

# **Code of Practice for trustees of occupational pension schemes and trust retirement annuity contracts**



## Table of contents

Introduction .....	5
Legal basis .....	5
Scope .....	5
Application .....	5
Chapter 1 – General governance requirements .....	6
Introduction .....	6
General scheme management .....	6
Trustee meetings .....	6
Documentation of decisions and reviews .....	7
Data strategy .....	8
Types of scheme information for trustees .....	8
Conflicts of interest .....	9
Outsourcing and service providers .....	9
General contract terms for outsourced activities .....	9
Procedures for the appointment of service providers .....	10
Remuneration .....	11
Member engagement .....	11
Chapter 2 – Administration .....	13
Introduction .....	13
Administration policy .....	13
Employer’s role in the administration of the scheme .....	14
Administration contract .....	14
Review and oversight .....	15
Chapter 3 – Internal control system .....	16
Introduction .....	16
Accounting procedures .....	16
Internal control framework .....	16
Risk management .....	17
Risk management function .....	17
Risk management policy .....	17
Own-risk assessment (ORA) .....	18



Content of own-risk assessments.....	19
Identifying and putting in place internal controls.....	20
Monitoring and review of internal controls.....	20
Internal audit function.....	21
Internal audit policy.....	21
Scheme reporting arrangements.....	22
Chapter 4 – Investment.....	23
Introduction.....	23
Statement of investment governance.....	23
Defined benefit schemes.....	23
Defined contribution schemes.....	24
Setting the investment objectives and strategy.....	24
Implementation of investment objectives and strategy.....	25
Investment contracts.....	26
Overseeing investment performance.....	27
Safekeeping and administration of scheme assets.....	28
Chapter 5 – Defined benefit financial management.....	29
Introduction.....	29
Solvency.....	29
Sustainability.....	30
Financial risks.....	30
Support from sponsoring employers.....	30
Chapter 6 – Fit and proper requirements.....	31
Introduction.....	31
Part A – Trustees.....	31
The ‘fit’ requirement for trustee boards and directors of sole corporate trustees.....	31
The ‘proper’ requirement for individual trustees and directors of sole corporate trustees.....	32
The ‘proper’ requirement for corporate trustees.....	33
Ongoing compliance with fit and proper requirements.....	35
Skills, knowledge, training, and experience of trustee boards.....	36
Part B – Key function holders.....	36
The ‘fit’ requirement for key function holders.....	36

The ‘proper’ requirement for key function holders .....	37
Procedure for the selection and appointment of key function holders .....	39
Ongoing compliance with fit and proper requirements .....	40
Chapter 7 – Additional requirements for defined contribution master trusts .....	41
Conflict of interest .....	41
Capitalisation .....	41
Trustee .....	42
Continuity plan .....	42
Member/employer communications .....	43
Charges transparency .....	44
Marketing of the scheme .....	44
New members .....	44
Wind-up procedure .....	45
Reporting to the Authority .....	45
Appendix 1 – List of key risks and examples of controls .....	46
Appendix 2 – Sample questionnaire to evaluate whether applicants for the positions of trustee or key function holder satisfy the ‘proper’ requirement .....	48

## Introduction

### Legal basis

One of the functions of the Pensions Authority (the Authority) under the Pensions Act, 1990, as amended (the Act), is to issue guidance on the duties and responsibilities of trustees of occupational pension schemes and trust retirement annuity contracts, and codes of practice on specific aspects of their responsibilities. This Code of Practice (the Code) is issued by the Authority pursuant to section 10(1)(c)(i) of the Act.

### Scope

The Code sets out the Authority's expectations for the conduct and practice of trustees of funded occupational pension schemes<sup>1</sup> and trust retirement annuity contracts (both referred to hereafter as 'schemes')<sup>2</sup>. The Code is not intended to prescribe how to comply with every requirement under legislation. Instead, its purpose is to provide further explanation, where necessary, of the minimum that the Authority views as necessary to comply with specific requirements.

The Authority will monitor compliance with the requirements set out in the Code as part of its ongoing forward-looking risk-based supervision.

### Application

The Code sets out the Authority's minimum expectations for all schemes in the areas covered by the Code. Depending on the size, nature, scale, and complexity of a scheme, trustees may consider it appropriate to implement additional measures above and beyond what is specified in the Code. How trustees organise their schemes is for them to decide once all requirements are addressed. Trustees should always remain mindful of their fundamental duty to act in the members' best interests.

The Authority may amend or supplement the Code periodically.

