

# The Pension Regulator – Six Key Processes

## Introduction

The Pensions Regulator (TPR), who has a statutory duty for regulatory oversight under the [Public Service Pensions Act 2013](#) monitors six key processes as part of their annual governance and administration survey.<sup>1</sup> TPR use these key processes as indicators of public service pension scheme performance.

In 2018, three quarters (74%) of public service schemes had all six key processes in place<sup>2</sup>, and for the Firefighters' Pension Scheme (FPS) across England, Wales, Scotland and Northern Ireland 63% have all six processes in place<sup>3</sup>.

This factsheet has been prepared to give further guidance to Fire and Rescue Authorities (FRAs) on the six key processes in order to achieve a higher rate of understanding and compliance ahead of the 2019 survey.

## The Six Processes

- [Documented policy to manage board members conflicts of interest](#)
- [Access to knowledge, understanding and skills needed to properly run the scheme](#)
- [Documented procedures for assessing and managing risks](#)
- [Process to monitor records for accuracy / completeness](#)
- [Process for resolving contribution payment issues](#)
- [Procedures to identify, assess and report breaches of the law](#)

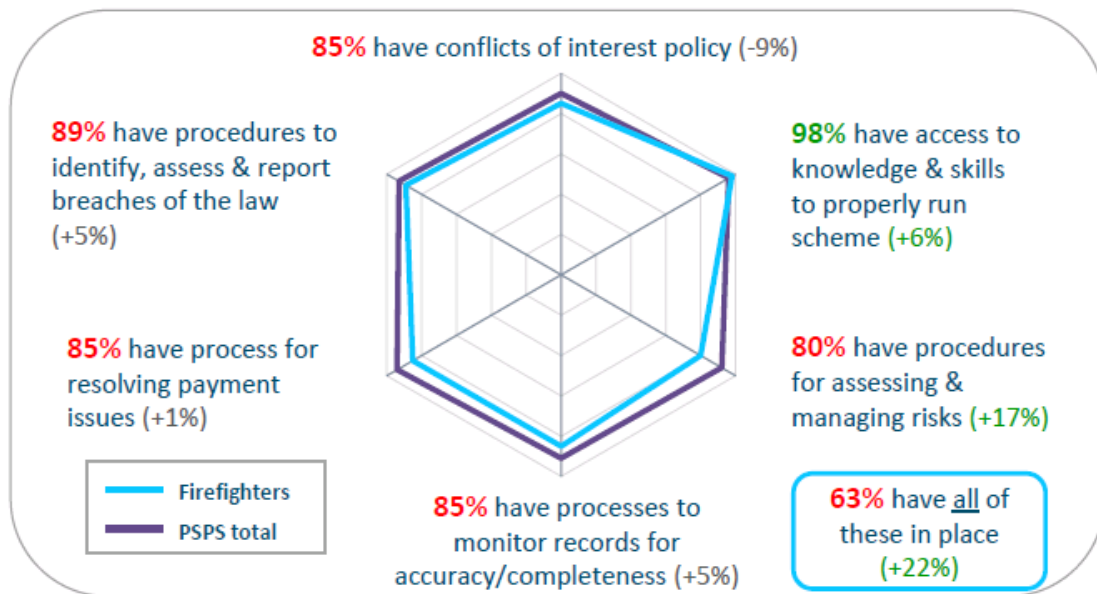
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<sup>1</sup> A library of all the TPR governance and administration survey reports for public sector from 2015 can be found here - <http://www.fpsboard.org/index.php/local-pension-boards/the-pensions-regulator>

<sup>2</sup> Paragraph 1.1 of the 2018 Research Report - <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/public-service-research-2019.ashx>

<sup>3</sup> Slide 6 – LGA Fire Pensions Conference Day One 24 September 2019  
<https://www.local.gov.uk/sites/default/files/documents/TPR%20Update.pdf>

