehabilitation Company will procure that any subcontractor of the probation services becomes an admitted body in the Scheme by way of an admission agreement to allow continued entitlement to membership in the Scheme for any employees who transfer as part of the Transforming Rehabilitation Programme to a Community Rehabilitation Company and who are subsequently transferred to a subcontractor.

### **Past service liabilities**

7. As part of the reforms, the Probation Trusts will cease to participate in the Scheme and will be wound up following the transfer of staff to the Community Rehabilitation Companies and the National Probation Service. It is intended that the probation trust listing in the Scheme regulations will be removed when appropriate to do so.

8. The responsibility for funding the past service liabilities of the active members transferring as part of the Transforming Rehabilitation Programme to a Community Rehabilitation Company or the National Probation Service will transfer to the member's new employer (either a Community Rehabilitation Company or the National Probation Service). No exit payment will become due from a Probation Trust. This change is made by **regulations 5 and 7**.
9. The past service liabilities in relation to all former probation service employees who were previously employed by the Probation Trusts, including deferred members, deferred pensioner members and pensioner members of the previous schemes (the 1995 Scheme, the 1997 Scheme and the 2008 Scheme), will become the responsibility of the National Probation Service. The National Probation Service, as part of the Ministry of Justice, will continue to fund these benefits on an on-going basis and no immediate exit payment will become due from the Probation Trusts in relation to those liabilities. This change is made by **regulations 3 and 5**.
10. To facilitate this, the following steps are required:
  - a) the Secretary of State for Justice will be deemed to be the scheme employer for these former probation service employees;
  - b) all past service liabilities in relation to these former employees and an appropriate share of the assets will be transferred from the member's current administering authority to the Greater Manchester Pension Fund, for funding by the National Probation Service; and
  - c) the Greater Manchester Pension Fund will become the new administering authority for the members concerned.

See **regulations 3, 7, 10. and 11**.

11. The draft regulations set out the arrangements for the transfer of assets and liabilities from the current administering authorities of the current Probation Trusts to the Greater Manchester Pension Fund. See **regulation 7**.
12. The draft regulations provide for a standardised mechanism for the transfer of assets, liabilities and information to the Greater Manchester Pension Fund from the current administering authorities and a proposed timescale in which the transfer should take place. Actuarial guidance issued by the Secretary of State under Regulation 2(3) of the Local Government Pension Scheme Regulations 2013 will set out the formula to be used to ascertain the assets to be transferred. A draft of that guidance is attached at Annex B. Feedback from earlier discussions, mentioned in Chapter 1, suggested that there should be a clear process for calculating the assets that should transfer to avoid uncertainty and prolonged negotiations. The aim of the draft regulations is to facilitate agreement, but to impose long stop dates if agreement cannot be reached.
13. These changes are made by **regulations 6, 7 and 11**.

### **Cessation of participation by a Community Rehabilitation Company**



14. In the event that a Community Rehabilitation Company ceases to employ active members in the Scheme who originally transferred as part of the Transforming Rehabilitation Programme (for example, because the probation services are transferred to another body), a mechanism is proposed in the draft regulations so that:
- a) the responsibility for the future funding of any deferred and pensioner liabilities in relation to the original transferring employees at the time of an onward transfer of the services will be transferred to the National Probation Service; and
  - b) the responsibility for funding the past service liabilities in relation to the employees who are still engaged in the provision of probation services and who transfer to the new service provider employer, will transfer to that new service provider for future funding. This will limit the circumstances in which an exit payment will become due from the exiting employer.
15. This change is made by **regulation 3** in relation to the liabilities that pass to the National Probation Service and **regulation 5** in relation to the circumstances in which an exit payment will, or will not, arise.

### **Secretary of State for Justice Guarantee**

16. The Secretary of State for Justice will provide a guarantee to Tameside Metropolitan Borough Council as the administering authority for the Greater Manchester Pension Fund in respect of the Community Rehabilitation Companies' (and any subcontractors') participation in the Greater Manchester Pension Fund and their funding obligations. The Guarantee will cover the Community Rehabilitation Companies' (and any subcontractors') liabilities to contribute to the Scheme in respect of the benefits for the employees transferring as part of the Transforming Rehabilitation Programme in the event of the insolvency of the Community Rehabilitation Company (or a subcontractor) when contributions are outstanding.
17. A bond, indemnity or guarantee is required from an admission body by an administering authority under the Local Government Pension Scheme 2013 Regulations. **Regulation 9** amends these regulations to allow a guarantee from the Secretary of State for Justice in relation to the obligations of a provider of probation services.
18. The National Probation Service is a division of the National Offender Management Service which is an executive agency under the Secretary of State for Justice. For this reason there is no proposal for the Secretary of State for Justice to guarantee the liabilities that will become the responsibility of the National Probation Service, as he would be guaranteeing liabilities for which he is already liable as a primary obligation.

# Chapter 3

## Questions for Consultation

Taking into consideration the information set out above and in the annexes, the Department would be particularly interested in your views in response to the following questions.

1. Are there any other categories of member who are or who have been engaged in the provision of probation services that are missing from Regulation 3 i.e. in relation to whom responsibility should be transferring to the Secretary of State.
2. Are there any additional transitional provisions required to facilitate the pensions aspects of the Transforming Rehabilitation Programme as they relate to the Local Government Pension Scheme? In particular, the draft regulations set out a process whereby the future funding of liabilities relating to deferred and pensioner members who were previously employed by the Probation Trusts (and their predecessor probation boards) will be transferred to the responsibility of the National Probation Service? Do the draft regulations achieve their aim?
3. Do the regulations and proposed actuarial guidance provide sufficient detail and guidance for the transfer of assets and liabilities from the funds of the current administering authorities to the Greater Manchester Pension Fund?
4. Do the regulations strike the right balance between flexibility and prescription in relation to the mechanics of agreeing the transfer share and payment date?
5. Do you have any comments on the timescales for reaching agreement on, and achieving the transfer of assets and liabilities set out in the draft regulations and the proposed interest chargeable in the event that a transfer is not made in accordance with payment dates agreed or notified under the regulations?
6. Will any of the changes made by the draft regulations have any unintended consequences?

