



The Pensions Regulator Code of Practice number 14

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Prepared by Aon

The Pension Regulator's extended role (April 2015)



**Legislative
powers**

**Code of
Practice**

Code of Practice no 14



1 Knowledge and understanding – Pension Boards



2 Conflicts of interest* and representation



3 Publishing information about schemes



4 Managing risk and internal controls*



5 Maintaining accurate member data*



Maintaining contributions*



Providing information to members and others*



Resolving disputes*



Reporting breaches*
and late payment of employer contributions

Key Regulator focus – Internal controls

Legal requirements

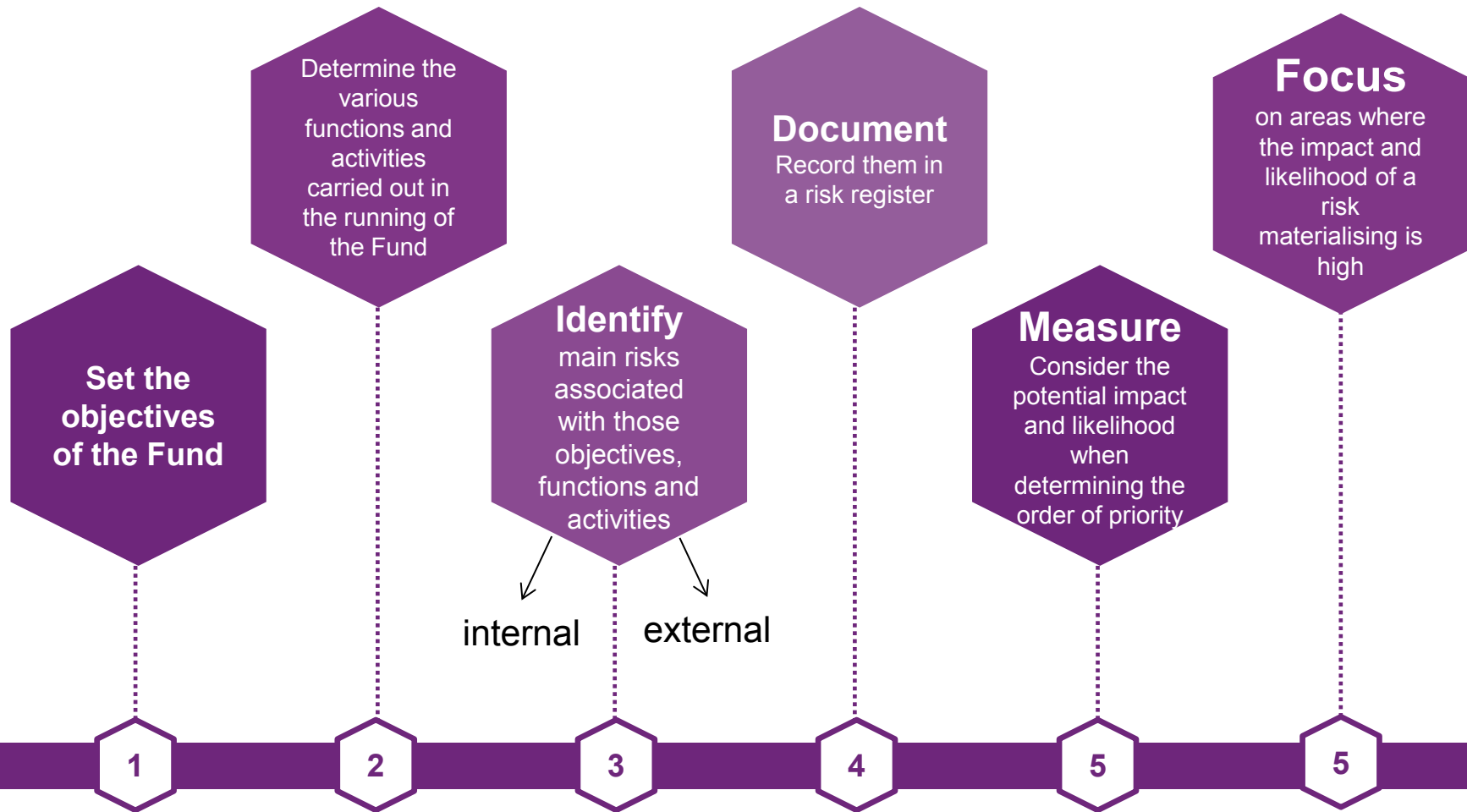
- The scheme manager ... must **establish** and **operate** internal controls
- These must be adequate for the purpose of securing that the scheme is **administered** and **managed** in accordance with the **scheme rules** and the **requirements of the law**
- For these purposes 'internal controls' means:

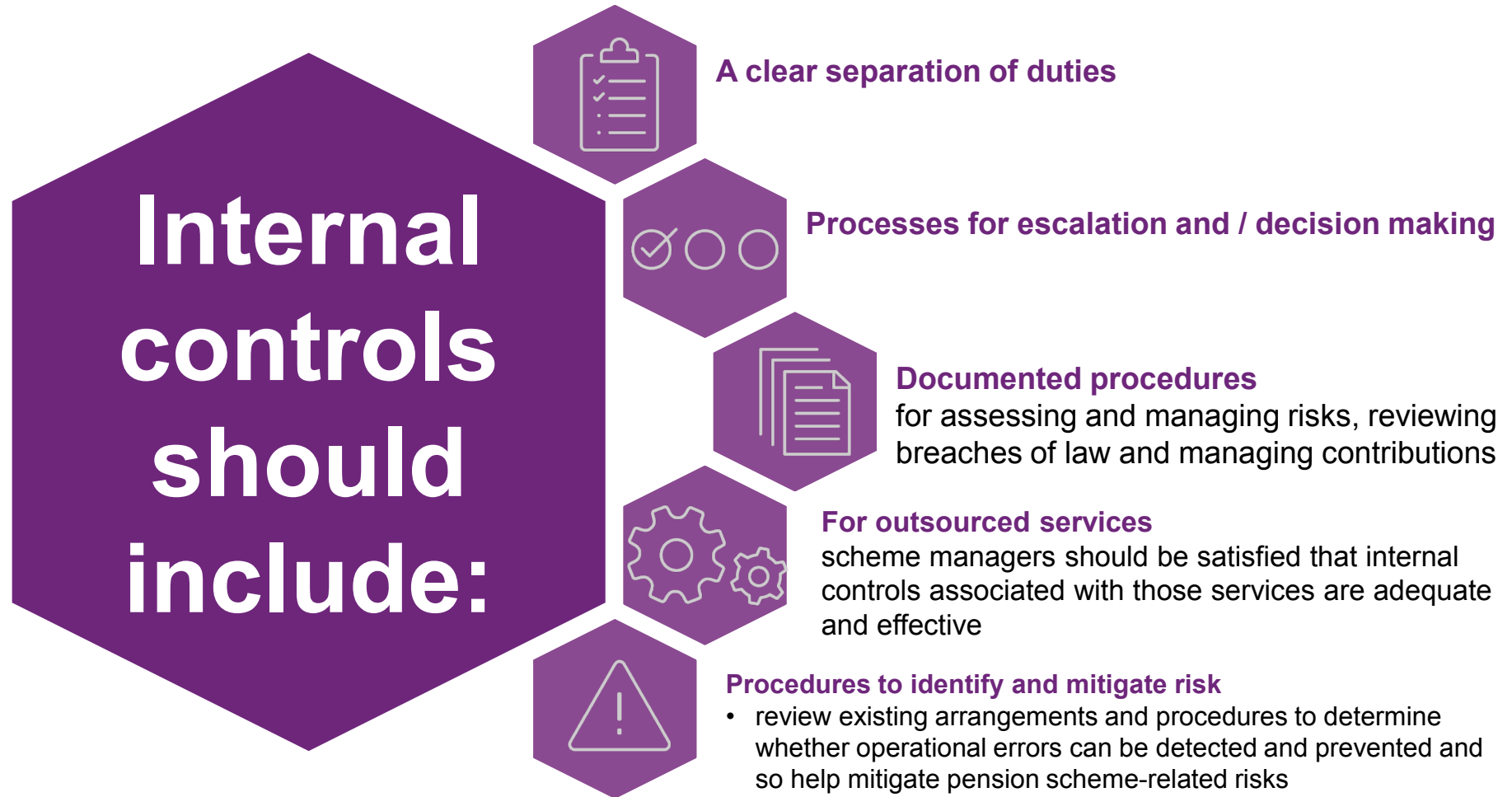


*Section 249A(5) and s249B of the Pensions Act 2004.

Managing risks and Internal controls

Before implementing an internal controls framework, schemes should carry out a risk assessment:

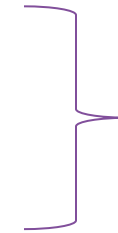




Maintaining accurate member data

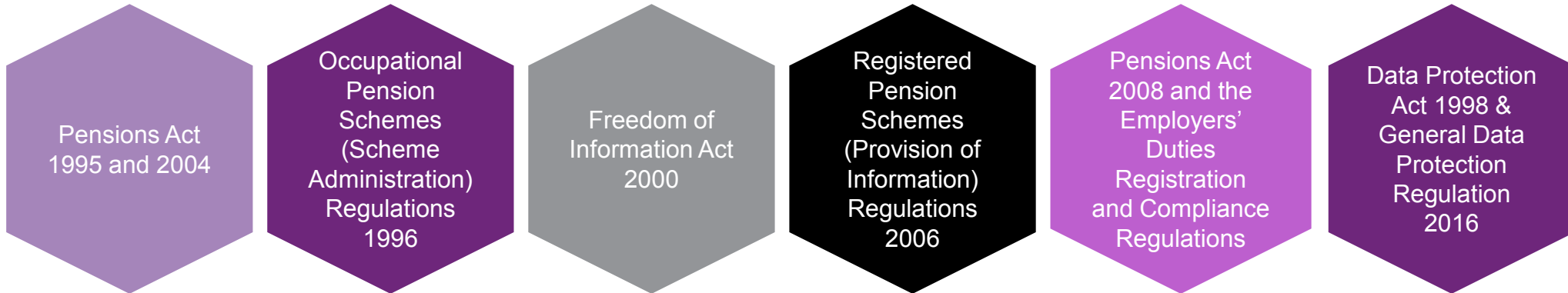
Legal requirements

- Scheme managers must keep records of information relating to:
 - scheme member information
 - transactions
 - pension board meetings and decisions



Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014 ('the Record Keeping Regulations')


- Also:



- Schemes should be able to demonstrate that they keep records in accordance with these and any other relevant legal requirements

Maintaining accurate member data

Key elements

- **Employers** to provide **timely and accurate** data  Establish **processes** which enable transmission of data
- Consider **reporting breaches** if processes not followed
- Review data:
 - **policies / processes** to monitor data on an **ongoing basis** to ensure it is accurate and complete
 - **reconcile cashflows** against expected contributions and scheme costs
 - **data review exercise** at least annually
 - put a **data improvement plan** in place (if data poor quality or missing)
 - member records **reconciled** with employer information
- Keep **records of transactions**



Maintaining contributions

Key elements

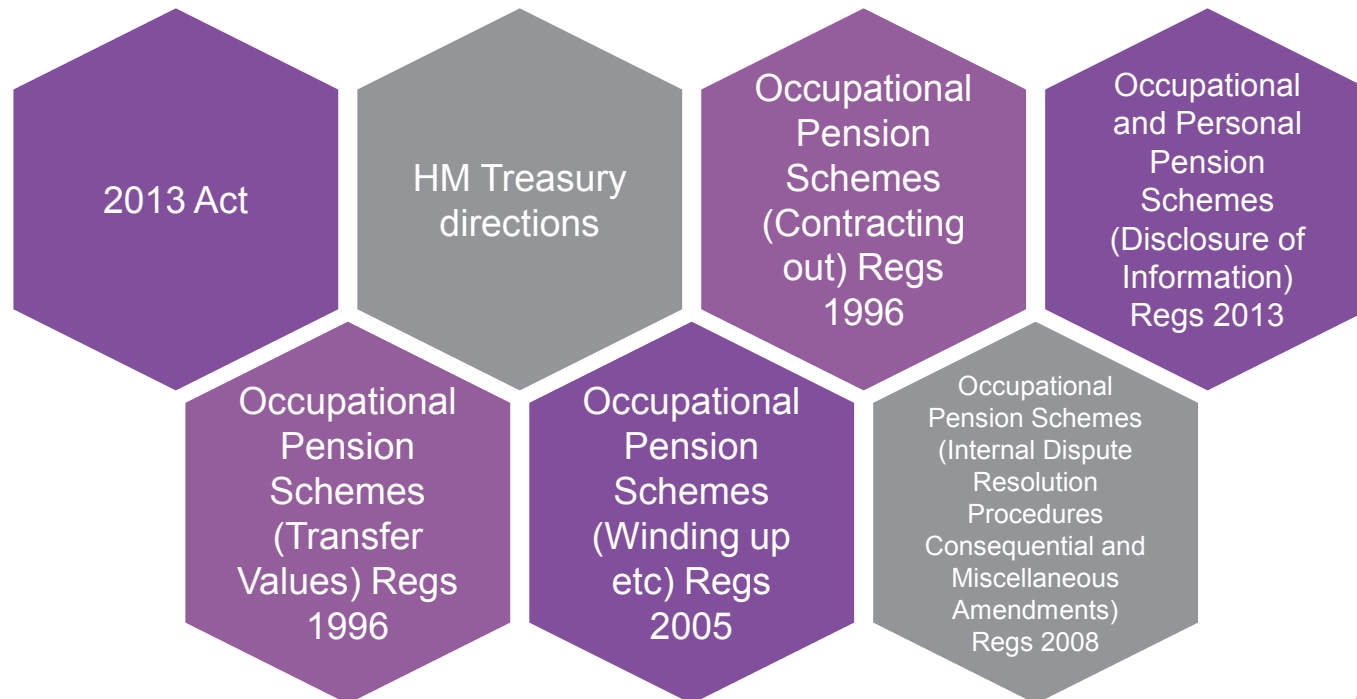
- Ensure effective procedures and processes in place to identify payment failures that are – and are not – of material significance to the regulator
- A contributions monitoring record should include the following information:
 - contribution rates the date(s) by which employer and employee contributions are to be paid to the scheme
 - the rate or amount of interest payable where the payment of contributions is late
- Put internal controls in place to monitor the sharing of payment information between the employer, pension scheme and member
- Maintain a record of communications with employers