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<sup>1</sup> Excluding death benefit only and pay-as-you-go schemes.

<sup>2</sup> For one member arrangements established before 22 April 2021, the provisions of the Code will not apply until 22 April 2026.

## Chapter 1 – General governance requirements

### Introduction

1. Trustees must ensure that their scheme has an effective system of governance that provides for its sound and prudent management. This chapter sets out the actions that the Authority expects trustees to take to ensure satisfactory governance of their schemes.
2. Except where noted otherwise in the Code, the term ‘trustee’ is inclusive of both individual persons serving as trustees and persons serving as directors of sole corporate trustees.
3. Throughout the Code, references are made to various policy and procedure documents the trustees must have in place. It is for the trustees to decide how best to structure and organise these.

### General scheme management

4. Trustees must have written procedures for scheme management in place and must retain documented evidence that these procedures have been and are being followed. This documentation must include:
  - identification of members of the trustee board, the key function holders (KFHs), service providers, and any other parties involved in the management and administration of the scheme,
  - clear allocation of each party’s respective tasks, and
  - a list of scheme activities that includes statutory timeframes and dates by which specified tasks must be completed.

### Trustee meetings

5. To ensure that the scheme has an effective system of governance, the trustees must establish a written procedure for the planning and running of meetings. The minutes of meetings must provide written evidence of the extent to which this procedure has been followed.
6. Even when there is no provision for it in the scheme rules, the trustees must appoint a secretary to the board of trustees. This secretary will be responsible for circulating an agenda and other relevant paperwork in advance of meetings and for recording the minutes of each meeting. Trustees must also appoint a chairperson to lead trustee meetings and this chairperson will ensure that all the items listed on the agenda are addressed.



7. Trustees must hold a sufficient number of meetings to maintain effective oversight and control. For master trusts, trustee directors must meet at least once per quarter. In cases where trustees are responsible for managing more than one scheme, each meeting must be scheme specific. This does not preclude some items that are entirely common to more than one scheme being discussed together e.g., an investment presentation. The Authority expects all trustees to contribute to the discussions and decision making at their meetings. No one trustee should have unfettered powers of decision in the management of a scheme.
8. The agenda for regular meetings must be circulated in advance and must include consideration of:
  - conflicts of interest,
  - risk,
  - issues of non-compliance,
  - administrative matters, and
  - member queries and complaints.
9. Minutes must be taken at every trustee meeting and must be subsequently reviewed and approved by the trustees. The minutes must include:
  - the date, time, place of the meeting,
  - the names of the trustees who did attend the meeting,
  - the names of the trustees who did not attend the meeting,
  - details regarding any other persons (such as service providers) who attended,
  - summary of the discussions held, and all decisions made, and
  - action points, deadlines, and identification of the persons who were assigned responsibility for progressing each item.

## **Documentation of decisions and reviews**

10. Trustees must have clear, documented evidence of:
  - decisions taken and the factors considered (including the nature of any relevant advice or information considered),
  - actions taken by the trustees,
  - individual policies being implemented by the trustees, and
  - all reviews performed by the trustees.

11. Trustees must review policies at least once every three years, as well as after any significant change in the area with which the policy is concerned.
12. Trustees must retain adequate records relevant to their process of policy review. These are to include the minutes of trustee meetings, all documentation of decisions made by the trustees, all advice (other than privileged), all expert reports, and all other information upon which decisions have been based. These records must be kept in a format available for inspection by the Authority.

## Data strategy

13. Trustees must have a written data policy that includes consideration of the nature, scope, and timeliness of data needed to fulfil their duties, the manner in which this data is to be obtained, and the methods that will be used to verify the accuracy of such data. Trustees are also responsible for ensuring that data is handled in accordance with the General Data Protection Regulation (GDPR).
14. Trustees must review compliance with the policy at least once annually and the findings from these reviews must be documented.

## Types of scheme information for trustees

15. Trustees must have a written policy setting out the information that they require to manage their pension scheme.
16. The following table provides an example of information trustees should have available to them and the indicative timeframes.

