

The Pensions Regulator's Defined Contribution code of practice on governance and administration applies to trustees of occupational trust-based pension plans with two or more members if those plans provide:

- Money purchase benefits, **including AVC arrangements in a DB pension plan.**
- DC benefits under a hybrid pension arrangement.
- Money purchase benefits with a DB underpin.

Where there is any element of DC provision in a pension plan the trustees should assess how they comply with the DC code.

Challenges for Trustees

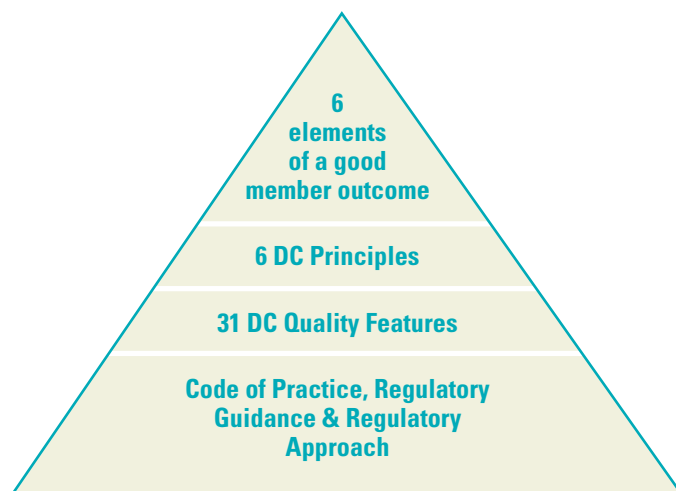
Trustees of well run pension plans which are purely money purchase, or those with substantial DC sections, may consider that they already comply with many aspects of the code. We recommend that these trustees undertake a general review to ascertain whether there are any areas that could be improved upon, or to document that all controls are in place and actions have been taken. This document will form the basis of any future disclosures that need to be made to members, employers, or the Regulator.

The code is likely to present a bigger challenge for trustees of DB pension plans with money purchase AVCs or for trustees of hybrid pension plans, where DC governance may have been overlooked to some extent in favour of the funding challenges presented by the DB section of the pension plan. Trustees of these plans should work through the code step by step and determine a proportionate approach for their DC arrangement, perhaps starting with the areas that they perceive to present the biggest risks.

Regulatory Structure

The DC regulatory architecture is set out in the pyramid. This illustrates how the quality features and the code of practice supports the Regulator's bigger picture aim of achieving good member outcomes. Although the general concept is straightforward, the detail takes longer to digest.

The elements and principles at the top of the pyramid are not new - see our February 2013 DC [communication](#) for more details. Moving to the bottom of the pyramid, the DC code of practice focuses on the quality features that underpin the Regulator's aims. The code elaborates on 22 of the 31 DC quality features – these describe the activities, behaviours and control processes that are more likely to deliver good member outcomes, focusing on areas such as trustee knowledge and risk management. The remaining 9 quality features will be covered in guidance due to be published in November 2013 when the DC code is expected to receive parliamentary approval. The Regulator has also issued a handy [checklist](#) for trustees, covering the quality features and some of the key considerations but this should not be used as a substitute for reading the code of practice.



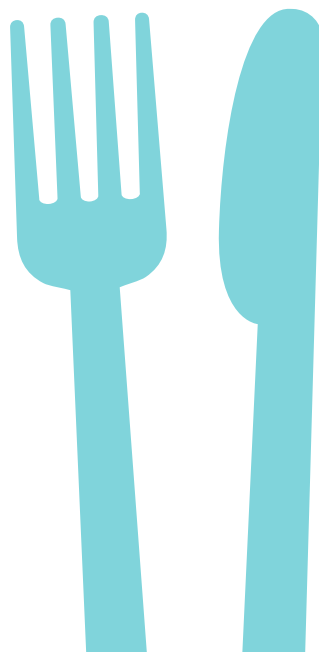
One Step at a Time

Trustees are likely to find the code more manageable if they break it down into bite-sized chunks. The Regulator says:

"While trustees need to be familiar with the DC code as a whole, we suggest they work through each section systematically. For example, trustees could prioritise sections of the DC code and work through the detail on a modular basis."

