



DC pensions: draft Code of Practice

Key points

- The Regulator's new Draft DC Code (published 24 November) is half the length of the current version and no longer refers to "DC quality features". Instead it sets standards of conduct and practice that trustee boards are expected to follow. Separate Guidance (drafts in Spring) will outline practical steps they should take towards meeting the standards.
- The Draft Code covers these key areas:
 - the trustee board
 - scheme management skills
 - administration
 - investment governance
 - value for members
 - communication and reporting.
- It applies to trust-based schemes providing money purchase benefits, including *DB schemes with money purchase AVCs*.
- The new legal requirement for a Chairman's statement replaces the voluntary governance statement trustee boards have been expected to provide based on the current quality features. But work boards have already done in that direction will not be wasted: TPR expects it to be a good springboard for the Chairman's statement.
- Trustee boards need to ensure they are familiar with the legislative requirements that apply to their scheme, and undertake training if they are not.
- The streamlined Draft Code is designed to support compliance with the legislative requirements in the Charges and Governance Regulations that came into force in April 2015. The broader aim is to continue to raise the overall standard of DC governance and administration.
- The consultation on the Draft Code closes on 29 January 2016.

What's new

- The Chairman's statement will be critical. It must be a "meaningful narrative" about what measures have been put in place to ensure that the new governance requirements are met. It is intended to be much more than a "tick box" exercise. Trustee boards should start taking steps now to gather the evidence they will need, particularly around processing core financial transactions and providing value for money.
- The statement needs to describe how trustee knowledge and understanding requirements have been satisfied in the last year and *explain how the combined knowledge and understanding of the board, together with advice, enables them to properly exercise their functions*.
- The Draft Code tells trustee boards how they should approach assessing "good value for members" as required in the Chairman's statement. This is not just a question of low charges: trustee boards should also consider scheme management and governance; administration; investment governance; and communications. They should consider other options in the market and take into account the characteristics, preferences and needs of their scheme membership.
- Value for money and decumulation options are developing areas. More guidance is expected on the factors trustee boards should take into account when assessing value for money. In light of the new DC flexibility, boards should regularly take steps to engage with members about the date they wish to take their benefits and any preferences about how to take those benefits.
- The Draft Code says trustee boards should have a robust and documented process for appointing a chair (that considers the leadership qualities of candidates and their ability to drive good practice). How will this expectation be met where the power to appoint a chair rests with the sponsoring employer (as is sometimes the case)? Typically there is little transparency in this area at the moment.

- As well as having a working knowledge of their scheme rules, the Draft Code says trustee boards must have a working knowledge and understanding of any policies in place, or practices that have been set by precedent, which may not be explicitly set out in the scheme rules. For example, these might include member options on retirement and any trustee board practices in relation to decumulation. The appropriateness of these policies and practices should be reviewed regularly. Do you have a clear record of such policies and precedents? If not, now is the time to think about how to put one in place.
- *The Draft Code says it is vital for trustee boards to understand the scope of roles and responsibilities delegated to third parties and advisers. The Regulator expects boards to be able to demonstrate their ability to manage commercial relationships.*
- *Trustee boards are expected to work with employers to help them to understand and carry out their responsibilities.*
- *As you would expect, the Draft Code puts good administration at the centre of managing DC benefits, including maintaining administration manuals, business continuity plans and annual data reviews. But there is a real focus too on dealing promptly with core financial transactions. For example, contributions are expected to be invested within 3 working days of receipt / reconciliation. Appropriate service level agreements are expected.*

Timetable

Following the consultation process, the final Draft Code will be laid before Parliament in May 2016 and come into effect in July. Meanwhile, the current (2013) code remains in force.

Next steps

- As with Codes of Practice generally, the recommendations and guidance are not legally binding and there is no penalty for failing to comply. However, recommended practice when the Draft Code is implemented is that trustee boards follow it because it sets out actions and behaviours that the Regulator considers will demonstrate compliance with the law. If there were ever to be legal proceedings, a court or tribunal may take such a Code or Guidance into account in making its decision.
- The Regulator intends to consult separately on a series of “how to” guides to support the new code in Spring.

See the full Draft Code and Consultation document:

<http://www.thepensionsregulator.gov.uk/docs/draft-dc-code-november-2015.pdf>

<http://www.thepensionsregulator.gov.uk/docs/dc-code-consultation-november-2015.pdf>

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