Information	How often	When
Scheme asset value	At least annually	Within one month of year end
Investment returns relative to benchmarks and targets	Annually	Within three months of year end
Investment allocations relative to targets	Annually	Within three months of year end
Scheme liabilities and solvency position (including progress relative to funding proposal, where relevant)* (defined benefit schemes only)	At least annually	Within three months of year end
Costs compared to budget (where relevant)	Annually	Within three months of year end

*\*Estimates of membership numbers and liabilities should be used, if necessary, to avoid delay.*

## Conflicts of interest

17. Trustees must have a written policy on conflicts of interest for themselves and for the KFHS whom they engage. It must provide details on how the trustees will identify, monitor, and manage conflicts of interest, including:
- description of the types of conflict that may arise (including conflicts concerning trustees, KFHS, service providers, and employers),
  - a register of trustees' and KFHS' interests which could give rise to such conflicts,
  - the process for managing identified conflicts, and
  - whether conflicted trustees will be allowed to vote on conflicted matters.
18. Trustees must review compliance with the policy at least once annually and document their findings. Trustees must review the policy itself at least once every three years.

## Outsourcing and service providers

19. In some cases, trustees will outsource the undertaking of activities directly related to their responsibilities. They may also engage external service providers to assist them, for example legal advisers. All instances of outsourcing or where the trustees use external service providers must be subject to written contracts between the trustees of each scheme and their service providers (including advisers). These contracts must be legally enforceable and must clearly define the obligations of both the trustees and the service providers. Regardless of outsourcing arrangements, trustees are responsible for ensuring the scheme's compliance with legal obligations.
20. For every outsourced activity and engagement of service providers, there must be a written description of the activity, the person undertaking it, and the process for performance review.

## General contract terms for outsourced activities

21. The following items must be included in contracts with outsourced service providers:
- commencement dates and end dates or provision for ending the contract,
  - detailed descriptions of the obligations of service providers and their associated deadlines,
  - description of the trustees' obligations,

- description of information that is to be provided to the trustees on a regular basis,
- where appropriate, details regarding obligations for submitting reports to the Authority,
- record-keeping, data-validation, and (where relevant) auditing requirements,
- procedures for data protection,
- procedures for reporting breaches in compliance or data security,
- whether sub-outsourcing is permitted and if so, the conditions under which it is permitted,
- details regarding any third-party service providers or sub-contractors,
- business continuity arrangements,
- procedures for handling disputes and appeal procedures, including specification of timeframes for resolution,
- pricing and fee structures, and
- provisions for review, termination, and handovers.

22. In addition to meeting the requirements listed above, trustees must tailor their contracts as needed based on the specific characteristics of the service providers with whom they are engaging. Additional guidance for administration and investment contracts is provided in Chapters 2 and 4.

### **Procedures for the appointment of service providers**

23. Trustees must have written procedures for the appointment of service providers and must retain documented evidence of compliance with these procedures.
24. These written procedures must include details regarding:
- invitation of applications,
  - management and resolution of potential conflicts of interest as per processes in accordance with the scheme's conflicts of interest policy,
  - the type of information that will be sought from applicants and the criteria by which applications will be assessed, and
  - the processes to be followed in reaching a decision.
25. Trustees must document how they ascertained that each new appointee had the capacity and experience necessary to fulfil their obligations.



## Remuneration

26. There must be a written remuneration policy for trustees (where relevant), KFHS, any outsourced service providers, and any other personnel employed by the trustees to carry out professional activities. Regardless of who pays the remuneration, the objective of the policy is to ensure that conflicts of interest and excessive risk-taking are avoided. The remuneration policy must cover:
- the policy's objectives,
  - the roles and responsibilities of all parties involved in determining remuneration,
  - procedures for determining remuneration for trustees and KFHS,
  - procedures for determining remuneration for outsourced providers, and any other personnel employed by the trustees to carry out professional activities,
  - safeguards to ensure that remuneration practices do not generate excessive risk-taking or conflicts of interest,
  - provisions to ensure that remuneration is not solely based on financial performance metrics,
  - a provision that payments related to early termination of a contract must reflect performance achieved over the long-term and be designed in such a way that they do not reward failure,
  - characterisation of the frequency, form, and content of reporting arrangements whereby the trustees receive updates and financial statements generated, and
  - procedures whereby remuneration policy is to be reviewed, approved, and updated by the trustees.
27. Trustees must ensure that the remuneration policy is reviewed and updated at least once every three years.

## Member engagement

28. Trustees must ensure that members and beneficiaries are given certain information within specific timeframes as set out in the Act and related regulations. These requirements are a minimum. If the trustees identify additional areas where members would benefit from communication and engagement, these should also be provided.
29. Trustees must prepare a written policy regarding the ways in which they will engage with members. This policy must address the objectives for such engagement, the occasions upon which such engagement will occur, the frequency of same, and the forms of communications that will be used.