Providing information to members and others

Legal requirements

- Legal requirements - annual benefit statements
 - Description of the benefits earned in respect of the pensionable service
 - First must be provided no later than 17 months after the scheme established
 - Subsequent statements must be provided at least annually after that date (so 31 August each year)
- Other legal requirements:



Providing information to members and others

Key elements

The Disclosure Regulations 2013 set out the information which must be given under certain circumstances, the timescales for providing such information and the methods that may be used

Basic information about the scheme and the benefits it provides must be disclosed to a prospective member (if practicable) or a new member

- Where the manager has received jobholder information = within a month of the jobholder information being received
- Where they have not received jobholder information = within two months of the date the person became an active member of the scheme

Managers must provide confirmation that members may request further information and the postal and email addresses for queries

Provide information within 2 months of the request being made, (except where already provided in the last 12 months)

Specific AVC disclosure requirements

Carry out a tracing exercise to locate lost members and ensure up-to-date data

Clear and simple to understand information, as well as accurate and easily accessible

Specific requirements if putting information on website

Examples

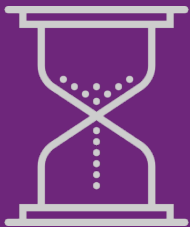
Process	Legal Requirement
To provide new starters with information about the scheme	2 months from date of joining (provide information about the scheme in this timeframe, or within 1 month of receiving jobholder information where the individual is being automatically enrolled / re-enrolled)
To inform members who leave the scheme of their deferred benefit entitlement	As soon as is practicable, and no more than 2 months from date of initial notification (from employer or scheme member)
To notify the amount of retirement benefits and payment of tax free cash sum	1 month from date of retirement if on or after Normal Pension Age 2 months from date of retirement if before Normal Pension Age
To notify dependant(s) the amount of death benefits	As soon as possible but in any event no more than 2 months from date of becoming aware of the death, or from date of request
Provide annual benefit statements to active members	31st August in the same calendar year
Receipt of contributions from employers	19th of the month following their deduction

Reporting breaches of the law

Legal requirements – Section 70 PA2004



- Requirement to report breaches of the law to TPR where **reasonable cause** to believe that:
 - **a legal duty relevant to the administration of the scheme** has not been, or is not being, complied with
 - the failure to comply is likely to be of **material significance** to the Regulator in the exercise of any of its functions



The report must be made in writing as soon as “**reasonably practicable**”

Reporting breaches of the law

Legal requirements – Section 70 PA2004



Failure to comply could result in a civil penalty (up to £5,000 individual or £50,000 otherwise)

Reporting Breaches – additional guidance from TPR

Schemes should provide training for scheme managers and pension board members

Training

Responsible parties

Schemes should be satisfied those responsible for reporting are aware of the legal requirements and guidance

Procedure

- **Referral to appropriate person**
- **Clarify the facts**
- **Clarify the law**
- **Consider the significance**
- **Consideration of difficult cases**
- **Timeframe**
- **Recording**

Important to identify all breaches – not just reportable ones

Legislative powers



Areas Covered

- Pension Board conflicts
- Pension Board representation
- Pension Board knowledge
- Record keeping
- Internal controls

- Improvement notices
- Penalties
- Criminal prosecution
- Appointment of a skilled person

