

Consultation document and response form

# **Governance and administration of occupational defined contribution trust-based schemes**

Draft code of practice no: 13

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The Pensions  
Regulator

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## Introduction

The Pensions Regulator (the regulator) is the UK regulator of occupational pension schemes. We are a non-departmental public body established under the Pensions Act 2004. Our sponsoring body is the Department for Work and Pensions (DWP) and Parliament sets the legal framework within which we regulate.

Recent legislation, including the Occupational Pension Schemes (Charges and Governance) Regulations 2015, comprises new legal requirements for certain schemes offering money purchase benefits which came into force from April 2015. We are tasked with regulating compliance with the new requirements, as well as those that existed previously, for occupational trust-based schemes offering money purchase benefits. In recent years, we have already delivered a comprehensive programme of work to help trustees to improve the quality of trust-based defined contribution (DC) schemes, including the publication of a code of practice in 2013. Now we have an opportunity to build on our regulatory approach with a view to both supporting implementation of the new legislation and continuing to raise the overall standard of DC scheme governance and administration.

This consultation is in respect of the draft new code of practice for trust-based DC schemes (which we refer to as ‘the new code’ throughout this document). In spring 2016 we intend to consult separately on a series of guidance documents to support the new code. An indication of the areas we plan to cover in the guidance is included as part of the consultation questions and response form set out in the Appendix on pages 19-33.

The purpose of the new code is to support trustee boards and managers of occupational trust-based schemes offering money purchase benefits, including additional voluntary contribution (AVC) arrangements, in complying with the law to the extent that it applies to their scheme. We aim to achieve this by articulating the standards of conduct and practice that we expect trustee boards to meet in complying with their duties in legislation. In general, the new code is not prescriptive about particular methods trustees should use to meet the standards, in recognition that in some cases different approaches are appropriate for different schemes. The standards of conduct and practice are clearly identifiable in the new code by the use of the language ‘we expect’.

## Our approach to revising the code

We recognise that this is a challenging time for DC schemes and we intend for our new code of practice to provide a steady point of reference for trustee boards that will not require regular amendment. Therefore, we have kept it as lean as possible to provide a clear view of our expectations on trustees in respect of their compliance with legal requirements and to reduce the likelihood of the need for review in the short term, except in the event of a change in the law.

We have followed the design principles set out below throughout the development of the new code:

### ► **Standards in one place**

As far as possible, the new code sets out all of the standards of conduct and practice we expect of trustees when complying with the law in relation to money purchase benefits. The exception to this principle is where we have been required to set out standards of conduct and practice on specific areas of scheme governance in other codes of practice. The relevant codes are referenced where applicable within the new code.

### ► **Clear and unambiguous**

We intend for the standards to be clear and specific, leaving no room for uncertainty.

### ► **Short and simple**

The standards in the new code are supported by practical guidance only to the extent necessary to ensure the reader's understanding, with information on 'how to' processes due to sit outside of the code in supporting guidance documents.

The process for adjusting regulatory guidance is relatively quick in comparison to the prescribed parliamentary process attached to producing or amending codes of practice. Therefore, by keeping guidance separate from the new code, we will be able to keep pace with best practice in the market as it evolves and issue new or revised guidance as the need arises. However, we acknowledge industry concern in respect of making rapid changes to guidance without sufficient consultation. We do not envisage making substantive changes to any guidance that we produce to support the new code without undertaking appropriate consultation.

In producing a shorter and simpler code, we are also responding to feedback from the industry that suggests the existing DC code is too long and complex. At the time that code was developed, there was a greater need to include explanatory practical guidance given the relative newness of the regulatory framework for DC schemes. However, the standards we set at that time are now well established, which has reduced the need to include the same level of guidance in the new code.

In addition, the new code assumes that trustee boards have a good level of knowledge of the legislation with which they are required to comply, so whilst often referring to legislative requirements, it does not seek to set out in detail all the requirements of the law.

## **Our position on scheme reporting and quality features**

There is a new legal requirement on relevant schemes to produce an annual chair's statement on governance. This means that we no longer expect trustee boards to produce a voluntary governance statement demonstrating how their scheme has performed against the DC quality features set out in our existing code of practice. However, schemes that are already performing well against our quality features, or are taking steps to make improvements in light of the features, should be in an excellent position to produce the chair's statement.

