

Agenda Item: 9

REPORT OF SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE AND EMPLOYEES

PENSIONS REGULATOR GENERAL CODE OF PRACTICE

Purpose of the Report

1. To inform the Pension Committee of the Pension Regulators New Code of practice and to outline what actions the Pension Fund will need to consider in ensuring compliance against the code.
2. A copy of the New Code of Practice can be viewed on the Pension Regulator website using the following link [TPR general \(single\) code of practice | The Pensions Regulator](#).

Background

3. The Public Service Pensions Act 2013 extended the role of The Pensions Regulator (TPR) to include public service pension schemes including the Local Government Pension Scheme (LGPS) from 1 April 2015.
4. The Pensions Regulator (TPR) now has responsibilities in relation to Governance and particularly Administration. However, the Pensions Regulator's role has not been extended to funding and investment issues within the LGPS.
5. Schedule 4 of the Public Service Pensions Act 2013 requires TPR to issue a Code of Practice or Codes of Practice in respect of certain specified matters. In response to this requirement TPR issued Code of Practice No 14 “**Governance and administration of public service pension schemes.**” which came into effect from 1 April 2015. This Code of Practice is applicable both to the Nottinghamshire Pension Fund and the individual Employers within the Fund.
6. In March 2021, the TPR published a consultation on a new Code of Practice which proposed the conversion and updates of ten of the existing Codes including Code of Practice No 14. This Consultation closed in May 2021. The TPR issued an Interim Consultation response on in August 2021 and a Final Consultation response on the 10 January 2024.
7. On 10 January 2024 TPR published the General Code of Practice which came into force on 27 March 2024. The new code includes content which is both updated and new. Two issues

of note for public service schemes, including the LGPS, are the (new) modules on “Cyber Controls” and “Scams.”

Information and Advice

8. The Pension Regulator (TPR) General code of practice seeks to introduce, as far as practical, comparable standards across all types of Pension Schemes and to make it easier to maintain and update these. The General code comprises five areas which are in turn broken down into fifty-one modules. The five areas are:
 - The governing body
 - Funding and investment
 - Administration
 - Communication and disclosure
 - Reporting to the Pension Regulator
9. It must be stated that not every part of the General Code applies to all pension schemes. As TPR states *“This code applies to governing bodies of occupational, personal, and public service pension schemes. Some legal obligations do not apply to all types of governing bodies or schemes.”*
10. One of the main requirements is that 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.
11. There is a different applicability of the code between non-public and public service schemes, however the TPR expects high standards from all schemes. It is expected that there will be more advice and guidance across the LGPS as the New Code becomes understood on how it applies to pension funds.

Applying the General Code to the LGPS

12. Not all the General Code applies to the LGPS, and therefore the LGPS Scheme Advisory Board is studying the code to identify new requirements for funds that were not in the previous section 14 code. It is evident that clarity is required on which parts of the Code specifically apply to the LGPS and what these mean for funds and how they should be applied.
13. The LGPS Scheme Advisory Board is producing new and updated guidance to assist funds with their understanding of their responsibilities.
14. While clarity is required on the exact applicability of the General Code to the LGPS it can be said those modules which subject content are also covered in the existing Code No 14 are, overall, those within the General Code where there will clearly (continue to) be significant requirements on LGPS Funds. These include:
 - Knowledge and understanding,
 - Conflicts of interest,
 - Publishing scheme information,
 - Internal Controls,

- Record keeping,
 - Data monitoring and improvement,
 - Contributions (Receiving, Monitoring, Overdue),
 - Benefit information statements,
 - Dispute resolution procedures, and those modules (Who must report, Decision to report, how to report, Reporting payment failures) in the “Reporting to TPR:
 - Whistleblowing – reporting breaches of the law” section of the General Code.
15. Therefore, it can certainly be stated that significant aspects of the new General Code do apply to the LGPS.
16. There are additional requirements on LGPS Funds arising from the new General Code, and specifically modules on Cyber security and Pension Scams and increased requirements for training for committee members.
17. The Fund will need to consider aspects of the General Code where there are principles and practices which could or in some cases should, be adopted by the LGPS.
18. The area of the Code which clearly has the least applicability to the LGPS is that covering Funding and investment. This is because TPR does not have responsibility in relation to LGPS funding and investment (which remains the responsibility of the Secretary of State whose remit includes the LGPS – at present the Secretary of State for Levelling Up, Housing and Communities) and also because from the narrative within this area it is clearly directed at non-public service pension schemes as is exemplified, for example by the legislative references utilised. However, even within this funding and investment area it will be beneficial to LGPS Funds if the Local Government Pension Scheme Advisory Board for England and Wales (SAB) provides clear guidance – for example where LGPS Funds may or should apply elements as “good practice.”

What actions should the Pension Fund Take

19. Given that the SAB have stated that they will issue guidance, this may take some time, and therefore the fund should seek to assess its compliance with the relevant requirements of the Code given that the code came into force on 27 March 2024
20. Actions that the Fund could take in advance of SAB guidance:
- To review the Code in detail to assess, as far as it is able, which elements of the Code clearly apply to the LGPS and therefore apply to the Pension Fund.
 - Assess the Fund’s current compliance/arrangements against the General Code.
 - Produce a plan on what changes or enhancements can be made to ensure early necessary compliance.
 - Consider elements of the General Code though not applicable to the LGPS may represent good practice for the Fund and plan to make any consequent changes or enhancements.

21. In considering the above the Fund may want to attend relevant seminars/webinars on the implications of the General Code for LGPS Funds. These may be offered by organisations including SAB and the Scheme Actuary Consultants who support the LGPS.
22. Consider any tools and/or LGPS specific training relating to the General Code which may be available from the Actuarial/Investment Advisers who support the LGPS.
23. Consider any relevant guidance when issued by SAB.
24. Report to both the Pension Committee and the Pension Board on a regular basis progress towards compliance with those parts of the Code that are determined to be applicable to the Fund, and those that are considered good practice.

Statutory and Policy Implications

25. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability, and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

It is recommended:

1. Conduct a gap analysis for the new code against the Funds existing policies and procedures.
2. Create a Plan for ensuring compliance with the New Code.

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Constitutional Comments (KK04/04/2024)

26. The proposal in this report is within the remit of the Nottinghamshire Pension Fund Committee.

Financial Comments (TMR 04/04/2024)

27. There are no financial implications arising from this report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.