# TPR Governance and Administration Survey Results 2018



Source: Slide 20, LGA Fire Pension Conference 24 September 2019 <sup>4</sup>

## Historical Results

	2018 <sup>5</sup>	2017 <sup>6</sup>	2016 <sup>7</sup>	2015
Conflicts	85%	94%	80%	78% <sup>8</sup>
Knowledge and skills	98%	92%	94%	36% <sup>9</sup>
Risks	80%	63%	44%	36% <sup>10</sup>
Accuracy / Completeness	85%	80%	88%	<sup>11</sup>
Contribution issues	85%	84%	68%	78% <sup>12</sup>
Breaches	89%	84%	78%	36% <sup>13</sup>

<sup>4</sup> <https://www.local.gov.uk/sites/default/files/documents/TPR%20Update.pdf>

<sup>5</sup> Slide 20 - <https://www.local.gov.uk/sites/default/files/documents/TPR%20Update.pdf>

<sup>6</sup> Slide 17 -

<https://www.local.gov.uk/sites/default/files/documents/Fire%20and%20Police%20Local%20Pension%20Board%20Governance.pdf>

<sup>7</sup> Slide 29 - <https://www.local.gov.uk/sites/default/files/documents/Fire%20Conference%20-%20Day%20One%202017.pdf>

<sup>8</sup> Figure 4.9-1 <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf> 11 of 14 responding schemes

<sup>9</sup> Figure 4.8-3 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf> 5 of 14 responding schemes

<sup>10</sup> Figure 4.11-2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf> 5 of 14

<sup>11</sup> This was not measured in the same way in 2015, however section 4.13 comments on record keeping - <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf>

<sup>12</sup> Figure 4.12-2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf> 11 of 14

<sup>13</sup> Figure 4.17-2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf> 5 of 14 responding schemes

Although there has been a marked improvement since 2015, particularly with regards to risk, knowledge and skills and breaches, performance still lags behind other public service schemes and only 63% of schemes have all six key processes in place. The table below shows the six key processes in order where the most improvement is still needed.

Process	Not in place
<a href="#">Risk</a>	20%
<a href="#">Contribution issues</a>	15%
<a href="#">Conflicts of Interest</a>	15%
<a href="#">Accuracy / completeness of records</a>	15%
<a href="#">Breaches</a>	11%
<a href="#">Knowledge and skills</a>	2%

Each scheme should ensure that they assess the processes in place and take action to improve.

## Documented procedures for assessing and managing risks

At the 2018 survey, 80% of Firefighters' Pension Schemes reported to have documented procedures for assessing and managing risks, with a slightly higher proportion (87%) having a risk register in place. This had significantly improved since 2015 where both the percentage of procedures and those with risk registers was 36%.<sup>14</sup> 67% of Fire pension schemes stated that a driver to improvement of governance and administration had been in an improved understanding of risks facing the scheme<sup>15</sup> however only 24% of schemes review exposure to new and existing risks each quarter.<sup>16</sup>

The TPR governance and administration survey comments "The most significant improvements since 2017 were seen in relation to the Firefighters' and 'Other' Schemes. However, Firefighters' schemes were still less likely to have risk management processes than the other types of public service scheme, and the proportion that had reviewed their risk exposure at least quarterly fell in 2018 (24%, down from 35% in 2017)."<sup>17</sup>

Anecdotally, we understand that understanding who the risk register is for and whose responsibility it is to maintain, is one of the most common problems for FRAs and Local Pension Boards (LPBs).

**It is the LPB's statutory responsibility to assist the scheme manager<sup>18</sup> in ensuring compliance<sup>19</sup>, therefore the responsibility for risk sits with the scheme manager, and it is for the board to ensure there is suitable mitigation of risk in the form of a risk register and procedures.**

In such cases where the role of scheme manager for the organisation appears to be unclear and there is no suitable delegation in place then lack of internal controls would need to be on the risk register.