# Annex A Draft Regulations

*Draft Regulations prepared for the purposes of consultation*

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STATUTORY INSTRUMENTS

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**2014 No. xxxx**

## **PENSIONS, ENGLAND AND WALES**

# The Local Government Pension Scheme (Offender Management) Regulations 2014

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

These Regulations are made in exercise of the powers conferred by sections 7 and 12 of and Schedule 3 to the Superannuation Act 1972<sup>(1)</sup>

In accordance with section 7(5) of that Act, the Secretary of State has consulted such associations of local authorities as appeared to the Secretary of State to be concerned; the local authorities with whom consultation appeared to the Secretary of State to be desirable; and such representatives of other persons likely to be affected by the Regulations as appeared to the Secretary of State to be appropriate.

The Secretary of State makes the following Regulations:

### **Citation, commencement and extent**

1.—(1) These regulations may be cited as the Local Government Pension Scheme (Offender Management) Regulations 2014.

(2) These Regulations come in to force on [coming into force date].

(3) These Regulations extend to England and Wales<sup>(2)</sup>.

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<sup>(1)</sup> 1972 c.11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7).

<sup>(2)</sup> The Secretary of State's functions under section 7 of the Superannuation Act 1972 in so far as they were exercisable in relation to Scotland were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).

## Amendment of the Local Government Pension Scheme Regulations 2013

2.—(1) The Local Government Pension Scheme Regulations 2013<sup>(3)</sup> (“the 2013 Regulations”) are amended in accordance with regulations 3 to 10.

3. After regulation 3 insert—

### “Civil servants etc engaged in probation provision

3A.—(1) A person who meets Condition A and Condition B shall for the purposes of these Regulations be deemed to be in the employment of the Secretary of State.

(2) Condition A is that the person is employed in the civil service of the State.

(3) Condition B is that the person is engaged in probation provision within the meaning of section 2 of the Offender Management Act 2007 (responsibility for ensuring provision of probation services)<sup>(4)</sup>.

(4) Upon and following the transfer of the responsibilities for probation provision from a probation trust to another person as a result of changes to arrangements made for the provision of probation services under section 3 of the Offender Management Act 2007 (power to make arrangements for the provision of probation services) any provision of these Regulations which confers a function on a body by virtue of having been a member's employer shall have effect as if the Secretary of State was the employer of a person to whom paragraph (5) applies.

(5) This paragraph applies to—

(a) any deferred member, deferred pensioner member or pensioner member of a local government pension scheme by virtue of employment with a probation trust (or with a predecessor local probation board or probation committee) which ended before the transfer of the responsibilities referred to in paragraph (4);

(b) any member who becomes a deferred member, deferred pensioner member or pensioner member after the transfer of responsibilities referred to in paragraph (4) above who is a member of the Scheme by virtue of employment with a Scheme employer engaged in the provision of probation services (but only in respect of periods of employment whilst the member was engaged in the provision of probation services or periods of membership which have been aggregated with such periods) and:

(i) either that employment was continuous with the same Scheme employer or it was compulsorily transferred on one or more occasions to another Scheme employer engaged in the provision of probation services;

(ii) the admission agreement under which that member was participating in the Scheme has terminated or the Scheme employer that last employed the member has ceased to be a Scheme employer engaged in the provision of probation services in relation to that employment; and

(iii) the member was in the employment of a Scheme employer engaged in the provision of probation services at a time when that employer was in the ownership of the Secretary of State; or

(c) a survivor member or pension credit member who is entitled to a survivor's pension or a children's pension or a pension credit (as the case may be) by virtue of the membership of the Scheme of a person to whom paragraph 5(a) or paragraph 5(b) applies.

(d) a person specified in arrangements made under section 3 of the Offender Management Act 2007 as a person to whom this paragraph applies, or a person who would have been so specified if that person had remained in the employment of a body to which the arrangements apply.

(6) For the purposes of this regulation—

“probation trust” means a trust established under section 5 of the Offender Management Act 2007; and

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<sup>(3)</sup> SI. 2013/2356  
<sup>(4)</sup> 2007 c.21

“a local government pension scheme” means the Scheme or any of the Earlier Schemes within the meaning of regulation 1(5) of the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2013.

4. In Regulation 4 after paragraph (3) insert—

“(4) Paragraph (1)(a) does not apply to a person who is eligible to join the Scheme by reason of employment described in regulation 3A(1) if—

- (a) the person is designated, or belongs to a class of employees that is designated as eligible for membership of the Scheme pursuant to regulation 3(1)(b); and
- (b) the person is not an active member of any other public service pension scheme in relation to that employment”

5. In regulation 64 (special circumstances where revised actuarial valuations and certificates must be obtained) after paragraph (8) insert—

“(9) Paragraph (10) applies—

- (a) where the exiting employer is a probation trust established under section 5 of the Offender Management Act 2007 and the liabilities of the fund in respect of benefits due to the probation trust’s current and former employees (or those of its predecessor local probation boards) have been or are to be transferred to another person or persons as a result of changes to arrangements made for the provision of probation services under section 3 of that Act (power to make arrangements for the provision of probation services); or
- (b) in any other case where the exiting employer is engaged in the provision of probation services, but only to the extent provided for under the relevant admission agreement, in relation to any liabilities of the fund in respect of benefits due to the current and former employees of the exiting employer which have been or are to be, with effect from the day following the exit date, transferred to one or more other Scheme employers as a result of changes to arrangements made for the provision of probation services.

(10) Where this paragraph applies, no exit payment is due under paragraph (1) and paragraph (2) does not apply.”

6. In regulation 103 (changes of administering authority)—

- (a) in paragraph (1) after “(7)” insert “and (8)”; and
- (b) after paragraph (7) insert —

“(8) This regulation does not apply where a member’s administering authority has changed in the circumstances described in regulation 104(1) (change of administering authority in connection with probation service arrangements).”.

7. After regulation 103 (changes of administering authority) insert—

**“Change of administering authority in connection with probation service arrangements**

**104.—**(1) This regulation applies where in connection with changes to arrangements made for the provision of probation services under section 3 of the Management of Offenders Act 2007 (power to make arrangements for the provision of probation services) the staff of a probation trust are transferred to another person or persons and—

- (a) an administering authority becomes a member’s appropriate administering authority (“the new authority”); and
- (b) immediately before it does so, another authority was that member’s appropriate administering authority (“the former authority”),

(and it is not material for these purposes whether the member in question was in the employment of the probation trust at the date of the transfer).