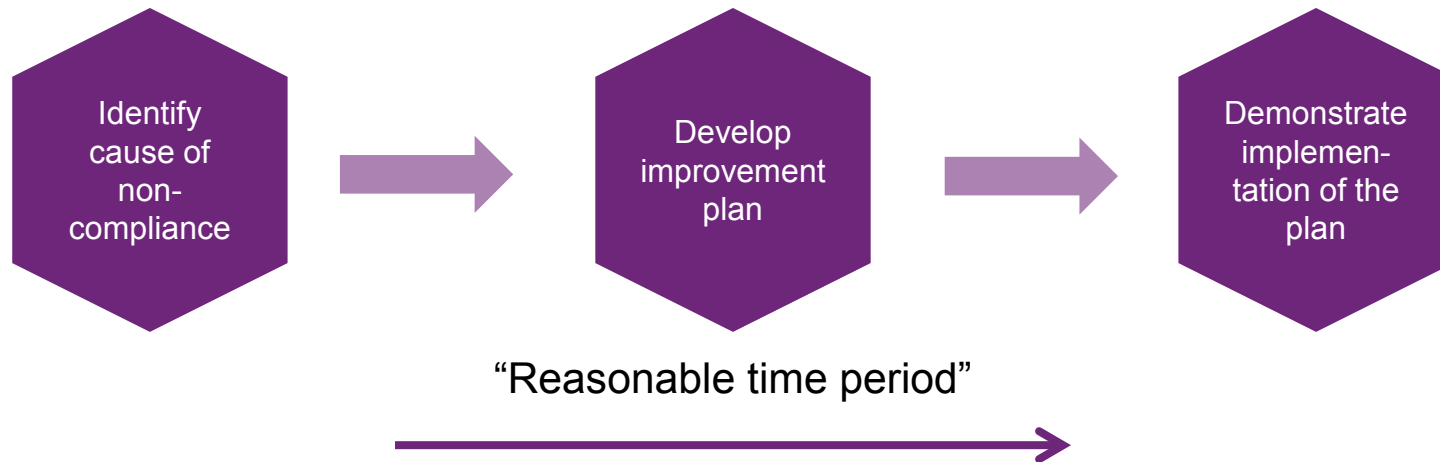


Enforcement powers

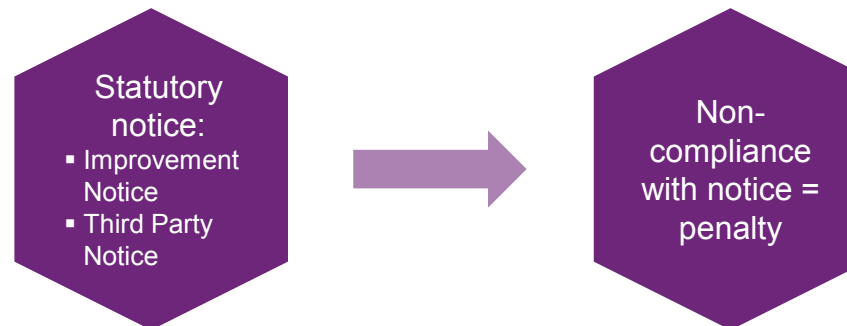
Enforcement powers

Powers – if legal requirements are not met

- Primary focus = **educating and enabling** schemes to **improve standards** of governance and administration and **comply with legal requirements**

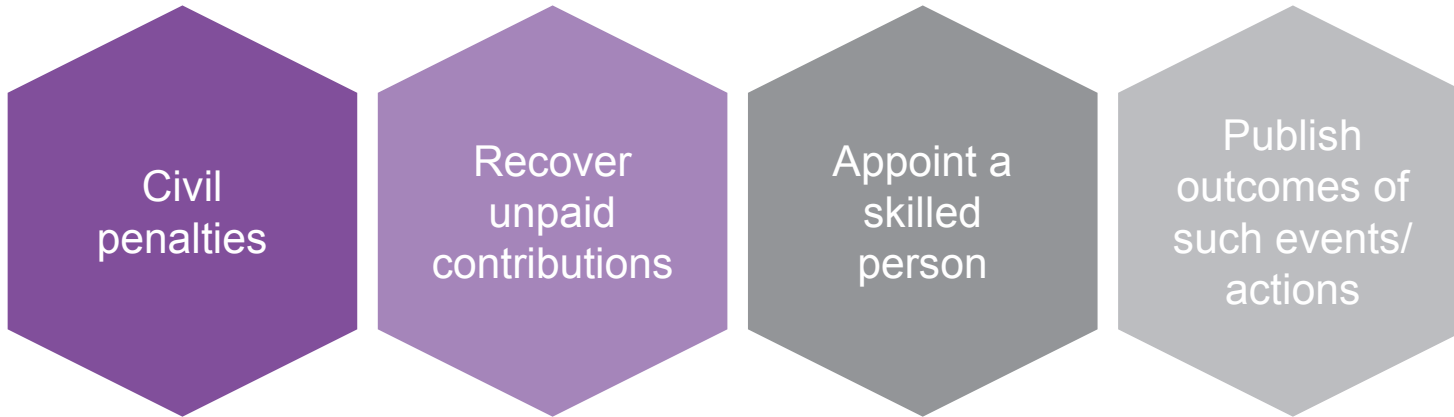


- Request to provide information (S72 of the 2004 Act)