The top governance and administration risks as rated by the FPS<sup>20</sup> are listed below, for the purposes of comparison these have been compared to the Police scheme which is most similar to the Fire scheme.

Risk	Fire	Police
Securing compliance with changes in scheme regulations	61%	43%
Record-keeping (i.e receipt and management of correct data)	57%	73%
Recruitment and retention of staff or knowledge	26%	27%
Failure of internal controls	22%	7%
Lack of resources / time	20%	14%
Administrator issues (expense, performance, etc)	20%	14%
System failures (IT, payroll, administration systems, etc)	15%	11%
Guaranteed Minimum Pension (GMP) reconciliation	13%	23%
Production of annual benefit statements	13%	20%
Cyber risk	11%	9%
Lack of knowledge, effectiveness or leadership amongst key personnel	9%	11%

<sup>14</sup> Table 4.2.1 & 4.2.2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>15</sup> Table 4.9.2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>16</sup> Table 4.2.4 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>17</sup> Paragraph 1.3 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>18</sup> <http://www.fpsregs.org/images/admin/Schememanager1.pdf>

<sup>19</sup> Regulation 4A, Paragraph 1 - <http://www.legislation.gov.uk/ukxi/2015/465/regulation/4/made>

<sup>20</sup> Table 4.2.3 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

Funding or investment	7%	5%
Receiving contributions from employers	0%	2%

There is nothing too surprising in this list, however risks worth commenting on further are;

- Record keeping was listed by 57% respondents as a top risk, however, 85% of FRAs reported they had processes in place to monitor records. We comment on this further [below](#) as evidence would suggest that there is a lack of clarity and understanding in what is being measured when it comes to record keeping, and accuracy and completeness of data.
- Failure of internal controls, was listed as a top risk by 22% of respondents. Internal controls are defined by the code of practice 14<sup>21</sup> as being ‘systems, arrangements and procedures that are put in place to ensure the scheme is being run in accordance with the scheme rules’ and are therefore fundamental to ensuring compliance. Schemes who identify that they have no satisfactory mitigation in place for internal controls would need to prioritise mitigating that risk. An example of a failure of internal controls is where the delegated scheme manager cannot be identified.
- The FPS is not a funded scheme therefore there are no investments, however, 7% of scheme managers listed this as a risk. Nevertheless relevant funding risk could be considered as
  - Failure to deduct correct contributions from pay
  - Failure of the employer to pay contributions from the scheme
  - Failure to manage the notional pension fund correctly, i.e. not abating pensions when necessary, claiming for payments under the compensation scheme

It should however be noted, that while the impact of increased employer contributions is certainly something that would be recognised by the wider FRA risk register, it is not a ‘pensions’ risk, and does not need to be on pension risk registers

An example risk register is available on [www.fpsboard.org](http://www.fpsboard.org)<sup>23</sup>, we recommend that schemes examine and update their risk registers to ensure relevant risks and current mitigations are reflected and also ensure that ‘risk’ is an agenda item for each quarterly meeting to review that the risk is still relevant and that appropriate mitigating controls are in place.

<sup>21</sup> Paragraph 103 - <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice#458801ec082a49e0bb494b6ff7480d12>