(2) Within 30 days of the transfer date—

- (a) the transferring member’s former employer and (where applicable) the transferring member’s new employer must supply the former authority and the new authority with such information as may be

necessary for them to perform their functions under these Regulations in respect of the transferring members under the Scheme;

- (b) the former authority must supply the new authority with such information as may be necessary for the new authority to perform its functions under these Regulations in respect of the transferring members under the Scheme.

(3) With effect from the transfer date the liability to pay benefits under the Scheme to and in respect of the transferring members shall transfer to the new authority and each former authority must make a transfer payment from its pension fund to the pension fund of the new authority in respect of the transfer share determined in accordance with actuarial guidance issued by the Secretary of State by agreement between an actuary appointed by the former authority and an actuary appointed by the new authority.

(4) Where the actuaries cannot agree the transfer share or any other matter that needs to be agreed in order to implement the provisions of this Regulation (assuming for this purpose that the payment date is the transfer date) on or before the agreement date—

- (a) the matter shall be referred to a third actuary, chosen by agreement between the actuaries or in default of agreement by the President of the Institute and Faculty of Actuaries; and
- (b) that actuary's determination shall be final.

(5) The transfer payment shall be made in such manner (namely as to the proportion of cash and other permitted assets that will comprise the transfer payment and whether the transfer payment is paid in one or more instalments) as the new authority shall reasonably require.

(6) The transfer payment from each former authority must be paid on the payment date.

(7) Where agreement cannot be reached in relation to the payment date on or before the later of (a) the agreement date and (b) 30 days after the date on which the transfer share has been determined by agreement under paragraph (3) or by an actuary's determination under paragraph (4), the new authority must notify the former authority of the date or dates, which shall be no later than the final payment date, and the date or dates so notified shall become the payment date.

(8) If a transfer payment is not made in accordance with paragraph (6) or (7), the new authority may require the former authority to pay interest on the amount that falls due and is not so paid.

(9) Interest payable under paragraph (8) is to be calculated at 3 per cent per annum on a day-to-day basis from the date payment is due to the date of actual payment, compounded with three-monthly rests.

(10) When the transfer payment has been made in full and any adjustments made in accordance with actuarial guidance issued by the Secretary of State —

- (a) no other payment or transfer of assets shall be made from the pension fund of the former authority by reason of membership covered by the transfer payment;
- (b) the former authority shall have no liability to make any benefit payments or to receive contributions for any period prior to or subsequent to the transfer date in respect of a transferring member other than as provided for under arrangements made under paragraph (12);
- (c) except where arrangements under paragraph (12) provide otherwise, any payment made or income received by the former authority in respect of a transferring member after the transfer date shall be reimbursed by or paid to the new authority (as the case may be) within 45 days of receipt or payment by the former authority.

(11) The former authority shall provide such assistance and further information in its possession (or to which it has access) as the new authority may reasonably require in relation to the calculation and administration of benefits payable to and in respect of the transferring members under the Scheme subject to reimbursement by the new authority of the former authority's reasonable costs for doing so.

(12) The new authority and the former authority may agree such arrangements as may be necessary for the former authority to continue making benefit payments to or in respect of the transferring members for a period after the transfer date until the new authority is able to make such payments itself (such agreement not to be unreasonably withheld by the former authority).

(13) The former authority and new authority must cooperate in order to—

- (a) permit members to continue to make AVCs and SCAVCs so far as possible, on similar terms as they were doing prior to the transfer date; and

- (b) procure the transfer of the transferring members' accumulated AVCs and SCAVCs (including investment returns thereon) to the new authority.

(14) For the purposes of this regulation and save where the context otherwise requires—

“agreement date” means the date which falls 120 days after the date on which the administering authorities have been notified in writing of the transfer of staff, or the date the information described in paragraph (2) has been received, whichever is the later;

“final payment date” means the date that is 12 months after the later of the date on which the former authority has been notified in writing of the transfer of staff and the date the information described in paragraph (2) has been received;

“a local government pension scheme” means the Scheme or any of the Earlier Schemes within the meaning of regulation 1(5) of the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2013;

“member” includes deferred members, deferred pensioner members and pensioner members of a local government pension scheme and those entitled through them, including pension credit members;

“payment date” means the date or dates agreed between the former authority and the new authority for the making of the transfer payment to the new authority or the date or dates notified to the former authority in accordance with paragraph (7) where agreement cannot be reached;

“permitted assets” means liquid, transferable holdings of pooled vehicles which track market capitalisation weighted indices;

“transfer date” is the date on which the new pension fund becomes the member's appropriate fund;

“transferring members” are the employees and former employees (and those entitled through them, including pension credit members) of a probation trust (or its predecessor local probation boards) who are the subject of the changes of Scheme employer and appropriate administering authority referred to in paragraph (1);

“transfer payment” means a transfer of cash in British pounds sterling or permitted assets equal in value to the transfer share;

“transfer share” means the value of the assets allocated to the actual and potential liabilities payable from the pension fund of a former authority in respect of the benefits that have accrued to or in respect of transferring members as at the transfer date (whether that accrual arose before the commencement of these Regulations or afterwards), adjusted to the relevant payment date or dates, calculated in accordance with actuarial guidance issued by the Secretary of State;

“probation trust” means a probation trust established under section 5 of the Offender Management Act 2007”;

**8.** In Part 2 of Schedule 2 (Scheme employers) after paragraph 13 insert—

“(14) The Secretary of State, in respect of persons specified in regulation 3A(1) (civil servants engaged in probation provision).”.

**9.** In Part 3 of Schedule 2 in paragraph 8—

- (a) at the end of sub-paragraph (d) insert—

“or

- (iii) which is a provider of probation services under section 3 of the Offender Management Act 2007 (power to make arrangements for the provision of probation services) or a person with whom such a provider has made arrangements under subsection (3)(c) of that section.

**10.** In the table in Part 2 of Schedule 3—

- (a) in the column headed “Member” after the final entry insert the following entries —

“A person deemed to be in the employment of the Secretary of State by regulation 3A(1).” and

“A person to whom regulation 3A(5) applies.”