Enforcement powers

Powers – if legal requirements are not met



- Max £5,000 for an individual
- Max £50,000 otherwise

- Costs met by scheme manager

- to encourage improved standards

Compliance and enforcement policy for public service pension schemes

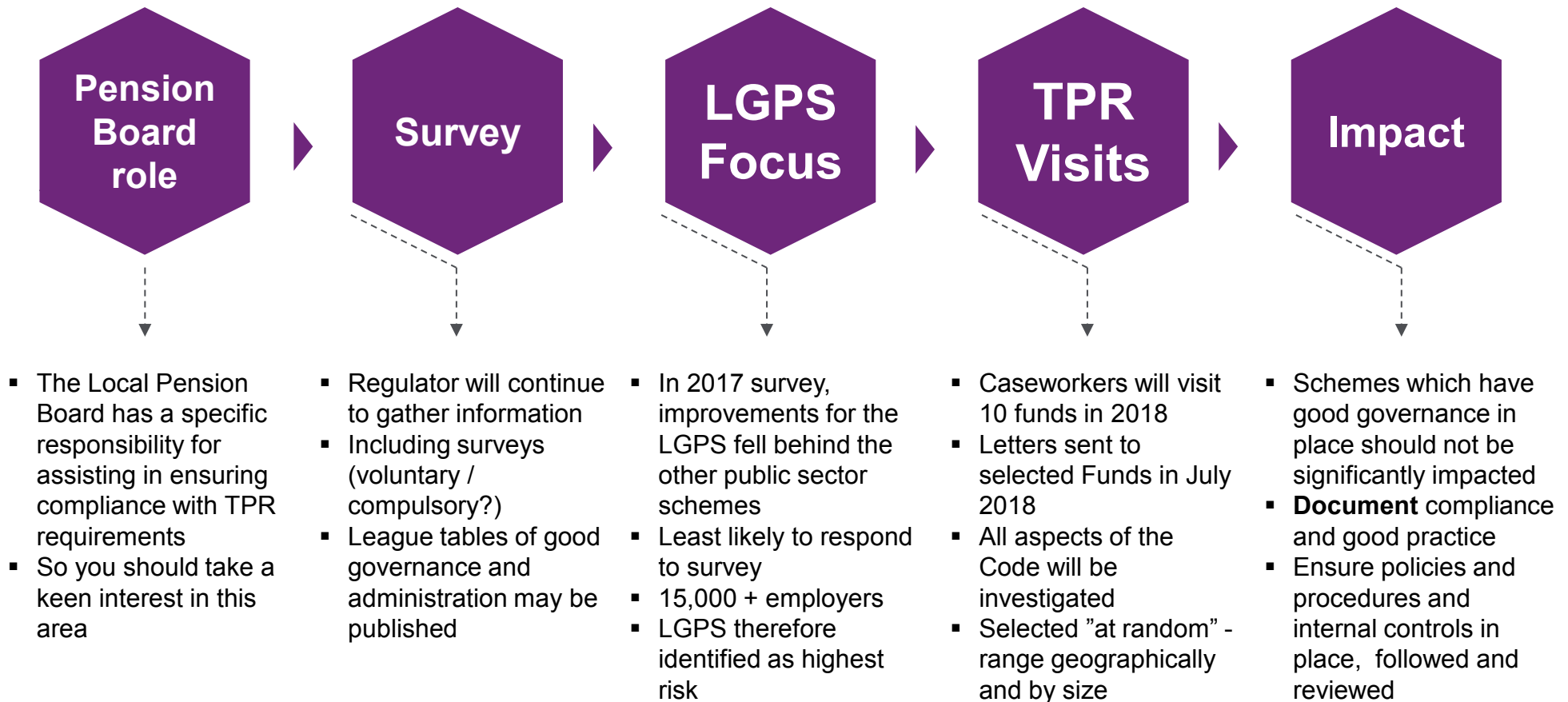
June 2015

The Pensions Regulator

Non-compliance with the Code of Practice

- Not statements of the law - no penalty for failing to comply
- When determining whether legal requirements met, a court or tribunal must take any relevant provisions of a CoP into account

Responding to the Code of Practice



<http://www.thepensionsregulator.gov.uk/public-service-schemes/research-and-analysis.aspx>

Regulator is now “clearer, quicker, tougher” – a “critical friend” to the LGPS

Plan of Action

Training on Legal Requirements and TPR Code of Practice - **today**

Ongoing toolkit modules

Check Compliance with Officers against TPR requirements and best practice guidance - **ongoing**

Report on Compliance to PC and PB

Regular (i.e. annual) review

Summary Dashboard

A dashboard showing the summary of the results of the latest compliance checklist is shown below:

No.	Completed	Compliant
Reporting Duties		
A1	Fully completed	Fully compliant
A2	Fully completed	Partially compliant
A3	Fully completed	Fully compliant
A4	Fully completed	Fully compliant
Knowledge and Understanding		
B1	Fully completed	Fully compliant
B2	Fully completed	Fully compliant
B3	In progress	Partially compliant
B4	Fully completed	Fully compliant
B5	Fully completed	Fully compliant
B6	Fully completed	Partially compliant
B7	Fully completed	Fully compliant
B8	Fully completed	Partially compliant
B9	In progress	Partially compliant
B10	Fully completed	Non-compliant
B11	Fully completed	Non-compliant
B12	Fully completed	Fully compliant
Conflicts of Interest		
C1	Fully completed	Fully compliant
C2	Fully completed	Fully compliant
C3	Fully completed	Partially compliant
C4	Fully completed	Fully compliant
C5	Fully completed	Fully compliant
C6	Fully completed	Non-compliant
C7	Fully completed	Non-compliant
C8	Fully completed	Fully compliant
C9	Fully completed	Fully compliant
C10	Fully completed	Fully compliant
C11	Fully completed	Fully compliant
Providing Information to Members and Others		
D1	Fully completed	Fully compliant
D2	Fully completed	Fully compliant
D3	Fully completed	Fully compliant
D4	Fully completed	Fully compliant
Reporting Breaches		
E1	Fully completed	Fully compliant
E2	Fully completed	Fully compliant
E3	Fully completed	Fully compliant
E4	Fully completed	Partially compliant
E5	Fully completed	Fully compliant
E6	Fully completed	Partially compliant
E7	Fully completed	Partially compliant
E8	Fully completed	Non-compliant
E9	Fully completed	Non-compliant
E10	In progress	Partially compliant
E11	In progress	Partially compliant
E12	Fully completed	Partially compliant
E13	Fully completed	Partially compliant
E14	Fully completed	Partially compliant
E15	In progress	Partially compliant
Internal Dispute Resolution		
I1	Fully completed	Fully compliant
I2	Fully completed	Fully compliant
I3	Fully completed	Fully compliant
I4	Fully completed	Fully compliant
I5	Fully completed	Fully compliant
I6	In progress	Partially compliant
I7	Fully completed	Fully compliant
I8	Fully completed	Fully compliant
I9	Fully completed	Fully compliant
Scheme Advisory Board Requirements		
K1	Fully completed	Fully compliant
K2	Fully completed	Fully compliant
K3	Fully completed	Fully compliant
K4	Fully completed	Fully compliant
K5	Fully completed	Partially compliant
K6	Fully completed	Partially compliant
K7	Fully completed	Non-compliant
K8	Fully completed	Fully compliant
K9	Fully completed	Non-compliant
K10	Fully completed	Partially compliant
K11	Fully completed	Fully compliant
K12	Fully completed	Non-compliant
K13	Fully completed	Partially compliant
K14	Fully completed	Partially compliant
K15	Fully completed	Fully compliant

Outcomes
Actions

Risk register & business plan



+

Appendix

Legal requirements



Must be conversant with:

- the rules (regulations) of the scheme
- any document recording policy about the administration of the scheme.



Must have knowledge and understanding of:

- the law relating to pensions, and
- 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 to properly exercise the functions of a member of the pension board*

*Section 248A of the [Pensions Act 2004](#)

Conflicts of interest and representation

Legal requirements – Section 5 of the 2013 Act

- The scheme manager must be satisfied:
 - person **to be appointed** as a member of the pension board does not have a conflict of interest and
 - that **none of the members** of the pension board has a conflict of interest
- Each member or proposed member of a pension board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of meeting the requirements referred to above



- The pension board must include **equal numbers** of **employer** and **member** representatives

Conflicts of interest and representation

Key elements

- A conflict of interest = a **financial** or other interest...
...which is likely to **prejudice** a person's exercise of functions as a **member of the pension board**

- Doesn't include an interest arising merely by virtue of that person being a member of the scheme*

* Section 5(5) of the 2013 Act defines a conflict of interest in relation to pension board members

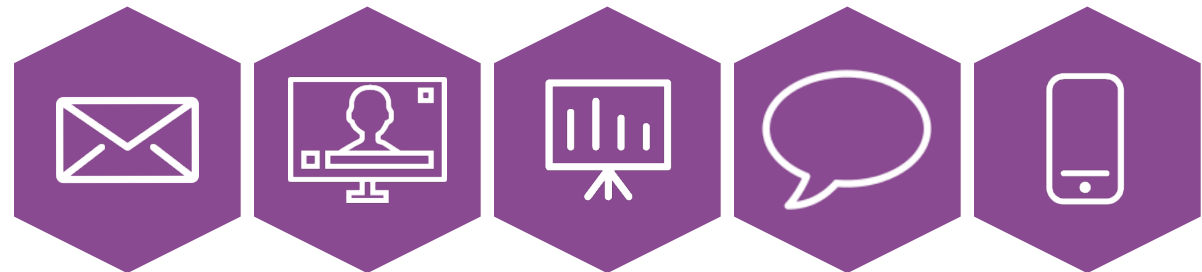


Publishing information about schemes

Legal requirements

- The scheme manager must publish information about the pension board for the scheme(s) and keep that information up-to-date*
- The information must include:
 - who the members of the pension board are
 - representation on the board of members of the scheme(s), and
 - the matters falling within the pension board's responsibility