<sup>22</sup> <http://www.fpsboard.org/images/LPB/Resources/CFRSrisk.docx>

<sup>23</sup> <http://www.fpsboard.org/images/LPB/Resources/CFRSrisk.docx>

## Common risk items are

1. Failure to have appropriate governance arrangements in place
2. Failure to ensure internal controls are in place to manage the scheme appropriately
3. Failure to ensure legislation, rules and guidelines are interpreted correctly and therefore failure to secure compliance.
4. Failure to ensure any conflicts of interest are identified and declared in a transparent and open manner
5. Failure to ensure member data is complete and accurate and is of suitable quality to be relied upon
6. Failure of administration processes / occurrence of maladministration
7. Failure to ensure that there timely and accurate communication arrangements in place
8. Failure to ensure an operational disaster such as significant fire or flood does not impact on the activities of the Local Pension Board or the Pension Administrators
9. Failure to ensure suppliers and customers are not overcharging and creating additional liabilities against operational budgets resulting in a lack of value-for-money (VFM)
10. Failure to ensure occurrences of fraud and are identified and escalated within client / constituent authority
11. Failure to ensure employers pay the appropriate contributions to the scheme, and that employees are contributing appropriately
12. Failure to ensure there is appropriate membership of the LPB, as a result of planned or unplanned absence.
13. Failure to ensure the LPB is able to fulfil its information reporting requirements in terms of reporting to the Pensions Regulator and Local Government Association as well as reporting between the LPB, administrator, FRA and SAB etc.

## Process for resolving contribution payment issues

**At the 2018 survey, 85% of Firefighters' Pension Schemes reported to have a process for resolving contribution payment issues, this had risen from 68% in 2016.<sup>24</sup>**

While it is recognised that contribution payment issues are more likely to be an issue for multi-employer funded schemes rather than single employer non-funded schemes, the types of issue we would expect in a Contribution Payments Process for the FPS are;

- How taper-protected contribution changes are managed for both the employee and employer where a member tapers from FPS 1992 or 2006 to the FPS 2015 every 56 days<sup>25</sup>. We would expect the process to confirm how the taper date is notified to payroll and what kind of monitoring is in place to ensure contributions are changed on the correct day.
- To ensure that, as per the technical note '2017 Amendment Orders'<sup>26</sup> and the amendment to schedule 2, rules 37 & 38 in SI 2017/888<sup>27</sup>, there is a process to identify any taper-protected members going through the IQMP process before reaching their taper date, and ensure the employer and employee remain paying contributions at the relevant rate for the final salary scheme.
- How contributions from a special deferred member<sup>28</sup> or a special firefighter member<sup>29</sup> who are paying mandatory special period pension contributions via periodic contributions over a period of ten years<sup>30</sup> will be monitored, particularly for those paying by direct debit.
- How members who would qualify for a contribution holiday under rule G2, paragraph 1B<sup>31</sup> upon reaching 30 years' pensionable service before age 50 would be identified and the holiday implemented.
- How an authority might exercise its discretion for requesting a member to pay the employer contributions during absence from work due to illness, injury, trade dispute or authorised absence. [Rule 111]<sup>32</sup>
- The process to show knowledge and understanding that the employer should make contributions into the scheme where they have awarded ill-health of two times pensionable pay for lower tier ill-health and four times pensionable pay for higher tier ill-health.<sup>33</sup>

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<sup>24</sup> Table 4.3.2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>25</sup> Taper Tables - <http://www.legislation.gov.uk/uksi/2014/2848/schedule/2/part/4/made>

<sup>26</sup> <http://www.fpsregs.org/images/admin/Technotes/Technote1.0917.pdf>

<sup>27</sup> <http://www.legislation.gov.uk/uksi/2017/888/regulation/10/made>

<sup>28</sup> Rule 2, Paragraph 1 as amended by [SI 2014/445](#), Part 1, 1 (2k) has the meaning given in [rule 1A\(5\) to \(8\) of Part 2](#)

<sup>29</sup> Rule 2, Paragraph 1 as amended by [SI 2014/445](#), Part 1, 1 (2k) has the meaning given in [rule 1A\(1\) to \(4\) of Part 2](#)

<sup>30</sup> Part 11, Rule 6A, Paragraph 4 (Deferred Members) & 8 (Active Members) -

<http://www.legislation.gov.uk/uksi/2014/445/schedule/paragraph/10/made>

<sup>31</sup> <http://www.legislation.gov.uk/uksi/2016/878/article/2/made>

<sup>32</sup> <http://www.legislation.gov.uk/uksi/2014/2848/regulation/111/made>

<sup>33</sup> Bulletin 9 - <http://www.fpsboard.org/images/PDF/Bulletin9/Bulletin9.pdf> and paragraph 3.4 of the [Guidance for Fire and Rescue Authorities on new financial arrangements for firefighter pensions with effect from April 2006](#).