- (b) in the column headed “Appropriate administering authority”, next to the entries inserted by paragraph (a), insert “Tameside Metropolitan Borough Council”

### **Transitional provisions**

**11.**—(1) For the purposes of the issue of actuarial guidance by the Secretary of State pursuant to regulation 104(3) of the 2013 Regulations (change of administering authority in connection with probation service arrangements) the fact that any consultation with the Government Actuary’s Department was carried out before that provision was inserted into those Regulations is to be disregarded in determining whether there has been compliance with the requirement under regulation 2(3) of those Regulations (introductory) to engage in such consultation.

(2) Paragraph (3) applies to any person of the description in regulation 3A(5) of the 2013 Regulations (civil servants etc engaged in probation provision) who has not been a member of the scheme constituted by those Regulations in relation to benefits accrued under the Earlier Schemes.

(3) Where this paragraph applies to a person, any such benefits accrued by or in respect of that person are payable by the administering authority which is the appropriate administering authority for persons in the employment of the Secretary of State in the Secretary of State’s deemed capacity as employer of that person.

(4) Where paragraph (3) applies to a person—

- (a) regulation 3A(5) of the 2013 Regulations applies in relation to functions conferred on a body under the Earlier Regulations by virtue of having been a member’s employer as it applies to functions conferred by the 2013 Regulations; and
- (b) regulation 19(1) of the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2013 (appropriate funds) does not apply in relation to that person.

(5) Where a body has any rights or obligations under regulation 104 of the 2013 Regulations (change of administering authority in connection with probation service arrangements) in relation to functions under the 2013 Regulations, those obligations apply equally in respect of functions under the Earlier Regulations.

(6) In this regulation “the Earlier Schemes” and “the Earlier Regulations” have the same meaning as in regulation 1(5) of the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2013 (interpretation).

Signed by authority of the Secretary of State for Communities and Local Government

Date

Parliamentary Under Secretary of State  
Department for Communities and Local Government



## 1 Background

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- 1.1 As part of the Ministry of Justice's Transforming Rehabilitation Programme, probation staff (the "transferring staff") across 35 Probation Trusts will be transferred into one of 21 Community Rehabilitation Companies (CRCs) or the newly formed National Probation Service (NPS).
- 1.2 Whilst employed by the Probation Trusts, the transferring staff were eligible for LGPS membership in one of 35 different LGPS funds. Following the transfer of employment, the transferring staff will retain LGPS membership, which will be delivered through participation in the Greater Manchester Pension Fund (the "GMPF") of the LGPS by the CRCs and the NPS.
- 1.3 All past service liabilities in relation to probation staff (both current and former staff) employed by the Probation Trusts, and prior to them the local probation boards, will be transferred from 34 different LGPS funds to the GMPF. (GMPF will retain responsibility for the probation service liabilities that it already has.)
- 1.4 The assets attributable to the probation service past service liabilities ("the transfer share") will be transferred from the 34 ceding LGPS funds to the GMPF. This Guidance sets out the basis for determining the value of this transfer share.

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## 2 Calculation of the transfer share

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2.1 The transfer share shall be calculated according to the formula—

$$\{A \times (1 + \text{return}) + \sum (B_t - C_t) \times (1 + \text{return}_t)\} \times (1 - \text{transact})$$

Where—

- "A" is the market value of the assets allocated to the liabilities relating to the transferring members as at the date of the previous triennial funding valuation based on a mid-price valuation;
  - "B<sub>t</sub>" is the total of any contributions paid by or in respect of the transferring members plus any other income received in respect of the transferring members during any quarter.t or part.quarter, assumed to be uniformly distributed over quarter.t or part.quarter. For any quarter.t or part.quarter following the transfer date, B<sub>t</sub> is NIL.
  - "C<sub>t</sub>" is the total of any benefits paid to or in respect of the transferring members plus any expenditure in respect of the transferring members during quarter.t or part.quarter, assumed to be uniformly distributed over quarter.t or part.quarter. For any quarter.t or part.quarter following the transfer date, C<sub>t</sub> is NIL.
  - "quarter.t" is any full quarter between the last valuation date and the payment date. Quarter end dates are defined as 30 June, 30 September, 31 December and 31 March.
  - "part.quarter" is any period from the most recent quarter end prior to the payment date to the payment date such that  $\sum \text{quarter.t} + \text{part.quarter}$  is the time elapsed between the last valuation date and the payment date.
  - "return" is the relevant cumulative actual investment return of the former fund from the last valuation date to the payment date.
  - "return.t" is the relevant cumulative actual investment return of the former fund for the period from the mid-point of quarter.t or part.quarter to the payment date, where the calculation assumes cash flows are uniformly distributed and so uses the square root of the actual return in quarter.t or part.quarter.
  - "transact" is an allowance for the costs of making the transfer payment in British pounds sterling cash (and not in liquid transferable holdings of pooled vehicles which track market capitalisation weighted indices) of [0.2%] of the cash portion of the transfer payment.
- 2.2 Where a transfer payment is to be made in instalments on differing payment dates the calculation carried out in accordance with paragraph 2.1 and paragraph 2.4, refreshed in accordance with paragraph 2.6, must be by reference to the relevant payment dates.
- 2.3 For the avoidance of doubt, references to the benefits payable in respect of the transferring members includes the benefits payable to and in respect of those transferring members under the Scheme, the 1995 Scheme, the 1997 Scheme and the 2008 Scheme.

