

Which Policies Might the Trustees of a Well-Run Occupational Pension Plan Have in Place?

A well-run occupational pension plan will operate many different policies. There are some policies and procedures that all trustees must put in place by law. Other policies and procedures are recommended by the Pensions Regulator. In addition to these, many trustee boards will also have supplementary policies as a matter of good practice, although not all will be reflected in standalone documents. We have set out below a representative sample of the different types of policies and procedures that an occupational trustee board might operate. This list is by no means exhaustive.

- Monitoring accuracy of DC contributions (*TPR's Guidance on Managing DC Benefits*)
- Monitoring the employer covenant (*TPR's Guidance on Assessing and Monitoring the Employer Covenant*)
- Record keeping (*Scheme return*)
- Reporting breaches of the law (*TPR's Code of Practice on Reporting Breaches of the Law*)
- Reporting notifiable events (*TPR's Code of Practice on Reporting Notifiable Events*)
- Transfer values (*TPR's Guidance on Transfer Values*)

Which Policies Are Required by Statute?

As a minimum, the law requires trustees to have the following policies/procedures in place.

- Internal Controls – and Risk Register (s.249A Pensions Act 2004)
- Internal Dispute Resolution Procedure (s.50 Pensions Act 1995)
- Nomination and Selection of MNTs/MNDs (ss.241 and 242 Pensions Act 2004)
- Statement of Funding Principles (s.223 Pensions Act 2004)
- Statement of Investment Principles (s.35 Pensions Act 1995)

Which Policies Are Trustees Expected To Have in Place?

Certain policies/procedures arise as a consequence of regulatory expectation such as the Pensions Regulator's (TPR's) Codes of Practice. We have listed these below and have noted against each the source of the requirement.

- Conflicts of interest (including anti-bribery) (*TPR's Guidance on Conflicts of Interest*)
- Data protection and cybersecurity (*Information Commissioner's Office expectation*)
- Integrated risk management (*TPR's Guidance on IRM*)
- Late payment of contributions (*TPR's Code of Practice on Reporting Late Payment of Contributions to Occupational Pension Schemes*)

Tip: There is little value in implementing a policy merely to comply with the regulator's expectation. It should be a living document that is appropriate to the plan in question and of practical use.

Which Other Policies Might a Trustee Board Operate as a Matter of Good Practice?

The list below gives examples of other policies/procedures that a trustee board might operate.

Written standalone policies/procedures:

- Annual plan of issues affecting a pension plan
- Business planning including budget
- Overpayments to members (recovery of)
- Payment of lump sum death benefits
- Pension sharing on divorce – including schedule of charges
- Service level standards with providers (monitoring of)

Not all policies/procedures need to be standalone written documents. The following policies/procedures might be written standalone documents, or they might be recorded elsewhere, for example in trustee meeting minutes:

- Advisers (review and selection of)
- AVC provision (review of)
- Charging for provision of documentation where legislation permits charging
- Contracts with providers, including limit of liability for trustees (review of)
- Commutation factors (review of)

- Disclosure of information to members – which documents will be provided in hard copy/electronic format etc.
- Discretionary pension increases
- Early retirement/ ill-health applications
- Incentive exercises
- Temporary absence (including maternity, paternity, shared parental, adoption and family leave)
- Trustee knowledge and understanding (appropriate procedures for ensuring compliance)

Some Practical Points

Do...	Don't...
Do hold regular governance meetings and keep under review which policies and procedures are in place	Don't assume that once a policy is in place nothing further needs to be done – the contents of all policies/procedures should be kept under regular review
Do consider whether new legislation merits the establishment of a new policy/procedure	Don't forget that new legislation or case law might mean that a policy needs updating before it is due for a regular review

What Are the Consequences of Failing to Comply?

Where a policy/procedure is a statutory requirement

Failure to comply with a statutory requirement can result in a fine of up to £5,000 for an individual and £50,000 for a company.

Where a policy/procedure is recommended in a code of practice or regulatory guidance

There is no express penalty for failing to comply with a code of practice or regulatory guidance. However, when determining whether trustees have taken into account any legal requirements, a court or tribunal must take any relevant codes of practice of the Pensions Regulator into account.

Where a policy/procedure represents “good practice”

Likewise, there is no express penalty for failing to have in place a “good practice” policy. However, the consequences of failing to have a “good practice” policy in place, when one would be appropriate, could be expensive. The existence of a suitable policy might make the difference between the trustees being able to take swift and proportionate action in relation to a particular issue and the trustees facing a breach of trust claim.

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