## Documented policy to manage board members conflicts of interest

At the 2018 survey, 85% of Firefighters' Pension Schemes reported to have a policy to manage board members conflicts of interest, this had risen from 79% in 2015.<sup>34</sup>

Under regulation 4C<sup>35</sup> of the FPS 2015 regulations, the scheme manager<sup>36</sup> must ensure there is no conflict of interest upon appointment and manage any potential conflict of interest that may arise.

Importantly, the primary legislation confirms in section 5, subsection 5<sup>37</sup> that a conflict does not arise by virtue of membership of the scheme or any connected scheme, but means a financial or other interest likely to prejudice the person's exercise of functions as a member of the board.

In the board guidance issued in May 2015, section 5<sup>38</sup> looks in detail at conflicts of interest. Paragraph 5.12 (emphasis added) in particular notes:

*...it is important to note that the issue of conflicts of interest must be considered in light of the Local Pension Board's role, which is to assist the Scheme Manager. The Local Pension Board does not make decisions in relation to the administration and management of the Fund: these decisions still rest with the Scheme Manager. As a result, it is not anticipated that significant conflicts will arise in the same way as would be the case if the Board were making decisions on a regular basis (compared, for example, to a Pensions Committee). Nevertheless, steps need to be taken to identify, monitor and manage conflicts effectively.*

The code of practice 14<sup>39</sup>, paragraphs 61 to 89 cover conflicts of interest; paragraph 89 provides examples of conflicts that may arise.

A documented policy to manage board members conflicts of interests should include how the scheme manager intends to;

- Identify
- Monitor
- Manage

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<sup>34</sup> Table 4.1.1 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>35</sup> <http://www.legislation.gov.uk/uksi/2015/465/regulation/4/made>

<sup>36</sup> <http://www.fpsregs.org/images/admin/Schememanagerv1.pdf>

<sup>37</sup> <http://www.legislation.gov.uk/ukpga/2013/25/section/5>

<sup>38</sup> <http://www.fpsboard.org/images/LPB/Resources/FPS2015-gov-guidance.pdf>

<sup>39</sup> <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice>



## Process to monitor records for accuracy / completeness

**At the 2018 survey, 85% of Firefighters' Pension Schemes reported to have a process to monitor membership types on an ongoing basis to ensure they are complete and accurate, this had changed from 88% in 2016.<sup>40</sup>**

This question was posed slightly differently in 2015, the answers in relation to questions about scheme record keeping and data monitoring can be found in section 4.13 of the 2015 report.<sup>41</sup>

Paragraphs 126 to 146 of the code of practice 14<sup>42</sup> cover record keeping

Processes to monitor records will be very closely linked to data scoring and the processes in place for measuring accuracy.<sup>43</sup> TPR guidance<sup>44</sup> says “you should not rely on the statutory audit to tell you the quality and accuracy of your data or the controls around it. You should take an active role in monitoring data. This should be an ongoing process.”

Although the headline figure from TPR is on the process to monitor all membership types to ensure accuracy, in order for that process to be efficient TPR also measure whether there are;

- Processes for employers to receive, check and review data [87%<sup>45</sup>]
- Whether employers provide timely data [80%]<sup>46</sup>
- Whether employers provide accurate and complete data [72%]<sup>47</sup>
- Employers who submit data monthly [61%] and electronically [76%]<sup>48</sup>

However, these findings are in contrast to the research done by AON as part of the Firefighters' Pensions (England) Scheme Advisory Board (SAB) administration and benchmarking project. A significant number of employers<sup>49</sup> indicated that they sometimes experience difficulties in providing data for the administration of the scheme, these were in meeting expected turnaround times, providing data of required quality, not being clear on what was expected and extracting data, and there was an inconsistency between the scheme specific data scores reported by employers (31 employers provided a score which gave an average of 90%<sup>50</sup>) to the scores reported by administrators (34 administrators provided a score which gave an average of 67%<sup>51</sup>).