- 2.4 Where the relevant actual investment return for the former fund for any quarter.t or part. quarter, or for the purposes of calculating the return in the formula in paragraph 2.1, is not available prior to the payment date, an overall market index return constructed using the following component asset class weightings and associated total return indices, or such other component asset class weightings as may be agreed between the former authority and the GMPF based on the investment strategy of the former fund in respect of the assets attributable to the transferring members, shall be substituted for the purpose of calculating the transfer share pending the calculation to be carried out under paragraph 2.6:
- 25% UK Equity - based upon the FTSE UK All Share Total Return
  - 40% Overseas Equity - based upon the FTSE All-World ex UK Total Return
  - 15% Fixed Interest - based upon the FTSE UK Gilts over 15 years Total Return
  - 5% Index-Linked - based upon the FTSE UK Gilts Index-Linked over 15 years Total Return
  - 10% Property - based upon the IPD UK Index All Property monthly Total Return
  - 5% Cash - based upon the BoE Base Rate
- 2.5 For the purpose of the calculation in paragraph 2.1 any contribution or benefit in respect of AVCs or SCAVCs is ignored.
- 2.6 After the transfer payment has been made by a former authority following the calculation of the transfer share in accordance with paragraphs 2.1 to 2.5 above and once the relevant actual investment return (“return”) for the former fund for the period from the last valuation date to the end of the last complete quarter prior to the relevant payment date or dates is known, the transfer share calculation must be adjusted using the relevant actual investment return instead of the return set out in paragraph 2.4 for the period from the last valuation date to the end of the last complete quarter prior to the relevant payment date or dates (with the overall market index return referred to in paragraph 2.4 applicable only in respect of the period from the end of the last complete quarter prior to the relevant payment date or dates until close of the London markets on the last trading day prior to the relevant payment date or date) (the “refreshed calculation”). The refreshed calculation must be agreed between the actuary appointed by the former fund and the actuary appointed by the GMPF. Any shortfall or excess in the transfer payment that was received by the GMPF following the calculation of the transfer share in accordance with paragraphs 2.1 to 2.5 must be paid by the former fund to the GMPF (in the case of a shortfall) or by the GMPF to the former fund (in the case of an excess) following the refreshed calculation, within [20 days] of the refreshed calculation having been agreed between the actuaries.
- 2.7 The procedure specified in regulation 104(4) of the Regulations applies in the event that the actuaries to the GMPF and former authority cannot agree on any aspect of the calculation of the transfer share or the refreshed calculation.
- 2.8 The actuary appointed by the former authority shall certify to the actuary appointed by the GMPF that the assets allocated to the liabilities relating to the transferring members for the purpose of “A” in the formula in paragraph 2.1 of this guidance represent a fair share of the assets of the former fund (acting equitably as between all of the Scheme employers participating in the former fund).

## Appendix – Definitions

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*This Appendix sets out definitions for a number of terms which are used in this Guidance.*

- “former authority” has the meaning given to it in Regulation 104(1)(b) of the Regulations;
- “former fund” is the pension fund that was a member’s appropriate fund prior to the transfer date;
- “last valuation date” is the date of the last actuarial valuation of the assets and liabilities of the former fund, namely 31 March 2013;
- “payment date” means the date or dates agreed between the former authority and the GMPF for the making of the transfer payment to the GMPF and failing agreement the dates notified by the GMPF to the former authority in accordance with Regulation 104(7) of the Regulations;
- “Regulations” means the Local Government Pension Scheme Regulations 2013
- “Scheme” means the Local Government Pension Scheme constituted by the Regulations;
- “transfer date” is the date on which the new pension fund becomes the member’s appropriate fund
- “transfer payment” means a transfer of cash in British pounds sterling and/or liquid, transferable holdings of pooled vehicles which track market capitalisation weighted indices equal in value to the transfer share contemplated by Regulation 104 of the Regulations, in one or more instalments
- “transfer share” means the value of the assets allocated to the actual and potential liabilities payable from the pension fund of a former authority in respect of the benefits that have accrued to transferring members as at the transfer date, adjusted to the relevant payment date, calculated in accordance with this Guidance;
- “transferring members” are the employees and former employees (and those entitled through them, including pension credit members) of a probation trust (or its predecessor local probation boards) who are the subject of the changes of Scheme employer or deemed Scheme employer and appropriate administering authority referred to in Regulation 104(1) of the Regulations;
- “the 1995 Scheme” means the occupational pension scheme constituted by the Local Government Pension Scheme Regulations 1995;
- “the 1997 Scheme” means the occupational pension scheme constituted by the Local Government Pension Scheme Regulations 1997;
- “the 2008 Scheme” means the occupational pension scheme constituted by the Local Government Pension Scheme (Administration) Regulations 2008, the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008.

## The Local Government Pension Scheme (Offender Management) Regulations 2013

### Explanatory Notes

#### Introduction

These Regulations are required to implement the following steps in relation to the Ministry of Justice's Transforming Rehabilitation Programme:

- (a) continuation of LGPS membership for probation staff who are currently entitled to LGPS membership and are to be employed in one of the 21 Community Rehabilitation Companies (CRCs), which are to be established and transferred into the private and voluntary sector, or the newly formed National Probation Service (NPS);
- (b) LGPS membership for any new staff employed by the NPS;
- (c) participation in the Greater Manchester Pension Fund of the LGPS by the NPS and the CRCs;
- (d) the transfer of all past service liabilities in relation to probation staff (both current and former staff) employed by the Probation Trusts, and prior to them the local probation boards, from the current 34 administering authorities to one administering authority - Tameside Metropolitan Borough Council as administering authority of the Greater Manchester Pension Fund (GMPF);
- (e) ensuring that no exit payments arise for the Probation Trusts when they cease to participate in the LGPS (once all active members are transferred to the NPS and CRCs), on the basis that all past service liabilities in relation to current and former staff will have transferred to the GMPF for funding by the NPS and CRCs;
- (f) the transfer of all assets attributable to the probation service past service liabilities (**probation service liabilities**) to the GMPF from the 34 ceding administering authorities. (GMPF will be retaining responsibility for the probation service liabilities that it already has).

They amend the Local Government Pension Scheme Regulations 2013 (**LGPS Regulations 2013**) and include some transitional provisions dealing with benefits payable under earlier schemes (see Regulation 11).

#### Regulation 3

Regulation 3 inserts Regulations 3A(1) to (3) into the LGPS Regulations 2013 to permit probation staff employed in the NPS to continue to be entitled to LGPS membership, despite becoming civil servants and potentially eligible for PCS membership. (See also Regulation 4, inserting Regulation 4(3)).

The Secretary of State for Justice will be deemed to be the Scheme employer for the probation staff employed by the NPS. The deeming provision is necessary as these staff are Crown employees and are not generally treated as employed by a particular department.

The Secretary of State will be named as a Scheme employer under Part 2 of Schedule 2 of the LGPS Regulations 2013 (see Regulation 8). He will then need to designate which NPS employees will be eligible for LGPS membership in accordance with Regulation 3(1)(b) of the LGPS Regulations 2013.