Given the very positive feedback we have received in respect of our scheme assessment template, we intend to keep this online tool. However, we will adjust it in a way that helps trustees to assess their scheme against the standards of conduct and practice set out in the new code and to support the development of an effective chair's statement. The updated assessment tool will no longer reference the quality features.

## Chair's statement

The chair's statement should be viewed as a starting point for improving the quality of schemes. As set out in the new code, we expect it to provide a meaningful narrative of how the new legislative governance requirements have been complied with. Ahead of completing the statement, trustees may want to think about what further quality measures best suit the needs of their scheme membership and consider whether to include their assessment of how those have also been met in the statement. Trustees that previously assessed their scheme against our quality features and completed our voluntary governance statement will already have useful processes in place that could be adapted for this purpose.



## How we reached our current position

Members bear the risk in DC schemes and other schemes offering money purchase arrangements. Given that these are the schemes most commonly used for automatic enrolment, it has been a key focus for us to promote and improve the quality of those arrangements.

In 2010, we began a detailed work programme aimed at the DC market and worked with the pensions industry to develop a number of quality features which describe those activities, behaviours and processes that we believe are more likely to deliver good member outcomes.

The features were underpinned, as far as possible, by the legislative framework in place at that time and they provided a foundation for the existing code and supporting regulatory guidance, published in 2013.

To help schemes meet the standards set out in the existing code, we published a tool to help trustees assess their scheme against the quality features. We also encouraged trustees to publish a voluntary governance statement annually explaining the extent to which their scheme could demonstrate compliance with the features.

Since that time, we have worked with the government to identify areas in scheme governance that could be improved upon and to develop a further programme of change.

In 2015, the government introduced new legislation to raise the overall quality of schemes offering money purchase benefits, in particular those used for automatic enrolment. The new duties on trustees are now in force and we are tasked with regulating compliance with them, as well as those that existed previously, for occupational trust-based schemes offering money purchase benefits.

The activities, behaviours and processes supported by our DC quality features are now well established and should be business as usual for trustees. The new legal duties have given us the opportunity to strengthen our approach to scheme governance and administration through the development of standards of conduct and practice set out in the new code. The features provided a valuable steer for trustees and they have formed the basis for the standards, and will perform a similar role in the development of the 'how to' guidance which will support the new code.

## Industry engagement

During the development of the new code, we have engaged extensively with stakeholders, including the trustees, scheme managers and advisers that form the core audience for this regulatory document.

We began the process by carrying out comprehensive qualitative research to establish the strengths and weaknesses of the existing code, to determine the level of industry awareness of the pension reforms and to identify residual risks that could be mitigated by the new code.

Further to the findings from this research, we undertook a series of engagement activities ranging from one-to-one meetings through to more formal focus groups and workshops. We found this interaction to be of great value, and we used the outcomes to inform directly the drafting of the new code and the policies on which it rests.

We received clear support for the design principles we've followed to revise the code, in particular our objective to keep it short, and to position it at a level that assumes a degree of existing knowledge. The introduction to the new code states that if trustees are not confident that as a board they are conversant with the legislation relevant to those running a scheme which offers money purchase benefits, we urge them to consider whether they are meeting the requirements for trustee knowledge and understanding, and undertake training as appropriate. In this spirit, we have restricted the content to what the law requires and what our expectations are in relation to those requirements, with further information to be held in guidance that can be updated more easily.

A key message has been to ensure that the new code's relationship with other publications is evident and that its purpose and role is clear. We have taken this into account and set out the purpose of the code and how it relates to supporting guidance. In addition, we believe that the language used in the new code is well defined and unambiguous. Specifically, we have moved away from using the terms 'must', 'should' and 'could'. Instead, we have referenced legal requirements with the language 'the law requires' and we have indicated the regulator's standards of conduct and practice with the language 'we expect'. In making this change, we intend to make it clear that we expect trustee boards to meet all of the standards in the new code, to the extent that the underlying law applies to their scheme. Given that we have not used this language in other codes of practice we have included a consultation question on our approach on page 18.

We recognise the industry's particular concerns in relation to the value for members (VFM) assessment and standards that we set in this regard. VFM is an area which continues to evolve and we will carry on working with stakeholders to ensure that any guidance we produce to support this section of the new code is effective.