Our suggestion is as follows:

1. Taking one section of the DC code at a time, assess the pension plan for compliance with each of the quality features.
2. Consider what is being done to satisfy each quality feature at present and document this.
3. Produce a plan of any further action that needs to be taken.
4. Monitor progress against the action plan at each trustee meeting.



The trustees' documentation plan may look something like our simple example below, repeated for each quality feature.

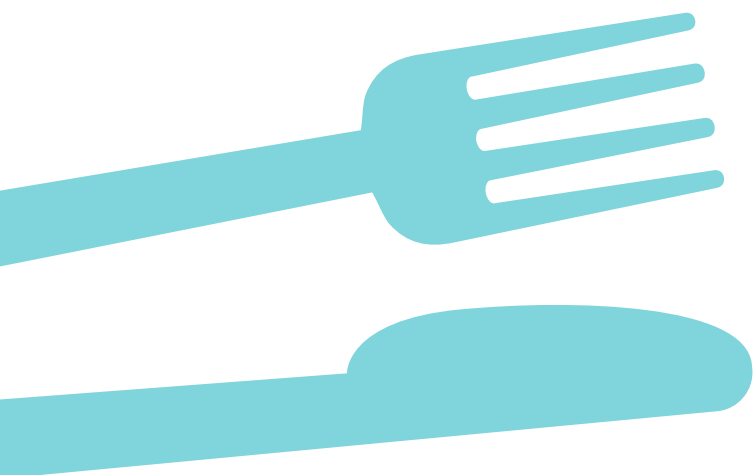
Quality feature	Current compliance measures	Action required?	Action	Responsibility	Reassessment date	Further action needed?
Trustees will understand their duties and be fit and proper to carry them out.	Chair of Trustees vets all trustee applicants for fitness and propriety prior to appointment. All trustees have pre-appointment training on trustee duties.	No. Continue with present processes.				
Trustees will regularly review their skills and competencies to demonstrate they understand their duties and are fit and proper to carry them out.	All trustees have completed an individual skills analysis which is reviewed annually. Individual and group training records are maintained.	Yes.	Trustee DC training needs to be a standing item on future meeting agendas. Group training on trust documents is outstanding.	Secretary to add to standard agenda. Chair of trustees to arrange training by 30/10/2013.	Trustee meeting of 15/11/2013.	

Comply or Explain

Details of the new disclosures that trustees should make (aka the "comply or explain" regime) will be set out in a 'Regulatory Approach' document in the Autumn. The Regulator says: "[we think that it is reasonable for us to expect trustees to be able to demonstrate the presence of the DC quality features in their scheme.](#)" It is therefore important that trustees keep records of their assessments.

A Moving Target

Remember that the goal-posts will move! Developments in legislation or practice, changes to the pension plan documentation or investments, alterations to the trustee board, replacement of advisers, member complaints and administration problems, are examples of issues that impact on whether the pension plan continues to satisfy the quality features.



A Helping Hand

Squire Sanders has worked with a number of trustee boards to help them to identify the steps they should take to meet the Pensions Regulator's new standards. Starting with a training session or workshop we can help trustees to create their own action plan, balancing the requirement for compliance with the concept of proportionality.

For further information about the issues raised in this document please contact any of the partners listed, or your usual contact in the Squire Sanders pensions team.

Contact

Catherine McKenna

T +44 113 284 7045
E Catherine.McKenna@squiresanders.com

Matthew Giles

T +44 121 222 3296
E Matthew.Giles@squiresanders.com

Anthea Whitton

T +44 113 284 7364
E Anthea.Whitton@squiresanders.com

Wendy Hunter

T +44 20 7655 1119
E Wendy.Hunter@squiresanders.com

Charmian Johnson

T +44 161 830 5047
E Charmian.Johnson@squiresanders.com

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

© Squire Sanders.