30. The policy must be reviewed at least once every three years. Each such review must assess the effectiveness of the existing policy and, when necessary, the policy must be updated to ensure that it continues to serve the needs of scheme members. Trustees should consider how best to establish the effectiveness of their engagement with members and must keep a log of all queries and complaints received from members.
31. If a member requests access to any policy document referred to in the Code, the trustees must provide access to that document within four weeks of the request. Access may only be denied when there is a legally justifiable rationale (such as a request for a document that contains sensitive personal information).
32. Unless expressly required otherwise in the Act or regulations made thereunder, disclosure documents can generally be provided by electronic means. Trustees should be mindful of the requirements of the Electronic Commerce Act 2000 in respect of the electronic provision of information, which includes that:
  - at the time the information was given it was reasonable to expect that the information would be readily accessible to the person to whom it was directed, for subsequent reference; and
  - the person consents to the receipt of the information in that form.

## Chapter 2 – Administration

### Introduction

33. This chapter sets out actions that the Authority expects trustees to undertake to ensure the efficient administration of their scheme. Scheme administration covers managing member records, keeping these up to date, and adequate communication with the scheme's members and with the Authority.
34. Where the administration of the scheme is outsourced, the following requirements apply:
- Where the administration of the scheme is performed by more than one administrator, the Code applies to all administrators involved in the administration.
  - Where administration is performed by the employer, the same procedures and documentation are required as with any outsourcing arrangement.
  - Responsibility for complying with legislatively mandated obligations remains with the trustees, regardless of whether administration of the scheme has been outsourced.
35. Where some or all the administration is performed directly by trustees, the Authority expects the trustees to follow written procedures for oversight and reporting as would be the case if the administration has been outsourced.

### Administration policy

36. Trustees must create and maintain a written administration policy. This statement of policy must cover the following:
- **Purpose:** The purpose of the policy should be defined in terms of its specific goals, such as documentation of administrative activities, procedures for appointing administrators, and/or procedures for monitoring the administrator's activities.
  - **Scope:** The scope of the policy should be defined, including the extent to which it covers the administrator's obligations, the responsibilities of the registered administrator, and any other administration functions.
  - **Roles and responsibilities:** The role and responsibilities of the administrator, the trustees, the employer, and any service providers involved in the administration of the scheme.
  - **Information requirements:** The type of information that will be received by the administrator, the person or persons who are to provide that information, and the frequency with which such information is to be provided.

- **Reporting:** Information that the administrator must provide to the trustees, to KFJs, to the Authority (in the case of a registered administrator), and to any other service provider, as well as frequency with which such information must be provided.
- **Monitoring and review:** The procedures and frequency for monitoring and reviewing the performance of the administration.
- **Review of policy:** The policy must state how often, by whom, and in what circumstances the policy will be reviewed.

37. Trustees must maintain documented evidence to demonstrate that the administration policy has been complied with and reviewed periodically.

### **Employer's role in the administration of the scheme**

38. Trustees need to have a full understanding of the employer's role in the administration of the scheme, including but not limited to the processes used by the employer to provide information to the administrator. Trustees must take reasonable steps to have a written agreement with the employer regarding the provision of data to administrators. At least once every three years, trustees must review the processes that the employer uses to provide information to the administrator.

### **Administration contract**

39. All outsourcing of administrative activities must be regulated by a written contract. Details of standard provisions for outsourcing contracts can be found in paragraph 21. Written contracts for administration outsourcing must specify:

- procedures whereby administrators will record and respond to members' issues and complaints,
- arrangements whereby the trustees will provide instructions to the administrator,
- procedures for interactions between the administrator and other relevant service providers,
- the administrator's obligation to provide information to the Authority in the case of a registered administrator,
- a complaint-resolution process, and
- procedures for preparing and distributing disclosure documents as required under legislation.

## Review and oversight

40. The administrator's performance must be monitored on a quarterly basis and reviews conducted at least once annually. These reviews must evaluate the administrator's performance against the previously agreed contract and service level agreement (SLA).
41. Critical reviews must be conducted at least once every three years, or earlier if circumstances arise which suggest that the administrator's ability to meet their obligations under the contract and/or SLA are negatively affected or impaired. A critical review is an in-depth review of the administrator's performance conducted against the obligations specified in their contract and in the SLA. The critical review forms the basis for a decision by the trustees as to whether to retain the current administrator or consider his/her replacement. A critical review does not automatically require that the trustees initiate a tender process. A tender process must be initiated, however, if the performance assessment gives rise to issues of concern, including issues related to value for money.
42. The reasons underlying a decision to remain with the current provider or to change provider must be clearly documented in the critical review.