Decumulation, including flexible access to benefits, is another developing area and we considered carefully whether or not to include a dedicated section in the new code. However, we decided against this approach given that all of the standards set out in the code apply for as long as trustees are custodians of members' retirement funds. However, we have set out on page 33 some of the potential themes for guidance in this area and we welcome your views in relation to whether the topics we are proposing are the right ones or whether there are other issues we should address.

We also considered whether it would be logical to separate out the requirements on master trusts and AVCs but, again, we believe we can tailor information for different types and sizes of scheme more effectively in guidance. Our reasoning here is that, with the exception of the specific requirements relating to composition of the trustee board for relevant multi-employer schemes, the requirements on master trusts are the same as for the majority of DC schemes.

We recognise the importance placed on there being consistency across the standards we set in the new code and the rules set by the FCA for independent governance committees. We have worked, and will continue to work, closely with the FCA in this regard to ensure we achieve consistency as far as possible within the parameters of our respective legal frameworks, which are quite different.

In relation to the more practical consideration of providing easy and intuitive online access to the new code and supporting guidance, we plan to test various options with stakeholders in spring 2016.

## Consultation format

**The consultation questions and response form are included as an appendix to this document.**

We have split the consultation into two parts. We encourage all respondents to consider the first part, which invites you to view the new code in full and to provide a response that takes into account a number of general questions. Please use the form provided in the appendix to this document to view the questions and respond to each in turn.

The second part covers a wide range of topics relating to discrete sections of the new code, many of which highlight issues that generated considerable discussion during our industry engagement. Given the broad scope of this section, we invite you to respond to those questions that you have a particular view on or those that are most relevant to your scheme or your clients. Please use the same form as for part one.

Before making your response, please read the introduction to the new code and consider your views in the context of the role of the code as set out in the introduction. Please also bear in mind the themes we have identified in part two of the consultation response form as being areas that potentially would benefit from further explanation in guidance.

## Accountability for regulator impact

Accountability for Regulator Impact (ARI) was announced by the government in 2012 as part of a wider package of measures which aim to help regulators to enable compliant businesses to grow. The purpose of ARI is to ensure national non-economic regulators capture and quantify both positive and negative impacts and engage effectively with business in advance about proposals to introduce or change:

- ▶ regulatory policy, process or practice, or
- ▶ government sponsored voluntary regulation.

The Pensions Regulator's ARI policy is available at [www.tpr.gov.uk/ari](http://www.tpr.gov.uk/ari)

In order to determine whether it is necessary for us to conduct a full cost/benefit analysis as part of the ARI process in respect of the new code, it must be established whether the standards of conduct and practice set out in the new code will result in a significant increase or reduction in costs to any parties involved in running a scheme offering money purchase benefits. This assessment must disregard any costs that are related to the bare underlying legal requirements as well as any costs attached to meeting standards that are already expected of schemes, as articulated in the existing DC code.

Please consider the following questions and use the Excel template published alongside this document at [www.tpr.gov.uk/dc-consult](http://www.tpr.gov.uk/dc-consult) to provide your response:

- ▶ Is the act of meeting any of the standards set out in the new code likely to result in any increase or reduction in costs to any parties involved in running a scheme offering money purchase benefits, **relative to the existing DC code, and over and above costs that might be incurred as a result of complying with the underlying legislation?**
- ▶ Do you think any additional costs, or reduction in costs, are likely to be significant?
- ▶ If yes, please provide an estimate of initial set-up costs and ongoing costs that will be required to meet the standards set out in the new code or an estimate of the anticipated reduction in costs.

When making your response, please take into account our current position on scheme reporting and quality features set out on pages 5-7 of this consultation document, as well as the topics we are proposing to cover in guidance set out across pages 19-33.

## Responding to the consultation

You can respond to the consultation until the closing date of **29 January 2016** by completing the response form included as an appendix to this document and emailing it to:

**DCconsultation@tpr.gov.uk**

Our preference is for responses in electronic format but, alternatively, you can post the response form to:

**Louise Sivyer**

Regulatory Policy Directorate

The Pensions Regulator

Napier House

Trafalgar Place

Brighton

BN1 4DW

If you have any queries about this consultation, please call **Louise Sivyer** on **01273 648453**.

We may need to share the feedback you send us within our own organisation or with other government bodies. We may also publish this feedback as part of our response to the consultation. If you wish your comments to remain anonymous, please state this explicitly in your response.

