



DC Guides Consultation

ICAEW welcomes the opportunity to comment on the *DC Guides Consultation* published by The Pensions Regulator on 13 April 2016, a copy of which is available from this [link](#).

This ICAEW response of 11 May 2016 reflects consultation with the Pensions Sub-Committee of the Business Law Committee. Business Law Committee includes representatives from public practice and the business community. The Committee is responsible for ICAEW policy on business law issues and related submissions to legislators, regulators and other external bodies.

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MAJOR POINTS

1. We believe that the Guides are clear, helpful and generally cover the relevant ground.
2. We agree that it will, as proposed, be helpful for users to have relevant sections of the guides linked to the corresponding provisions of the Code in digital versions and that it will also be helpful to have pdf versions of the guides available so that they can easily be read in their narrative form.
3. We agree that it will be most productive if the Guides can easily be updated when required to reflect the changing needs and experience of the sector and note that the proposed approach is intended to allow for this even if the Code itself does not change.
4. We agree that it is important to have a consistent approach between different types of scheme and note that tPR is working with the FCA in this respect.
5. It would be helpful, particularly in the context of Administration guide, to note the potential for third party reports, such as assurance control reports, to provide assurance to trustees.

Question 1: In relation to the Administration guide and the processing of transfers

Would the speed of completing a transfer of money purchase benefits be improved if we set a recommended timescale, from the point of a member's initial request, within which a transfer should be completed?

Would setting a timescale of this nature effectively address the delays that the government identified in its consultation on Pension Transfers and Early Exit Charges?

If so, what timescale do you think should be set?

If you do not think that setting a timescale would be effective, please explain why?

6. On balance we do not believe that a specific timescale should be set. A 'recommendation' from a regulator is likely to drive practice in a similar way to a requirement so that a recommendation of this kind might result in speed being prioritised over other issues.
7. If a timescale is to be set, it would need to cater for exceptional circumstances and recognise causes that might be beyond the control of the trustees (or their delegates) in order to avoid unintended consequences. In particular, it could be a concern if the potential need for trustees have time to consider matters or take advice (for instance in connection with potential pensions scams) were not taken into account.
8. The Guide provides useful insights into how good practice, including SLAs, may help identify the cause of delay and address any concerns. If tPR becomes aware of market practices that result in unreasonable delays, then it might be helpful if the Guide could highlight these as this might help shape the market understanding of what a 'reasonable' timeframe is (without defining it by reference to a fixed time) and assist trustees in reaching informed decisions in managing the issue whilst maintaining a degree of flexibility in approach and priorities.

Question 2: In relation to all of the guides

Do you have any examples that you think could be usefully included to demonstrate the different approaches that schemes of different sizes, and with varying available resources, might take to comply with any of the standards we have set in the new code? If so, please provide further details.

9. We do not have any examples at this time. Many trustees will have experience of different schemes to bring to bear and the Guides appear to cover the principles involved. We considered whether it would be helpful to have an example of an annual statement of the Chair

of the Trustees but concluded that this might lead to a tendency to standardisation that would be at odds with the ultimate objectives of the reporting requirements.

Question 3: In relation to all of the guides

Are there any topics relevant to the standards we have set in the new code on which you believe we have not provided sufficient detail within the guides? If so, please provide details.

Trust Board draft Guide

10. It might be helpful for the Trust Board draft Guide to provide guidance on how the effectiveness of the Chair of Trustees should be assessed and the timing for review and continued appointment. It is, for instance, unclear what the trustees should do to 'ensure that the successful candidate is the right person to lead your board' (page 8)
11. Page 9 – what does 'where appropriate' mean in the context of considering whether to appoint a professional trustee?
12. We think that a scheme would generally be expected to have a secretary, formally appointed by the board and that the guidance could be clearer on the advantages of this (page 10).
13. We suggest that the reference to the scheme secretary sitting on sub-committees (page 11) is too specific, there could be other mechanisms to ensure joined up governance
14. We do not agree that larger boards necessarily result in better governance and it might be helpful to explain in what circumstances a scheme would 'need' a board of more than three trustees (page 11).
15. The suggestion that the topics listed on page 13 should be covered at **every** board meeting seems over-prescriptive.

Scheme management skills

16. It might be helpful to explain why trustees should discuss making a change with the employer (eg to prepare for member communications?)(page 11).
17. The suggestion that schemes help employers to understand their duties and provide support (page 12), for instance helping to ensure that payroll processes allow appropriate amounts of time for automatic enrolment calculations, may blur understanding of legal duties, for instance that the employer is responsible for ensuring that it meets its AE obligations and makes appropriate arrangements with relevant third parties, including the pension scheme.
18. We would not expect trustees to review suppliers conflicts policies in the ordinary course; it will often be sufficient simply to seek confirmation that they are in place (particularly where the suppliers are themselves bound to have appropriate policies under regulation) (page 15).
19. Suppliers may not be in a position to inform trustees of services supplied to the employer as they could be confidential and if the supplier does not think there is a conflict there would be no need to disclose (page 15).

Administration

20. We suggest that the assurance control reports for administrators (eg AAF 01/06 <http://www.icaew.com/en/technical/audit-and-assurance/assurance/technical-release-aaf-01-06>) should be mentioned on page 5 and that it be made clear that trustees may normally rely upon reports of this kind rather than making individual enquiry for instance on staff training programmes (page 9), procedures (whether in the form of 'manuals' or otherwise, eg workflow

management systems), BCP arrangements (page 12), accuracy of SLA reports (page 15) and software testing (page 23).

21. On page 8, we suggest that the following be included in the 'Report content'
- Receipt of contributions in accordance with the payment schedule
 - Confirmation of unit reconciliations between member and investment units
 - Explanation of investment units held by the trustee and not allocated to members
 - Analysis and explanation of any 'stale' cash and cash not allocated to members.

Investment governance

22. It would be helpful to provide some guidance on 'appropriate reporting relationships' and 'suitable oversight' in relation to fiduciary managers (page 6).
23. It is suggested on page 22 that the position on security of assets should be communicated to members. It would be helpful to provide more information on this, including when the information should be given and where. There is cross over here with the new SORP disclosures; would the information be expected to be included in the annual report and accounts?

Value for members

24. It might be helpful if the guide were to acknowledge the difficulties involved in ascertaining transaction costs for pooled vehicles and make clear that trustees are not generally expected to seek information that is not generally accessible.

Communication and reporting

25. It might be helpful to suggest trustees have a communication strategy and plan which provides an overarching framework for communications (The master trust assurance framework has a control objectives along these lines).
26. It would be helpful to provide practical guidance as to when the Chair's statement is required where a scheme ceases to provide DC arrangements part way through a period.

Question 4: In relation to accountability for regulator.....

27. We have no comments on Question 4.