It is difficult to draw too many conclusions, however, it does seem that there is a lack of clarity and understanding in what is being measured when it comes to accuracy and completeness of data. AON comment on data at page 63 of the report:

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<sup>40</sup> Table 4.3.2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>41</sup> Section 4.13 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2015.pdf>

<sup>42</sup> <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice#458801ec082a49e0bb494b6ff7480d12>

<sup>43</sup> <http://fpsregs.org/images/admin/TPR-data-scoring-2019-clean.pdf>

<sup>44</sup> <https://www.thepensionsregulator.gov.uk/en/trustees/managing-db-benefits/governance-and-administration/record-keeping>

<sup>45</sup> Table 4.3.2 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>46</sup> Figure 4.3.4 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>47</sup> Figure 4.3.4 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>48</sup> Figure 4.3.6 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>49</sup> Page 38 & 39 - <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

<sup>50</sup> Page 43 - <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

<sup>51</sup> Page 21 - <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

“Given, that the scheme is a single employer scheme, one might expect reasonably higher levels of data quality compared to a multi-employer scheme.”

And

“There appears to be a need to consider improving how data is transferred for some administrators and FRAs given that 38% of FRAs and 32% of administrators indicated that they do not currently operate an employer self-service facility. Clearly data is not the only factors, but it may be impacting on why a third of members did not agree that they received timely responses to queries and requests.”

The SAB recommend electronic uploads of data on a monthly basis, as an automated process that takes employee data from the payroll system and uploads to the administration system and then checks for tolerance matches on a monthly basis is likely to result in more accurate data. However, an electronic process can be in the form of a spreadsheet upload.

### **Processes for record keeping should include:**

- How administrators are informed when someone joins or leaves the scheme, whether this is manually or electronically and how often.
- A process for understanding how and when members might move from final salary into the CARE scheme.
- There is a process for understanding how special members records will be kept up to date including how their options are recorded, for example whether they opted to pay by periodical contributions or lump sums.
- How entitlement to certain benefits, such as APBs<sup>52</sup>, drop in pay<sup>53</sup>, contribution holiday upon reaching 30 years' pensionable service before age 50<sup>54</sup> might be identified.
- Understanding how and when contributions might change, for example moving into the next contribution band, becoming a 2015 scheme member.
- Changing their personal circumstances, such as name and address.
- Whether someone who has a pension in payment (whether from the same FRA or another) is employed or re-employed for abatement<sup>55</sup> / protected pension age<sup>56</sup> purposes.
- In what circumstances a data improvement plan might be expected to be put into place.

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<sup>52</sup> <http://www.fpsregs.org/images/admin/APBv1.pdf>

<sup>53</sup> <http://www.fpsregs.org/images/admin/Twoptionsv1.pdf>

<sup>54</sup> <http://www.legislation.gov.uk/ukxi/2016/878/article/2/made>

<sup>55</sup> <http://www.fpsregs.org/images/admin/Abatementv1.pdf>

<sup>56</sup> <http://www.fpsregs.org/images/admin/PPAv1.pdf>

## Procedures to identify, assess and report breaches of the law

**At the 2018 survey, 89% of Firefighters' Pension Schemes reported to have procedures to identify, assess and report breaches of the law, this had risen from 36% in 2015.<sup>57</sup>**

Paragraph 242 of the TPR code of practice 14<sup>58</sup> confirms a list of responsible bodies who are required by law to record and report a breach of law.