If you wish your response to be kept confidential, please make this known by ticking the relevant box on page 16 and we will take the necessary steps to meet your request. However, please be aware that, should we receive a formal request under the Freedom of Information Act, we may be required to make your response available. When responding, please advise whether you are responding as an individual or on behalf of an organisation (and, if the latter, which organisation).

## Government consultation principles

For the purpose of this consultation paper, we are following the government's consultation principles at [www.gov.uk/government/publications/consultation-principles-guidance](https://www.gov.uk/government/publications/consultation-principles-guidance). The key consultation principles are:

- ▶ Departments follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before.
- ▶ Departments need to give more thought to how they engage and consult with those who are affected.
- ▶ Consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy.
- ▶ The principles of the compact between government and the voluntary and community sector continue to be respected.

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the policy issues raised) please contact us:

- ▶ by email to: [louise.sivyer@thepensionsregulator.gov.uk](mailto:louise.sivyer@thepensionsregulator.gov.uk)
- ▶ by post to: **Louise Sivyer, Regulatory Policy Directorate, The Pensions Regulator, Napier House, Trafalgar Place, Brighton, BN1 4DW**

In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria. If you have any requirements that we need to meet to enable you to respond, please let us know.

## Current government consultations

### Commission ban

On 26 October the government began a consultation setting out options for introducing a ban on commission in occupational pension schemes. Currently, we do not anticipate that any draft regulations the government introduces following the outcome of this consultation will result in amendments to the new code, save for minor changes to reference any new legislation. We consider it likely that this topic will be included within the guidance supporting the new code, and on which we will consult next year. We will review our position subsequent to any draft regulations being proposed.

### Relevant multi-employer schemes

On 12 November the government began consulting on a number of amendments to the Occupational Pension Schemes (Charges and Governance) Regulations 2015. These proposals include an amendment relating to the definition of 'relevant multi-employer scheme'. Should the draft regulations become law, our intention is to remove paragraph 29 from the new code as drafted. We do not envisage any other amendments to the new code necessary if the draft regulations remain unchanged, save for minor references to the amended legislation.

### Retirement risk warnings

On 23 November the government also began consulting on amendments to the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 which would provide for generic risk warnings to be given to members wishing to access their flexible benefits. Should the draft regulations become law, our intention is to insert the following text into the 'Communicating and reporting' section of the new code:

'The law requires trustee boards to provide certain 'risk warnings' to members after they have been sent a retirement wake up pack and when the trustees have become aware that a member is considering or has reached a decision about what to do with their benefits (some exceptions apply). The risk warning statement must contain information about the options available to members in respect of their benefits and the risks associated with each, and must include all options, whether or not those options are offered by the scheme.'

Retirement risk warnings continued...

The law also requires trustee boards to give members a statement setting out the options that are available under the scheme, and this statement must also encourage the member to read the warnings and to consider accessing pension guidance (eg Pension Wise) or taking advice.

We expect trustee boards to ensure that communications containing risk warnings clearly articulate the risks associated with each of the different options available to the member, and clearly draw the member's attention to those risks.'

## Appendix: Consultation questions and response form

This form is interactive. Please save the whole consultation pdf to your computer, fill in your response to the questions as appropriate and return it to the following email address by **29 January 2016**: [DCconsultation@tpr.gov.uk](mailto:DCconsultation@tpr.gov.uk)

### Your details

Your name:

Organisation (if applicable):

Job title (if applicable):

Postal address:

Telephone:

Email:

Which category best describes you or your organisation?

Please select one category from the drop down menu above.

If you answered 'Other', please specify:

### Confidentiality

We may need to share the feedback you send us within our own organisation or with other government bodies. We may also publish this feedback as part of our response to the consultation. If you wish your response, in whole or in part, to remain confidential, please tick the box below:

Yes, I wish my response to remain confidential.

If so, please specify which part of your response you wish to remain confidential and why:

## Part 1: General questions for all respondents

We invite all respondents to consider the new code in full and provide a response to the following questions:

**Would the scope of schemes to which the new code applies be clearer if the code was re-titled to, for example, 'Code of practice 13: Governance and administration of occupational trust-based pension schemes offering money purchase benefits'?**

Yes                      No

Please give your reasons.

Feedback that we have received since the launch of the existing code indicates a perception that it doesn't apply to small DC schemes or AVCs to the same extent that it applies to large DC schemes, in terms of the practical guidance set out. We have sought to address this issue in the new code by setting out clearly who it applies to and the fact that it is not generally prescriptive about particular methods trustees should use to meet the standards.

