

Response to TPR New Code of Practice Consultation

Response Form 1:

Q1: We welcome any observations about a possible regular process for issuing updates to the new Code. For example, should updates be annual, or at longer intervals? Please advise us of any concerns about regular updates. We would also be interested to hear about any topics that we should prioritise for inclusion in the new Code.

Ideally, reviews and updates should be carried out “as and when” in order to reflect substantial legislative changes or guidance updates, i.e., an ad hoc basis.

Moreover, previous versions of the Code should still be made available for reference.

Q2: Which pieces of guidance, or topic areas, should be prioritised for updates following the introduction of the new Code?

Trustee training is vital and the Trustee Toolkit should be prioritised for producing guidance following the update to a Single Code of Practice. For the LGPS, training requirements are being considered by the LGPS Scheme Advisory Board (SAB) under the Good Governance project and TPR should seek to align with this.

Q3: Do users understand the term “governing body”? Would another term work better?

If TPR wish to group entities under the Governing Body, the Code needs to be very explicit which Governing Body it relates to in each section of the Code. Is it the Pension Fund Committee or the Local Pensions Board? This distinction needs to be made.

Q4: We would be interested to understand if there are any aspects of our expectations users think would discriminate against, disadvantage or present an additional or exceptional challenge to anyone with a protected characteristic.

Is consideration being given to publication of the Code in other languages?

Q5: Please use this page for any further comments you have.

Some concern exists as to where the Code has introduced new requirements or where changes have been made to existing requirements, or where no changes have been made at all. No comparison is provided as to the current state of play.

The “Mays”, “Shoulds” and “Musts” are not indicated, making it challenging for Funds to make a judgement on governance priorities.

It is not always clear where the Code applies to the LGPS, with a filter as to relevance to LGPS a good idea.

The lengthy Code could be seen as overwhelming to committee and board members.

It is not clear how LGPS Funds will be monitored for compliance. Clarity on how compliance with the Code will be monitored is desirable.

The Code could identify specific areas where LGPS funds have dependencies on employers for information and highlight the statutory requirement to provide the information to enable LGPS Funds to fulfil their statutory obligations.

Response Form 2:

Recruiting to the governing body (TGB014)

REQ1: Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

It is a fair reflection.

REQ2: Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

LGPS administering authorities are bound by the Local Government Act 1972 for committee membership and delegation to other individuals/entities. The Local Government Pension Scheme Regulations 2013 set out the requirements for local pension boards. Each LGPS authority will operate its own processes within these statutory frameworks. Therefore, LGPS authorities will look to statutory provision and not to the TRP single Code.

REQ3: Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Where new requirements are set out, examples of required policies would be useful.

REQ4: Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

None.

REQ5: Do you have any further comments on the module that have not been covered by the previous questions?

LGPS Funds are not in control of the appointment of members to its pension committees: these are elected local councillor roles. There are currently no statutory obligations for members of pension fund committees to attend any training or to meet any standardised levels of skills or knowledge in order to participate in the committees, although such provision exists for local pension board members. Notwithstanding this, committee and board members undertake extensive training. Administering authorities can delegate decision making responsibilities to the S151 officer, under advice from the pension fund committees, including investment decisions.

Remuneration policy (TGB016)

RMQ1: Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

It is a fair reflection.

RMQ2: Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

It is clearly laid out.

RMQ3: Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

Where new requirements are set out, examples of required policies would be useful.

RMQ4: Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

LGPS schemes may wish to adopt this as best practice, with each LGPS authority determining if and how they may wish to use it.

RMQ5: Do you have any further comments on the module that have not been covered by the previous questions?

No comment.

Own risk assessment (TGB045)

OWQ1: Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

It is a fair reflection.

OWQ2: Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

It is unclear as to whether references should be made to the existing risk register. Guidance on the differentiation from the risk register is needed.

OWQ3: Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

An ORA template would be required reference the structure of the ORA. Guidance and examples would be useful too.

OWQ4: Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

This is a substantial piece of work and it could distract resources from the essential governance of running the scheme. It could be regarded as an unnecessary duplication to the existing risk register.

OWQ5: Do you have any further comments on the module that have not been covered by the previous questions?

None.

OWQ6: Are there any improvements that we could make to our suggested ORA that would make it more valuable for governing bodies? Is the cycle suggested for the review and update of the ORA appropriate given the subjects that it covers?

Possibly a three-year review period to align with the LGPS triennial valuation period.

Response Form 3

Investment decision-making (FAI003)

IVQ1: Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

It is a fair reflection.

IVQ2: Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

The legislation quoted in this part does not apply to LGPS authorities. The equivalent LGPS legislation is Regulation 7 of the 2016 Investment Regulations. These regulations are clear in what is expected and are backed up by Statutory Guidance, 'Preparing and maintaining an investment strategy statement'. The expectations as set out in this section do not apply to LGPS authorities who should instead follow the applicable regulations and guidance and this should be made clear.

IVQ3: Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

The current intense desire for pension funds to invest in "greener and cleaner" and support investment in UK renewable energy infrastructure projects should be covered as guidance within the Code.

IVQ4: Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

The requirement to ensure that 'no more than a fifth of scheme investments are held in assets not traded on regulated markets' is clearly an arbitrary figure. There does not appear to be a clear rationale for this statement especially given that large open DB schemes are increasingly looking to private markets to deliver the growth/income required to meet their liabilities within their appropriate risk appetite. Many schemes go easily beyond 20% in holdings of many types of illiquid assets such as infrastructure: 50% would be a more reasonable limit, given the long-term nature of the LGPS. Ideally, TPR should remove the reference to 'no more than a fifth of scheme investments' to be held in non-regulated markets, given its arbitrary nature.

IVQ5: Do you have any further comments on the module that have not been covered by the previous questions?

None.

Questions for: Climate change (FAI011)

CLQ1: Is the title of the module a fair reflection of the content provided within it? If not, what would be a clearer description of this content?

It is a fair reflection.

CLQ2: Is it clear from the module what our expectations are, and does this content provide governing bodies with a clear sense of how expectations may be applied to their scheme's own circumstances?

The legislation quoted does not apply to LGPS authorities. The equivalent legislation is Regulation 7 of the 2016 Investment Regulations. These regulations are clear in what is expected and are backed up by Statutory Guidance 'Preparing and maintaining an investment strategy statement'. New regulations in this area are expected from MHCLG later this year following disclosure requirements set out by the DWP for private sector schemes. Until this is published, LGPS authorities will not know what their obligations are with regard to climate change disclosure. LGPS authorities will continue to follow the applicable regulations and this should be made clear.

CLQ3: Has the subject matter of the module been covered in sufficient detail and is there any further information or guidance that would assist governing bodies in meeting our expectations?

n/a

CLQ4: Are there any expectations that may be considered a disproportionate and/or unreasonable burden for a well-run scheme, or for certain types of scheme or governing body?

n/a

CLQ5: Do you have any further comments on the module that have not been covered by the previous questions?

None.

**Phil Triggs
Director of Treasury and Pensions**

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