- scheme managers
- members of pension boards
- any person who is otherwise involved in the administration of a public service pension scheme
- employers: in the case of a multi-employer scheme, any participating employer who becomes aware of a breach should consider their statutory duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers
- professional advisers including auditors, actuaries, legal advisers and fund managers: not all public service pension schemes are subject to the same legal requirements to appoint professional advisers, but nonetheless the regulator expects that all schemes will have professional advisers, either resulting from other legal requirements or simply as a matter of practice
- any person who is otherwise involved in advising the managers of the scheme in relation to the scheme.

The TPR administration and governance survey results showed that in 2018 only 2% of an identified 17% recorded breaches of law<sup>59</sup> were reported as material<sup>60</sup>. Similar evidence was found in the AON administration and benchmarking review report that records of breaches were low<sup>61</sup>. Schemes should ensure that where a breach has not been assessed as material there is clear evidence of the assessment available.

It is not known whether there are genuine low levels of breaches found in the scheme, or whether this low level of recording arises from a lack of understanding. The AON report also concluded the schemes were highly complex which would perhaps naturally lead to breaches.

LGA have developed a breach assessment template<sup>62</sup> to use in line with TPR guidance on assessing materiality.

When assessing materiality, the action taken to resolve the problem and the frequency / history of similar breaches occurring in the past should be taken into account.

An example of this is annual benefit statements for special members of FPS 2006. We understand there are relatively low levels of special members who did not receive a benefit statement by the deadline of 31 August 2019 as the statement needed to be manually calculated and checked. Materiality cannot be determined on the low numbers alone; an

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<sup>57</sup> Table 4.8.1 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>58</sup> <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice>

<sup>59</sup> Excluding those related to annual benefit statements

<sup>60</sup> Slide 18 - <https://www.local.gov.uk/sites/default/files/documents/TPR%20Update.pdf>

<sup>61</sup> Page 23 - <http://www.fpsboard.org/images/PDF/Surveys/Aonreportfinal.pdf>

<sup>62</sup> <http://www.fpsboard.org/images/LPB/Resources/Breachassessment210119.docx>

assessment of materiality should include whether these members have previously had issues with statements and calculations.

### **A procedure for identifying, recording and assessing breaches of law should<sup>63</sup>:**

1. Determine whether a breach of law has occurred
2. Record the Breach
3. Assess for materiality to TPR
4. Report to TPR if considered material

#### **● Identify and determine whether a breach of law has occurred**

The procedure should lay out how a breach might be identified, this could be identified by a number of ways,

- Tracked under a regular board agenda item, i.e. annual benefit statements
- Flagged from a LGA bulletin, for example guidance on two pension calculations
- Reported by the pension administrator, for example incorrect benefits paid
- Reported by the scheme manager, for example identification of a pension accounting error
- Reported by a scheme member, for example pension entitlements incorrectly identified due to lack of procedures

Once a potential breach has been identified, both the facts and regulations need to be clarified to identify what law has been breached<sup>64</sup>. Administrators may be able to help with this, or FRAs can also submit a [query](#) to the LGA Bluelight Pension Team, who will respond confidentially to the query.

#### **● Record the breach**

Once a breach of law has been determined, it must be to recorded, whether or not it is subsequently found to be material. The breach can be recorded by completing the breach template<sup>65</sup> and providing a copy to the LPB and scheme manager.

#### **● Assess the breach for materiality to TPR**

TPR have published guidance on assessing for materiality<sup>66</sup>, which is often referred to as the traffic light system for assessing over four key categories: Cause, Effect, Reaction and Wider Implications. Assessment for materiality should also consider any relevant history, i.e. have breaches occurred for the same membership type previously, and what action is being taken to ensure no further breaches occur.