**In your view, are there any areas where you believe the new code appears to set standards that are inappropriate?**

Yes                      No

Please give your reasons.

**Do you consider that any important areas have been missed in the new code?** In responding to this question, please also consider whether any risks have been overlooked, regardless of whether any such risks were addressed in the existing code.

Yes                      No

Please give your reasons.



Although the only additional legal duty on the chair of trustees is to sign their scheme's annual statement on governance (the chair's statement), we view the role of chair as an important one and the new code sets out standards in relation to this role in paragraph 26.

**Are these standards clearly defined?**

Yes                      No

Please give your reasons.

**Do you believe the new code should reference any other key qualities of a chair?**

Yes                      No

If 'Yes', please explain what other qualities should be referenced, and why.

The themes set out below are those we have identified that may benefit from more detailed guidance being included in the supporting 'how to' guidance for this section of the new code:

- ▶ Good practice for trustee board composition.
- ▶ Factors to take into account when considering trustee fitness and propriety.
- ▶ The role of the chair.
- ▶ Tailored guidance for relevant multi-employer schemes, including information on the open and transparent trustee board recruitment process and representation of member views.

- ▶ **Are these the right areas to be covered in guidance?**
- ▶ **Are there any additional areas the regulator should consider covering?**
- ▶ **Are there specific issues related to any of these areas that are particularly challenging?**

## Scheme management skills

This section of the new code covers risk management, trustee knowledge and understanding requirements, appointing advisers and managing relations, the overriding power regarding appointing administrative, fund management or advisory services, and conflicts of interest.

Trustees are now required by law to describe annually in the chair's statement how the legislative requirements for trustee knowledge and understanding have been met during the previous scheme year. We have set out in paragraphs 46 to 53 the standards we expect trustees to meet in order to comply with these requirements.

**Do the regulator's standards in this area articulate clearly what trustee boards need to do in order to demonstrate how their scheme has met the trustee knowledge and understanding requirements?**

Yes

No

Please give your reasons.

Trustee boards often delegate tasks to service providers, but they retain ultimate accountability for those tasks. We have set particular standards around appointing and managing relations with advisers and service providers (paragraphs 56 to 62) that we believe trustees should meet in order to manage commercial relationships effectively. Most trustee boards are also required to assess whether the services that are paid for through member-borne charges are delivering value for members.

**Are these standards clearly defined?**

Yes

No

Please give your reasons.

**Do they address the key risks in relation to a trustee board's delegation of certain tasks to service providers, including the risk that the services are not providing value for members?**

Yes

No

Please give your reasons.

Employers also have a key role to play in relation to the successful running of a scheme offering money purchase benefits. Employers are responsible for providing key member data to the scheme, paying contributions into the scheme and they may also cover the costs of a particular service. It is important, therefore, that trustee boards maintain a close and effective working relationship with employers. We have set out standards in this regard in paragraph 64.

**Do the standards make clear the regulator's expectations in respect of the relationship between trustees and employers?**

Yes

No

Please give your reasons.

The themes set out below are those we have identified that may benefit from more detailed guidance being included in the supporting 'how to' guidance for this section of the new code:

- ▶ Key competencies for scheme chairs and trustees.
- ▶ Principles for good scheme management.
- ▶ Good practice processes for managing relations with advisers, providers and employers.
- ▶ Trustee training.
- ▶ Clarity around the statutory override in respect of appointing administrative, fund management or advisory services.
- ▶ Conflicts of interest.

- ▶ **Are these the right areas to be covered in guidance?**
- ▶ **Are there any additional areas the regulator should consider covering?**
- ▶ **Are there specific issues related to any of these areas that are particularly challenging?**

## Administration

This section covers the quality and robustness of the administration function, succession planning, business disaster recovery, core financial transactions and record-keeping.

Scheme administration is often outsourced to a third party but trustee boards remain accountable for the quality of the administration and all legal requirements that relate to it. Given trustee accountability in this area, the standards we have set reflect the importance of trustee understanding and monitoring of the work undertaken by their scheme's administrator, whether in-house or outsourced. In particular, trustee boards need to consider whether the administration function provides value for members.

Taking the section as a whole and bearing in mind the themes we have identified below as being areas that potentially would benefit from more detailed guidance, please consider the following:

### **Do the standards address the key risks around scheme administration?**

Yes                      No

Please give your reasons.