#### Regulation 3

Regulation 3 also inserts Regulations 3A(4) to (5) into the LGPS Regulations 2013 to provide for the Secretary of State to be deemed the Scheme employer for the purposes of those Regulations in relation to the following categories of member:

- (a) all former probation staff who were previously employed by the Probation Trusts or their predecessor local probation boards or probation committees, and who are deferred members, deferred pensioner members or pensioner members of the LGPS when responsibility for probation provision transfers from the Probation Trusts to the CRCs and NPS. This is to reflect the intention that all past service liabilities attributable to former probation staff are to transfer to the GMPF and become the responsibility of the NPS prior to the abolition of the Probation Trusts;
- (b) all deferred members, deferred pensioner members, or pensioner members of the LGPS who were employed by a Scheme employer engaged in the provision of probation services (i.e. the CRCs and any subcontractor) in circumstances where the Scheme employer has ceased to participate in the LGPS, provided always that they were LGPS members and employed by a Scheme employer that was at some point in Government ownership (see Reg 3A(5)(b)). In other words, this will not cover any employees of CRCs or sub-contractors engaged after the CRCs enter private/voluntary sector ownership;
- (c) other persons specified in arrangements made for the provision of probation services under the Offender Management Act as being persons to whom this Regulation should apply i.e. treated as employed by the Secretary of State for Justice under the LGPS.

Regulations 11(2) to 11(6) (Transitional provisions) deals with the fact that the deferred members, deferred pensioner members and pensioner members referred to in (a) above will not be members of the 2014 Scheme, making it clear that the NPS will also have responsibility for funding the liabilities relating to these members under Earlier Schemes (as defined).

#### **Regulation 4**

This provision makes clear that Regulation 4(1)(a) does not apply to probation staff employed by the NPS who will be Crown employees and as such potentially entitled to PCSPS membership. The employment terms for these employees will also make clear that they are entitled to LGPS membership and not PCSPS membership.

#### **Regulation 5**

This amends Regulation 64 to achieve the following:

- (a) to disapply Regulation 64(2) when the Probation Trusts become exiting employers and all past service liabilities in relation to their current and former employees transfer to either the NPS or a CRC for future funding; and
- (b) to disapply Regulation 64(2) when there has been an assumption of past service liabilities by a new employer or the NPS on a service provision change - but only to the extent provided for under the relevant admission agreement. This envisages admission agreements providing for what happens on a service provision change in relation to benefits accrued to the point of change i.e. (i) what liabilities will transfer to the new provider (or the NPS) for future funding without an exit payment becoming due and (ii) what liabilities need to be the subject of an exit payment (e.g. enhanced early retirement rights and other discretionary benefits, liabilities attributable to higher than assumed salary increases) before transfer to the new service provider or the NPS. A standard form admission agreement is being prepared which will make clear, by express reference to Regulation 64(9) and (10), which liabilities will be the subject of an exit payment and which liabilities will be subsumed by another Scheme employer.

The current intention is that any additional or enhanced benefits arising from the exercise of a discretion by a CRC or as a result of higher than assumed pensionable pay increases, will be the subject of an exit payment. Any other liabilities should not be.

## Regulation 6

This regulation disapplies Regulation 103 (changes of administering authority) in relation to the changes that are taking place in connection with the Ministry of Justice's Transforming Rehabilitation Programme. Newly inserted Regulation 104 sets out the arrangements for the transfer of assets and liabilities between the 34 administering authorities for the current Probation Trusts and the GMPF (the single LGPS fund for the CRCs and NPS).

## Regulation 7

This regulation inserts a new regulation 104 setting out the arrangements for the transfer of assets between the 34 administering authorities for the current Probation Trusts to the GMPF (the single LGPS fund for the CRCs and NPS).

Regulation 104 applies on the transfer of probation staff from the Probation Trusts to the CRCs and the NPS and the transfer of Scheme employer responsibility for the accrued liabilities of former probation staff to the Secretary of State (under Reg 3A), whereupon Tameside Metropolitan Borough Council will become the new appropriate administering authority for the members concerned.

Actuarial guidance issued by the Secretary of State under Regulation 2(3) of the LGPS Regulations 2013 will prescribe the basis for determining the value of the transfer share i.e. the value of the assets that will transfer.

Regulation 104 provides as follows:

- (a) for the relevant members' former administering authorities and their former employers (the Probation Trusts) to provide the information necessary to allow the GMPF to perform its functions under Regulation 104 and also to administer and pay the benefits to and in respect of the relevant members in the future. This must be done within 60 days of the date on which the staff transfer (referred to as the **transfer date**), although it is envisaged that the provision of information will start to take place much earlier than this in preparation for Regulation 104 to take effect (Reg 104(2));
- (b) for the GMPF to become responsible for paying benefits to the transferring members (and those entitled through them) with effect from the transfer date (Reg 104 (3)) (although actual payrolls may be run by the former administering authorities for a period after the transfer date, as agents for the GMPF, until the GMPF can transition the payrolls, ensuring that all benefits will continue to be paid on time);
- (c) for the former administering authorities to make a transfer payment to the GMPF (as the new administering authority) equal to the value of the assets allocated to the probation service liabilities as at the date of payment of the transfer payment (using the value of the assets allocated to probation service liabilities at the last actuarial valuations of the relevant funds at 31 March 2013 and adjusted in accordance with the actuarial guidance issued by the Secretary of State, taking into account investment returns, contributions received and benefits paid out), referred to as the **transfer share** (Reg 104(3));
- (d) for the actuaries for the former administering authority and the GMPF to agree the transfer share within 120 days of the transfer date, or of the date on which all of the information is available to do so (if later) (the **agreement date**), assuming for this purpose that the transfer date is the payment date. (The actual payment dates may not be known within this time period.) (Reg 104(3));
- (e) if agreement cannot be reached on the transfer share or any other matter that needs to be agreed to implement Regulation 104 within the time period specified in Reg 104(3) (i.e. by the agreement

date), for the matter to be referred to a third actuary appointed by agreement or by the President of the Institute and Faculty of Actuaries, whose determination shall be final (Reg 104(4));

