Response form 1

General questions about the new code of practice

March 2021

Updates

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.

The ICAS Pensions Panel has the following observations on updating the new code of practice. In the 'other comments' section of this response form, we set out concerns about having a single combined code of practice covering all types of scheme. If separare single codes were issued for each main type of scheme, this would have a bearing on TPR's approach to updating the codes.

We believe that TPR should consider each year whether there is a need to review the single code. If a review was deemed to be needed, such a review would not necessarily lead to changes which required public consultation. We understand that it will be possible for comments on how the code is working to be shared with TPR on an ongoing basis. Refinements to the code may be needed to address any concerns raised by the industry and this could be achieved within an annual cycle. The need for consultation on changes identified from industry feedback would depend on the nature of any updates believed to be necessary.

Where the code needs to be updated for changes in the law any consequential changes to the code and accompanying guidance should be consulted on as required and in as timely a manner as possible to enable code and other material to be updated prior to the implementation of changes in the law.

Guidance

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

We would prefer for all accompanying guidance to be published at the same time as the new code of practice and set out some additional related comments on this topic, in the 'other comments' section of this response form, on the high level nature of material in the code and on TPR's policy objectives in relation to the new code.

In terms of priorities for accompanying guidance, should it not be possible to publish the new code and all accompanying guidance at the same time, we have identified that following matters:

Aspects of the new code arising from the implementation of IORP II.
Trustee remuneration, given that it is the sponsoring employer who sets this, transparency in setting a trustee remuneration policy is key.
Other matters which are new to the code of practice.
The modules on whistleblowing - reporting breaches of the law. We comment further on this in the 'other comments' section of this response form and in response form 6 on reporting to TPR.

Governing bodies

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

We understand that the term 'governing body' has been developed to facilitate the preparation of a single code which can be applied to both private and public service schemes, as public service schemes do not have trustee boards. However, if a single code per sector approach was followed the introduction of a new collective term would not be necessary. We believe that pension trustees of private sector schemes would prefer to have code material which uses terminology which is tailored to their circumstances as this would make the code material more meaningful to them.

Public Sector Equality Duty (PSED)

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.

We have no comments to add.

General comments about the new code of practice

Please use this page for any further comments you have.

We have several comments to make on TPR's overall approach towards the new code of practice.

A single combined code for all schemes
We do not support a single combined code for all schemes. However, we would support a single code approach on a sector basis, for example, with separate codes for private sector DB and DC schemes and for public service schemes.

Given the extent of the requirements and guidance pension trustee boards and the pension boards of public service schemes need to get to grips with, having to read through material which is not relevant could impact on the effectiveness of the single combined code. We believe that the proposed approach could have a detrimental impact on trustee recruitment.

From an adviser perspective, having to point out to clients that a lot of of material is not relevant to them could also be detrimental to the effectiveness of the code.

We understand that TPR intends to use technology to introduce filters to the code but if this is only possible in terms of selecting modules and does not enable the filtering of non-relevant material within modules our concerns about the current approach would remain.

New code of practice material
There is new material in the code of practice, so there are wider issues for the industry to consider beyond the rationalisation of material from 10 existing codes of practice. It would have been preferable for any new material to have been consulted on separately either alongside this consultation or as part of an entirely separate consultation. We would have preferred an entirely separate consultation both as a means of emphasising that this was new code material and to give the industry time to consider the new material on its own merits.

Policy objectives of the new single code of practice
The material in the proposed new single code of practice is very high level, therefore, we believe it would be preferable for users of the new code for it to be published with the accompanying guidance. If this is not possible, it may be necessary to strengthen the material in some modules, for example, the module on whistleblowing which does not provide separate guidance for advisers.

We did not find the material in the code very engaging and are concerned that this could mean that trustees and pension board members find the material difficult to absorb. A possible means of making the material more engaging would be for graphics to be used within the accompanying guidance to break up the text.

We believe that there are two important questions for TPR to reflect on as it seeks to roll out the new code:

What were the policy objectives for the reform of code of practice material and related guidance?
To what extent does the proposed draft code meet these objectives?

How to contact us

Napier House
Trafalgar Place
Brighton
BN1 4DW

https://www.thepensionsregulator.gov.uk/

https://trusteetoolkit.thepensionsregulator.gov.uk/
Free online learning for trustees

https://education.thepensionsregulator.gov.uk/
Pensions education portal

Response form 1: **General questions about the new code of practice**