### **In meeting the standards, will trustee boards improve the quality of the administration service used by their scheme and increase the likelihood that it will deliver value for members, whether that service is in-house or outsourced?**

Yes                      No

Please give your reasons.

The law requires trustees to ensure that core financial transactions are processed promptly and accurately. We have deliberately not provided prescribed timeframes for what is considered 'prompt' in the new code, given the range of factors that can have an impact on the time it takes for a transaction to be processed. We are considering the potential for doing so in guidance, in relation to certain transactions.

We have set out the standards we believe trustees need to meet in order to achieve promptness generally in paragraphs 75 to 81.

**Are these standards clearly defined?**

Yes                      No

Please give your reasons.

**Are you aware of any barriers that exist in relation to meeting the standards?**

The themes set out below are those we have identified that may benefit from more detailed guidance being included in the supporting 'how to' guidance for this section of the new code:

- ▶ Good practice processes for carrying out core financial transactions promptly and accurately.
- ▶ Reasonable timelines for core financial transactions.
- ▶ Record-keeping.
- ▶ Quality assurance and performance measurement in respect of service level agreements with administrators.
- ▶ Trustee responsibilities in respect of bulk transfers, DB to DC transfers and overseas transfers.
- ▶ Large DB schemes with small DC sections.
- ▶ Maladministration.
- ▶ Pension scams and due diligence.

- ▶ **Are these the right areas to be covered in guidance?**
- ▶ **Are there any additional areas the regulator should consider covering?**
- ▶ **Are there specific issues related to any of these areas that are particularly challenging?**

## Investment governance

This section covers default arrangements, documenting investment matters, setting investment objectives and a default strategy, monitoring and reviewing the default strategy, reviewing investment fund performance, and security and liquidity of scheme assets.

The introduction of flexible access to benefits and the new requirements on trustee boards in respect of default arrangements in relevant schemes have placed an even greater emphasis on investment governance.

In relation to the pension flexibilities, the new code highlights the importance of member engagement when setting investment objectives and strategies in paragraph 102.

### Is this standard clearly defined?

Yes                      No

Please give your reasons.

### Are you aware of any barriers that exist in relation to meeting this standard?

The law requires trustees to give due consideration to asset protection. However, we recognise the difficulties that trustees experience when trying to establish the extent to which scheme assets are covered by compensation schemes such as the Financial Services Compensation Scheme. The new code sets out our approach to this issue in paragraph 112.

**Does this standard convey clearly the regulator’s intention that trustees should focus on ensuring they have an understanding of the overall security of scheme assets and on communicating that broad view to members?**

Yes                      No

Please give your reasons.

Given the new requirements relating to default arrangements, it’s important that schemes are able to identify any such arrangements. In particular, this might prove difficult where there has been a change made to the arrangement that member contributions are paid into without the relevant members having been consulted. We have addressed this issue in the new code in paragraph 115.

**Do you agree with the regulator’s approach to this issue?**

Yes                      No

Please give your reasons.

In view of the new requirements relating to default arrangements, we have endeavoured to make clear which of those requirements are additional to those relating to investment arrangements generally.

**Taking this section in the new code as a whole, do you believe the regulator has articulated clearly the additional legal requirements that relate to default arrangements?**

Yes

No

Please give your reasons.

The themes set out below are those we have identified that may benefit from more detailed guidance being included in the supporting 'how to' guidance for this section of the new code:

- ▶ Identifying a default arrangement, including default mapping.
- ▶ Setting a default strategy for decumulation.
- ▶ Trustee role in selecting investment options.
- ▶ Target date funds and life-styling approaches to investment strategies.
- ▶ Processes and triggers for reviewing and monitoring fund performance, including switching.
- ▶ Using investment powers in the best interests of beneficiaries.
- ▶ Processes for monitoring membership profile.
- ▶ Establishing the extent of asset protection.

- ▶ **Are these the right areas to be covered in guidance?**
- ▶ **Are there any additional areas the regulator should consider covering?**
- ▶ **Are there specific issues related to any of these areas that are particularly challenging?**

## Value for members

This section covers the scope and timing of the value for members (VFM) assessment to be reported on in the chair's statement, restrictions on charges and the adjustment measure.

There has been some confusion expressed over the concurrent use of the terms 'value for money' by the FCA and 'value for members' by The Pensions Regulator. This is the result of language used in legislation and our view is that there is no practical difference between the two terms. They both equate to value for money for members and are not limited to only the investment return the member achieves. The new code sets out our overall view on the new requirement for trustees to assess value for members in paragraph 119.