*Section 6(1) of the 2013 Act

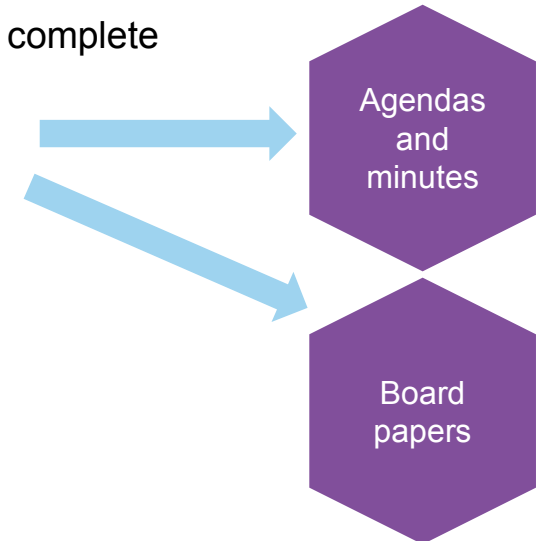


Publishing information about schemes

Key elements



- Policies and processes to monitor all published data to ensure it is accurate and complete
- Schemes should also consider publishing information about PB business, e.g.:
- Also register with TPR online system and ensure information held is up to date
 - Bespoke public sector scheme returns
 - Periodic surveys



Maintaining contributions

Legal requirements

- Employer contributions must be paid in accordance with any requirements in the scheme regulations
- If payment failure is likely to be of **material significance** to the regulator, the scheme manager must give a written report of the matter to the regulator as soon as **reasonably practicable***
- Employee contributions must be paid to the scheme at the latest by the 19th day of the month following the deduction, or by the 22nd day if paid electronically**

**Section 70A of the Pensions Act 2004*

***Section 49(8) of the Pensions Act 1995 and regulation 16 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996*

- The legal requirement to report late payments of employee contributions is imposed on the 'managers' of a scheme



Resolving disputes

Legal requirements

Provide info about:

- Internal Dispute Resolution Procedure (IDRP)
 - The Pensions Advisory Service (TPAS)
 - Pensions Ombudsman
- to certain people at certain stages

IDRP must state:

- How to make an application
- The particulars to be included in an application
- How decisions are reached and given
- A reasonable period within which applications must be made

Decision made within a **'reasonable period'** of receiving application

Applicant must be notified of the decision within a **'reasonable period'**

Matters may first be referred to a **'specified person'**

"Exempted disputes":

- Where proceedings have commenced in any court or tribunal,
- Where the Pensions Ombudsman has commenced an investigation

Resolving disputes – key elements

Review processes

Effectiveness of IDRPs arrangements assessed regularly, and those following the process are complying with the requirements set, including effective decision making

Procedure should be:

- communicated in scheme documentation, e.g. a joining booklet
- easily accessible, e.g. on the scheme website
- within documents recording policy about the administration of the scheme

Provide regular updates on progress

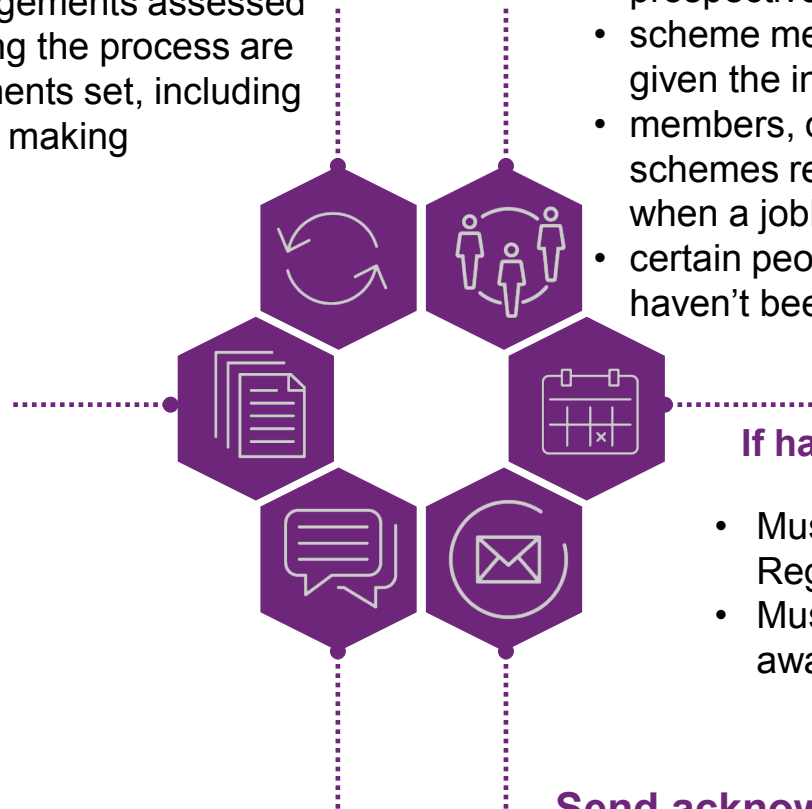
Information about the IDRPs must be communicated to:

- prospective members (if practicable)
- scheme members who haven't already been given the information
- members, or prospective members, when schemes receive jobholder information, or when a jobholder becomes an active member
- certain people who request the information and haven't been given it in the previous 12 months

If have time limits on application:

- Must be in line with LGPS Regulations
- Must publish these so members are aware

Send acknowledgement when dispute application received



Any questions?



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