- (f) for the transfer payment (representing the transfer share) to be made in cash and/or liquid transferable holdings of pooled vehicles which track market capitalisation weighted indices (**permitted assets**) in one or more instalments depending on the size of the transfer payment. Whether or not instalment payments are required and the precise assets that will transfer will be determined by the GMPF (Reg 104(5));
- (g) for the transfer payment to be paid on the payment dates agreed between the relevant administering authority and the GMPF, and in any event within 12 months of notification of the transfer date or receipt of the information referred to in Reg 104(2) (the **final payment date**) (Reg 104(6)). If payment dates cannot be agreed on or before the later of the agreement date and 30 days after the agreement or determination of the transfer share, they will be notified to the relevant administering authority by the GMPF and will fall on or before the final payment date. (Reg 104(7));
- (h) for interest to be paid at the rate of 3% per annum calculated on a day-to-day basis from the due date for payment to the actual payment date, if the transfer payment is not made on a payment date (in addition to adjustments for investment returns to the dates of actual payment in accordance with the actuarial guidance issued by the Secretary of State) (see Reg 104(8) and (9));
- (i) once the transfer payment has been made in full, for no further payments to become due to or from the former administering authority in respect of the transferring members (other than as provided for under Regs 104(12)) - if any such payments are received or paid then they will be reimbursed to or by the GMPF within 45 days of receipt of payment (Reg 104(11));
- (j) for the former administering authorities to provide such assistance and further information as may be in their possession (or available to them) as the GMPF may reasonably require in relation to the future calculation and administration of benefits to the transferring members, subject to the GMPF paying the former administering authority its reasonable costs incurred in doing so (Reg 104(11));
- (k) for the GMPF to make arrangements with a former administering authority for the former administering authority to continue making benefit payments following the transfer date if necessary, pending the GMPF being ready to take over those payments (Reg 104(12));
- (l) for AVC and SAVC arrangements for the transferring members to be transitioned to the GMPF (Reg 104(14));
- (m) for actuarial guidance issued by the Secretary of State to set out the basis for determining the transfer share to be transferred from each former administering authority to the GMPF.

This formula provides as follows:

- (i) For the assets allocated to probation service liabilities under each fund for the purpose of the triennial actuarial valuations carried out as at 31.03.13 (taking their mid-price valuation) to be rolled forward to the payment date (or dates) as follows:
  - (A) by reference to relevant actual investment returns for each full quarter before the relevant payment date to the extent that actual returns are known (return);
  - (B) by reference to an appropriate market index return in respect of any quarter or part quarter where actual returns are not known;



- (C) by adding all receipts (Bt) in respect of the transferring members since the last valuation date (e.g. transfer payments, contributions etc.) and returns thereon;
  - (D) by deducting all payments made (Ct) in respect of the transferring members since the last valuation date (e.g. transfers out, pensions paid etc.) and returns thereon; and
  - (E) by deducting an allowance of 0.2% in respect of any cash transferred to take account of transaction costs.
- (ii) Note that no receipts or payments should be received or made by the former administering authorities after the transfer date, as these will all be for the account of the GMPF after that date. For the period following the transfer date the only adjustments should be in respect of investment returns and transaction costs (so Bt and Ct should be nil for these periods).
  - (iii) The GMPF envisages managing the receipt of transfer payments made in cash by potentially receiving cash from some former administering authorities in instalments in order to help smooth the transition process.
  - (iv) Once actual investment returns achieved by the former administering authorities for the periods to the relevant payment dates are known, the calculation of the transfer payment will be refreshed using actual returns (instead of the market index return referred to in (a)(ii) above) and any shortfall payment or excess payment will be paid (by the former administering authority or the GMPF, as the case may be) within [20] days of the refreshed calculation being agreed between actuaries. Actual investment returns will only be known in respect of full quarters and so there will still be an element of the transfer share calculation which is calculated using the market index return (i.e. from the end of the last complete quarter before the payment date to the payment date).
  - (v) The actuary to the former administering authority must certify to the actuary to the GMPF that a fair share of the former fund's assets are being allocated to the probation service liabilities for the purposes of "A" in the formula for the calculation of the transfer share.

### **Regulation 8**

This inserts the Secretary of State as a Scheme employer in Part 2 of Schedule 2 in relation to those people falling within Regulation 3A i.e. NPS staff engaged in probation services.

### **Regulation 9**

This provision makes clear that a guarantee from the Secretary of State for Justice is sufficient for the purposes of a guarantee under paragraph 8 of Part 3 of Schedule 2 in respect of the obligations of an admission body providing probation services in the event of its insolvency, winding up or liquidation.

### **Regulation 10**

This regulation identifies Tameside Metropolitan Borough Council, the administering authority for the Greater Manchester Pension Fund, as the appropriate administering authority for NPS probation staff.

## **Regulation 11**

This contains some transitional provisions so that:

- (a) consultation entered into in relation to the actuarial guidance to be issued by the Secretary of State for the purpose of Regulation 104(3) before Regulation 104(3) comes into force is recognised for the purposes of Regulation 2(3) of the LGPS Regulations 2013;
- (b) Regulations 3A(5) will apply in relation to membership of the Earlier Schemes (particularly important in relation to those members who have never been a member of the 2014 Scheme i.e. those referred to in Regulation 3A(5)(a)); and
- (c) the same obligations that apply under Reg 104 in relation to the transfer of assets in relation to benefits payable under the 2014 Scheme apply in relation to benefits payable under the Earlier Schemes (as defined). This is because Reg 104 applies to current and former probation staff (see the definition of transferring member in Reg 104).

## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 JANUARY 2014

### Report of the Fund Director

## SOUTH YORKSHIRE COMBINED AUTHORITY

### 1) Purpose of the report

To update Members' on the progress of the Government's consultation on a proposal to replace the South Yorkshire Integrated Transport Authority with a new combined authority.

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### 2) Recommendation

**That Members note the report.**

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### 3) Background information

3.1 At the last meeting of the Investment Board I presented a report updating Members on the Government's consultation regarding a proposition to replace the South Yorkshire Integrated Transport Authority with a newly created entity, known at this time as the South Yorkshire Combined Authority, which would come into existence on 1 April 2014.

3.2 I mentioned that the consultation and draft Order concentrated upon the effect of the proposal on the principal responsibilities of the Authority regarding transport provision and economic regeneration and did not mention its responsibilities as an administering authority of the Local Government Pension Scheme.