### Do you agree with this view?

Yes                      No

Please give your reasons.

In paragraph 122, we have set out the four key areas that we expect trustee boards to consider as a minimum in their VFM assessment: scheme management and governance; administration; investment governance; and communications. We have also set out our expectation that trustee boards should assess their performance and the performance of the scheme in meeting the standards set out across the new code relating to each of these four areas as a starting point for their VFM assessment. This includes particular reference to those elements of scheme governance that they are required to report on in the annual chair's statement.

### Is our approach articulated clearly?

Yes                      No

Please give your reasons.

We are aware of the potential for there to be different interpretations of the scope of the VFM assessment. The legislation focuses on member-borne charges and costs in respect of the assessment and we have reflected this emphasis in the standards set out in the new code. However, we recognise that there are a variety of cost-sharing arrangements in place with employers, which cannot always be divided into distinct elements. In particular, we recognise that there are instances where employers have agreed to pay a proportion of the cost of the overall package of services to the scheme. As a result, there are a number of different ways by which the VFM assessment could be approached but we have set out our expectations in paragraph 125.

**Do you agree with the regulator’s approach to how employer cost absorption should be viewed in the context of the legal requirements relating to VFM?**

Yes                      No

Please give your reasons.

The themes set out below are those we have identified that may benefit from more detailed guidance being included in the supporting ‘how to’ guidance for this section of the new code:

- ▶ Trustee responsibilities in respect of VFM.
- ▶ Simplified process for carrying out a VFM assessment.
- ▶ VFM principles.
- ▶ Knowing what your members value.
- ▶ Taking account of the full benefit package.
- ▶ Getting the best value from service providers.
- ▶ Transparency, benchmarks and market comparators.
- ▶ Transaction costs.
- ▶ Monitoring and reviewing VFM.
- ▶ VFM in decumulation.
- ▶ Cross subsidies.
- ▶ What to do when poor value is identified.

- ▶ **Are these the right areas to be covered in guidance?**
- ▶ **Are there any additional areas the regulator should consider covering?**
- ▶ **Are there specific issues related to any of these areas that are particularly challenging?**

## Communicating and reporting

This section covers member communications, reporting: chair's statement, reporting: statement of investment principles, and reporting to the regulator.

The introduction of flexible benefits has led to the government introducing the service Pension Wise and placing a legal requirement on trustee boards to tell their members about this service in certain circumstances. We have set out a standard relating to this requirement in paragraph 148.

**Does this text make clear the regulator's expectations regarding trustee boards' responsibilities in this area (subject to the government's consultation on retirement risk warnings as referenced on pages 14-15)?**

Yes                      No

Please give your reasons.

This section also covers the new requirement on trustee boards to prepare an annual statement on scheme governance in prescribed areas, which must be signed by the chair of trustees. We do not intend to be prescriptive about the particular format for the statement, given the different circumstances of schemes. However, we have used the new code to set particular standards in this area in paragraphs 157 and 158.

**Are these standards clearly defined?**

Yes                      No

Please give your reasons.

The themes set out below are those we have identified that may benefit from more detailed guidance being included in the supporting 'how to' guidance for this section of the new code:

- ▶ Trustee responsibilities in respect of decumulation.
- ▶ Good practice for the retirement process, including risk warnings.
- ▶ Preparing members for retirement at an early stage.
- ▶ Transferring out.
- ▶ Communicating with members about the investment strategy.
- ▶ Information to include on the benefits statement.
- ▶ Post retirement communications.
- ▶ Format for communications.
- ▶ Member engagement – enabling a two-way conversation.
- ▶ Principles for completing the chair's statement.

- ▶ **Are these the right areas to be covered in guidance?**
- ▶ **Are there any additional areas the regulator should consider covering?**
- ▶ **Are there specific issues related to any of these areas that are particularly challenging?**

## Further comments

Please use the box below to set out any other comments you would like to make in relation to the new code.

## Thank you for taking the time to respond to this consultation

Completed response forms should be emailed by **Friday 29 January 2016** to:  
[DCconsultation@tpr.gov.uk](mailto:DCconsultation@tpr.gov.uk)

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for Draft code of practice no: 13

### **Governance and administration of occupational defined contribution trust-based schemes**

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