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<sup>63</sup> See also guidance from TPR code of practice 01 - <https://www.tpr.gov.uk/en/document-library/codes-of-practice/code-1-reporting-breaches-of-the-law/#6fcbf41742134abb8520fba2ae17f0b1>

<sup>64</sup> Paragraph 246 - <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice#458801ec082a49e0bb494b6ff7480d12>

<sup>65</sup> <http://www.fpsboard.org/images/LPB/Resources/Breachassessment210119.docx>

<sup>66</sup> <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/ps-reporting-breaches-examples-traffic-light-framework.ashx>

- **Report to TPR**

Finally, if the breach is assessed as material it must be reported to TPR, using the assessment template as a record of the breach and submitted either by post or electronically using email or the exchange online service.<sup>67</sup>

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<sup>67</sup> Paragraphs 263 to 271 - <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice#458801ec082a49e0bb494b6ff7480d12>

## Access to knowledge, understanding and skills needed to properly run the scheme

At the 2018 survey, 98% of Firefighters' Pension Schemes reported to have procedures to enable access to all the knowledge, understanding and skills necessary to properly run the scheme, this had risen from 36% in 2015. In addition, 87% said they had sufficient time and resources to run the scheme properly.<sup>68</sup>

But over half the boards (54%) rated lack of resources or time as one of their top three barriers to improving scheme governance.<sup>69</sup>

77% evaluate the understanding and skills annually but only 31% evaluate more often.<sup>70</sup>

Boards need to have a robust plan to ensure that regular evaluation takes place of the skills needed to run the scheme properly, particularly for boards with a high turnover.

It is also important to identify whether the skills level is split evenly or if the board relies on a particular individual as this can feed into the risk matrix.

### A procedure for ensuring there is access to knowledge, understand and skills to run the scheme should include<sup>71</sup>;

- Confirmation of the legal requirements for board members
- Relevant policies
- Access to a development discussion (not mandatory) to discuss any requirements they have to fulfil their role
- Annual access to training to ensure knowledge and understanding of
  - The responsibilities of the Scheme Manager and Local Pension Board
  - The Scheme rules
  - TPR Code of Practice 14
  - Wider pension rules
- LGA bulletins<sup>72</sup> should be made available to all board members
- All members should be offered an opportunity to attend national events<sup>73</sup> run by LGA and sponsored by the SAB
- A log of all training undertaken by board members in the form of a personal training analysis<sup>74</sup>
- An annual evaluation of skills

<sup>68</sup> Table 4.1.5 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>69</sup> Table 4.9.1 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>70</sup> Table 4.1.5 - <http://fpsregs.org/images/Legal/TPR/public-service-research-2018.pdf>

<sup>71</sup> Paragraphs 34 to 60 - <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice#458801ec082a49e0bb494b6ff7480d12>

<sup>72</sup> <http://www.fpsboard.org/index.php/board-publications/bulletins>

<sup>73</sup> <http://www.fpsboard.org/index.php/events>

<sup>74</sup> Paragraph 57 - <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-14-public-service-pension-code-of-practice#458801ec082a49e0bb494b6ff7480d12>

## Further Resources

- [Firefighters' Pension Schemes Management and Governance Factsheet](#)
- [Scheme Manager Factsheet](#)
- [Local Pension Board Guidance, Training and Resources](#)
- [The Pensions Regulator Guidance and Resources](#)
- [Code of Practice 14](#)
- Library of TPR Admin and Governance Surveys

Summary	Research Report
<a href="#">Commentary on results 2018</a>	<a href="#">Research Report 2018</a>
<a href="#">Commentary on results 2017</a>	<a href="#">Research Report 2017</a>
<a href="#">Commentary on results 2016</a>	<a href="#">Research Report 2016</a>
<a href="#">Commentary on results 2015</a>	<a href="#">Research Report 2015</a>

This factsheet has been prepared by LGA to give some guidance on the TPR six key processes using the regulations and TPR guidance as they stand at October 2019.

In particular we note that due to the finding of the Court of Appeal in the case of Sargeant, the scheme rules may be amended, this factsheet will be amended at that time referencing any changes to the scheme and policies that might be needed.

This factsheet should not be interpreted as legal advice.\f

Please address any queries on the content of this factsheet to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)