

# TPR's New Code of Practice August 2022

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# The Purpose of the Codes of Practice (COP)

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- The COPs are not statements of the law, except in certain circumstances set out in legislation. Instead, they **set out the tPR's expectations** for the conduct and practice of those who must meet the requirements set in pensions legislation
- In most cases there is no specific penalty for failing to follow a COP, or to meet the expectations set out in it.
- However, tPR may rely on COPs in **legal proceedings** as evidence that a requirement has not been met. In those situations, a court must take a COP into account when considering their verdict
- Similarly, if tPR find grounds to issue an improvement or a compliance notice, it may be worded in relation to COP text



Annex 1  
Full draft of the new  
code of practice

March 2021

# Introduction

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- TPR's **15 existing codes of practice** are set to be transformed into a new online code providing one up-to-date and act as a consistent source of information on scheme governance and management
- TPR is nearing the completion of its consulting phase on its draft content to bring 10 of the current 15 codes together into one
- Appropriate changes will then be made before laying the new code in Parliament. TPR will also undertake work to adjust guidance in relation to its new code

# Background

➤ The OPS (Governance) (Amendment) Regulations (2018)

a) Required tPR to draft new expectations in relation to an effective systems of governance

b) On review of its current code tPR found many issues of outdated, duplicate and inconsistent expectations


c) TPR therefore took the opportunity to clarify existing expectations and modernise the way in which it communicates these through a new web based code of practice

d) The Codes transposed include....

Code of Practice	Code in force	Part of the new Code
01: Reporting breaches of the law	Apr-05	✓
02: Notifiable events	Apr-05	✗
03: Funding defined benefits	July 2014 (GB), July 2015 (NI)	✗
04: Early leavers	May-06	✓
05: Reporting of late payment of contributions to occupational pension schemes	Sep-13	✓
06: Reporting of late payment of contributions to personal pension schemes	Sep-13	✓
07: Trustee knowledge and understanding (TKU)	Nov-09	✓
08: Member nominated trustees/member nominated directors – putting arrangements in place	Nov-06	✓
09: Internal controls	Nov-06	✓
10: Modification of subsisting rights	Jan-07	✗
11: Dispute resolution – reasonable periods	Jul-08	✓
12: Circumstances in relation to the material detriment test	Jun-09	✗
13: Governance and administration of the occupational trust-based schemes providing money purchase benefits	Jul-16	✓
14: Governance and administration of public service pension schemes	Apr-15	✓
15: Authorisation and supervision of master trusts	Oct-18	✗

# The New Code of Practice

- Separates content into **5 key areas**:
  - a) The Governing Body
  - b) Funding & Investment
  - c) Administration
  - d) Communication & disclosure
  - e) Reporting to TPR
- Within these there are now a total of **51 shorter modules** representing content from 10 of tPR's existing codes as well as new expectations required by the regulations
- The new code is designed to be a **web-based product**



<p><b>Introduction</b></p> <p>Who the code of Practice applies to, how governing bodies of pension schemes should use it and our powers</p>	<p><b>The Governing Body</b></p> <p>What the governing body of a pension scheme needs to know and the structure, systems and controls it should have in place</p>
<p><b>Funding and Investment</b></p> <p>Investment governance and strategy requirements, environmental and social duties and funding of defined benefit schemes</p>	<p><b>Administration</b></p> <p>Handling information, keeping records and data and maintaining and monitoring contributions to the pension scheme</p>
<p><b>Communications and disclosure</b></p> <p>The communication that governing bodies must produce for pension scheme members and information they should make publicly available</p>	<p><b>Reporting to TPR</b></p> <p>What governing bodies must report to us including scheme returns and breaches of the law</p>

# Key LGPS content and future updates

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➤ LGPS Content

- a) Cyber Security
- b) Environmental, social and governance (ESG)
- c) Financial transactions

➤ Future updates

- a) Although the new code may be simpler to update than older COPs, tPR will not deliver updates without warning
- b) All changes to tPR's COPs will require consultation and Parliamentary approval before it comes into force
- c) These requirements will not change with the new code. Schemes and advisers will still have time to comment on, and adapt to, new expectations

# Expectations & Internal Controls

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## Expectations

- The term ‘**Governing bodies**’ is used throughout the code to refer to scheme managers and pension boards of public service schemes
- Within each module, tPR has attempted to ensure that any responsibility is clear to those on whom it falls. Governing bodies should then decide if they are within that audience.

## Internal Controls

- Internal controls are the policies, processes and procedures designed to carry out the running of the scheme
- Although governing bodies may delegate operational tasks, they’ll **retain accountability** for those functions
- To help governing bodies establish relevant internal controls, the new code contains several modules on risk management and the specific controls that should be in place.
- The modules to the right contain systems, arrangements or procedures that governing bodies should have in place (as a minimum) to comply with the requirements for internal controls.

### Internal Controls

- \* Identifying and assessing risks
- \* Managing risks using internal controls

### Internal Controls

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



# Effective System of Governance

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- The new governance regulations have introduced a **new requirement** for most occupational schemes to have and operate an effective system of governance (ESoG).
- An effective system of governance should include processes and procedures to ensure compliance with the following modules

Management of activities	Organisational structure	Investment matters	Communications & disclosure
* Role of the governing body	* Role of the Chair	* Investment governance	* General principles for member communications
* Meetings and decision-making	* Conflicts of Interest	* Investment decision-making	
* Remuneration policy	* Managing advisers & service providers	* Investment monitoring	
* Working knowledge of pensions		* Stewardship	
* Governance of knowledge & understanding		* Climate change	
* Building & maintaining knowledge			
* Dispute resolution procedures			
* Continuity planning			

# Own Risk Assessment

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- The governance regulations introduce another new requirement for private sector schemes with 100 or more members. This is the introduction of the **Own Risk Assessment (ORA)**
- The ORA is then a regular process that requires the governing body to assess the effectiveness and risks of the effective system of governance
- The governing body should prepare and document its first ORA **within one year of this code coming into force**. Each subsequent ORA should be carried out and documented within 12 months of the last. It should also be reviewed whenever there is a material change in the risks facing the scheme or to its governance processes
- As with effective systems of governance, we have created a module that acts as an index for the elements we expect the ORA to consider

# The Fund's next steps

- Review the new code and determine which modules the Fund must/should adhere to
- Complete the mapping of the Fund's existing documentation hierarchy and identify "gaps"
- Agree the range of data points by which the Fund's ESoG will be monitored
- Agree the challenges, targets & thresholds that those data points will be subjected to, in order to establish the Fund's required level of "effectiveness"
- Draft the Fund's Own Risk Assessment (ORA) Policy
- Prepare a Project Plan to draft, update, amend or merge the Fund's existing documentation hierarchy and make those changes which are necessary
- Undertake its first ORA