## Chapter 3 – Internal control system

### Introduction

43. Trustees must put in place an effective internal control system that provides reasonable assurance that a scheme is compliant, properly administered and managed, and has appropriate reporting systems. This chapter sets out actions that the Authority expects trustees to undertake to have an effective internal control system.
44. An effective internal control system includes an administration policy (see Chapter 2), accounting procedures, an internal control framework (including risk management and internal audit functions), and appropriate reporting arrangements.

### Accounting procedures

45. Trustees must have accounting procedures that define how the scheme will record, classify, and summarise financial transactions. In addition, these procedures must specify how the scheme's trustee annual reports (TARs), or alternative annual reports (AARs) will be prepared. These procedures must include:
- procedures whereby financial transactions will be recorded,
  - daily, monthly, and/or annual reconciliation requirements,
  - timelines for preparation of TARs or AARs,
  - roles and responsibilities of trustees, administrators, and independent accountants (where required) in the preparation of TARs, AARs, and any required external audits, and
  - procedures for the appointment of an external auditor to audit TARs.

### Internal control framework

46. Trustees must put in place an effective internal control framework that includes well-functioning risk management and internal audit functions. This framework must include the standards, processes, and organisational structures that will provide the basis for carrying out internal control. The main elements of this internal control framework are risk management, the establishment of well-identified internal controls that monitor risks, and an ongoing process that monitors and reviews the internal controls. The risk management component of this internal control framework must include procedures for own-risk assessment (ORA).

## Risk management

47. Good risk management is an essential characteristic of a well-run scheme and plays an important role in the trustees' execution of their obligation to protect members' interests. Trustees must prepare an effective risk management policy and must monitor the ongoing execution of that policy.

## Risk management function

48. The policies governing the risk management function must be structured in such a way as to facilitate the operation of the trustees' risk management system. The risk management function must be well integrated into the decision-making processes of the scheme.
49. The risk management function is to be overseen and executed by a risk management KFH whose tasks include:
- assisting the trustees in preparing the risk management policy,
  - assisting the trustees in preparing the scheme's ORA,
  - assisting the trustees in gathering information necessary to identify risks to the scheme,
  - assisting the trustees in organising, assessing and (where appropriate) the measuring and quantifying of risks,
  - identifying potential controls that may facilitate mitigation of identified risks,
  - attending trustee meetings and advising on matters relating to risk management, and
  - monitoring ongoing management of identified risks and providing the trustees with appropriate updates regarding same.
50. The Authority expects implementation of the risk management function to be objective, thorough, and comprehensive.

## Risk management policy

51. Trustees must have a documented risk management policy that provides a framework for the management of risk. The policy must cover the following areas:
- **Purpose:** The stated purpose of the policy should be defined in such a manner that it makes it clear that the policy is intended to provide the scheme with an effective framework for identifying, measuring, monitoring, managing, mitigating, and regularly reporting to the trustees matters relating to risk.

- **Scope:** The scope should specify the areas of scheme activity to be covered by risk management.
- **Risk management framework:** The policy must provide a framework for how risks are to be identified, measured, monitored, managed, mitigated, and reported. It must include a risk-scoring system with provision of risk ratings and a defined procedure for ORA.
- **Risk appetite:** The policy should indicate the extent to which the trustees are prepared to accept, tolerate, or be exposed to risk at any given point in time. For example, it might state that the trustees and the scheme seek to minimise exposure to compliance, financial, and reputational risk, whilst nonetheless accepting and encouraging some degree of risk in pursuit of its investment objectives.
- **Risk management responsibilities:** The policy should define the specific roles of the trustees, the risk management KFH, and any other service providers who are responsible for risk management.
- **Risk management process:** The policy should provide a high-level overview of the risk management process and outline its guiding principles.
- **Review of policy:** It must be specified how often the policy will be reviewed.

### Own-risk assessment (ORA)

52. Trustees must have a documented ORA process to identify and assess material risks that threaten achievement of the scheme's objectives.
53. The ORA process must address:
  - when and how often regularly scheduled ORAs will be performed (with a minimum rate of at least once every three years) and specification of the circumstances under which additional ORAs would be required (including the requirement to prepare an ORA without delay following any significant change in the risk profile of the scheme),
  - the qualitative and quantitative information necessary for the trustees to undertake the ORA and the methods used to collect this information,
  - the role that the risk management function is to play in performing the ORA, and
  - how the results of the ORA are to be integrated into the trustees' management and decision-making processes.
54. The ORA must provide a true assessment of risk and not merely a rationalisation of the scheme's current position.