3.3 I reminded the Board that SYITA's standing as an administering authority of the LGPS is constituted as follows:-

The Local Government Superannuation (South Yorkshire Transport Limited) Regulations 1993 (1993 No 2783) created a new fund: the appropriate monies were transferred out of the South Yorkshire Pension Fund into the new South Yorkshire Passenger Transport Pension Fund in 1994. The South Yorkshire Passenger Transport Authority itself was established as a joint authority on 1 April 1986 by the Local Government Act 1985 (s 28) which governed the abolition of the English metropolitan county councils. The Local Transport Act 2008 amended some of the Authority's powers and renamed it the South Yorkshire Integrated Transport Authority but its status as an administering authority was not affected.

### 4) Current Position

4.1 I reminded the Board that SYPA officers had drawn the attention of CLG officers to the position and that SYITA's Pension Fund Committee had asked the Board to make similar representations to CLG as it itself intended to do.

- 4.2 The thrust of the representation was to request that CLG granted the combined authority the same powers as currently enjoyed by SYITA with regard to being an administering authority of the LGPS. It was suggested that this could be achieved by incorporating into the Order appropriate wording or by issuing a new Statutory Instrument similar to 1993 No 2783.
- 4.3 This Authority's representation was sent on 23 September. The consultation period ended on 7 October. At the time of writing the outcome of the consultation is unknown.
- 4.4 However, SYPA officers contacted CLG in the interim and received the following e-mail response:-

"I would like to take this opportunity to reassure you that the Department is taking steps to ensure that the correct legislation is in place to ensure the pension fund will have an administrator in place for April 2014."

5) Implications

5.1 Financial

Since the proposed Order does not consider SYITA's administering authority responsibilities it is not clear what financial implications will arise from its implementation. Clearly, there could be significant consequences depending upon the outcome of the consultation.

5.2 Legal

There are potentially significant legal implications arising out of this report.

5.3 Diversity

There are no diversity implications.

5.4 Risk

There are a number of potential risks associated with this report dependent upon the view taken by CLG regarding the future of the Passenger Transport Pension Fund.

J N Hattersley  
Fund Director

Telephone contact 01226 772873

Background papers used in the preparation of this report are available for inspection at the offices of the Pensions Authority in Barnsley

Other sources and references:

## SOUTH YORKSHIRE PENSIONS AUTHORITY

16 January 2014

### Report of the Clerk and Treasurer

#### Funding of new Pensions Administration System

##### **1 Purpose of the Report**

To consider the options for funding the purchase of the new Pensions Administration system.

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##### **2 Recommendations**

**Members are asked to approve the purchase of a new Pensions Administration system be funded from the South Yorkshire Pension Fund.**

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##### **3 Background Information**

- 3.1 At the meeting of the Authority on 21 November 2013 members approved the purchase of a new Pensions Administration system to replace the current system which will be decommissioned on 31 December 2014.
- 3.2 At that meeting members requested a further report be brought to the Authority regarding the funding of that system.
- 3.3 At the same meeting members accepted a draft 'cash standstill' budget of £5,387,700 which was to be the subject of consultations. Consultation on the draft budget has now taken place and no amendments have been proposed.
- 3.4 The costs and savings associated with the new Administration System were not reflected in the draft budget report on 21 November.

##### **4 Costs**

- 4.1 The potential cost of the system was reported at the previous meeting, as follows:-

Initial licence fee £	Implementation costs £	Additional hardware costs (max) £	Annual support and maintenance £
190,500	306,150	43,000	61,830

Not all of these costs are capital, the support and maintenance of £61,830 is revenue expenditure as is £9,750 of the implementation costs which are for training.

The capital cost, based on the above estimates will be £529,900. This expenditure will occur over two financial years, the initial costs being paid on signing of the contract (this month) and the final costs being paid once the system goes live (October 2014).

After implementation the annual costs of the new system will be £61,830, this amounts to a saving of just under £60,000 per annum on the current system cost of £120,500 per annum.

## **5 Funding options**

5.1 Two options for the funding of this project have been given consideration -

- Capitalise the costs and finance from borrowing.
- Charge the expenditure directly to the Fund.

As the Authority is a levying body it comes under part 1 of the Local Government Act 2003 (section 23(2) specifically names the Authority) and as such falls under the Prudential Code for Capital Finance in Local Authorities. This allows for the Authority to borrow in order to finance Capital expenditure.

5.2 However, section 5(1) of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (SI2009 No:3093) under which the Authority manages the Pension Fund states that: "Except as provided in this regulation, an administering authority must not borrow money where the borrowing is liable to be repaid out of its Pension Fund."

The provision in this regulation is specific to paying benefits or to meet investment commitments due to changes in the balance between different types of investment and so does not apply in this case.

5.3 As this expenditure is for a Pensions Administration system, which is a cost of administering the Fund, it appears that the only option is for this expenditure to be funded by the Pension Fund.

## **6 Financial Implications**

6.1 The administration costs of the Fund are recovered as part of the Employers' contribution rates. At the 2013 valuation, this has been estimated at 0.4%. The assumption by the Actuary is that administration expenses will not change dramatically over the 3 year period. The next calculation of this rate will be at the next triennial valuation (as at 31 March 2016). At this point the increased expenditure will be reflected in the deficit.

6.2 The deficit at 31 March 2013 is approximately £1,979m and the effect of this expenditure of approximately £400k after running cost savings of £120k up to 2016/17 have been taken into account equates to an increase of 0.02% on the overall deficit. This deficit is recovered across all employers over a period of about 20 years. However the annual running cost savings will mean that the system will effectively be self-financing within two further triennial valuation periods.

## 7 **Implications**

### 7.1 Legal

There are no known legal implications.

### 7.2 Diversity

There are no diversity implications

### 7.3 Risk

There are a number of risks associated with the change of Pensions Administration system. The Authority is the administering authority for the Fund and must make payments to fund members under the terms of the LGPS. There is an unquantifiable reputational risk in failing to do so. There is a risk that actual costs may differ, due to unforeseen circumstances, to those quoted in this report.

**S Pick**  
**Clerk and Treasurer**

**Officer responsible:** Bev Clarkson, Head of Finance, South Yorkshire Pensions Authority  
**Background papers** used in the preparation of this report are available for inspection at the South Yorkshire Pensions Authority.  
**Other sources and references:** none

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