## Content of own-risk assessments

55. Trustees must ensure that the ORA contains a comprehensive assessment of the overall position of the scheme, including challenges and risks that are faced by the scheme and risks to members' benefits. The latter must include, where applicable, assessment of risks that affect particular classes of members (such as active, deferred, and pensioner members, as well as specified sub-cohorts within these member classes).
56. Based on the findings from an ORA, trustees must determine which risks their scheme can safely absorb without further action and which risks require mitigating action. The ORA must provide guidance to the trustees regarding actions that may be taken to mitigate risks.
57. The ORA must include consideration of the full range of material risks, including both external and internal factors. Examples of the former would include market risks and environmental risks. Operational risk would be an example of the latter.
58. Trustees must ensure that their ORA covers:
  - the risk that members' expectations for scheme benefits will fail to be met (including assessment of the role that member communications may play in mitigating this risk),
  - qualitative assessment of the scheme's operational risks that includes assessment of the adequacy, accuracy, and robustness of the scheme's system for maintaining benefit records, the handling of members' communications, issues of general administration, security of the system of handling contributions, and other financial control systems,
  - the potential impact of any decisions made by the trustees that may have significantly altered risks to the scheme or to the benefits that its members and their beneficiaries may receive,
  - where relevant, the adequacy or lack of insurance arrangements for death benefits, and
  - in situations in which the same person performs one or more key functions for both the scheme and the employer, a description of how the scheme will prevent conflicts of interest that could arise due to this duality of roles.
59. In addition, trustees of defined benefit (DB) arrangements must ensure that their ORA considers:
  - the current funding position of the scheme and the factors that have led the scheme to this position,



- a quantitative evaluation of the solvency, financial risk, and sustainability position of the scheme,
- the trustees' evidence-based view of the strength of the employer covenant, and
- the risks identified by periodic review of the funding of the scheme described in Chapter 5.

### **Identifying and putting in place internal controls**

60. Trustees must put in place internal controls that are sufficient to ensure that the scheme is managed well and in accordance with the scheme rules, the Act, and other relevant legislation. It is the trustees' responsibility to ensure the controls are properly identified and implemented.
61. These internal controls must consist of policies and procedures that ensure that any risks identified by the trustees' risk management system are prevented or reduced to an acceptable level. Controls may be preventive, detective, or corrective and may be exerted either manually or in an automated manner.
62. Examples of types of control activities would include requirements for authorisation, approvals, reconciliations, staff training, and performance reviews of service providers. For a more extensive list of examples of risks and controls, see Appendix 1.

### **Monitoring and review of internal controls**

63. Trustees must have processes and procedures in place for examining and assessing whether the scheme's internal controls are functioning properly. Internal controls must be reviewed at least once every three years, or more often when substantial changes have taken place such as (but not limited to) deterioration in a DB scheme's funding, a change in investment manager, or realisation that an existing control is inadequate.
64. Assessments should include the use of internal audits and spot checks performed by the trustees or by other key scheme personnel. It is important that any findings from these assessments be properly examined by the trustees and by individuals responsible for the risk management function. In addition, these findings must be communicated to relevant parties in a timely fashion so that additional controls can then be instituted, or existing controls modified and improved, as needed.



## Internal audit function

65. To assist the trustees with the monitoring and review of internal controls, they must establish and maintain an effective internal audit function that is overseen and executed by an internal audit KFH. Execution of the internal audit function may also be supported by the activities of an audit committee if such a committee has been established.
66. The tasks of the internal audit KFH are to:
- assess whether governance and risk management are working effectively,
  - provide assurance that controls have been adequately defined,
  - identify control weaknesses and make recommendations for correcting problems,
  - monitor regulatory compliance,
  - challenge current practices when appropriate,
  - identify areas where training is required, and
  - document and report on findings.

## Internal audit policy

67. Trustees must have a documented internal audit policy that provides a framework within which internal audit is able to provide objective and independent assurance and advice to the trustees. The policy must cover the following areas:
- **Purpose of policy:** An overview of the rationale underlying the internal audit policy.
  - **Scope of internal audit function:**
    - scheme administration (where performed in-house),
    - trustee oversight of outsourced functions and responsibilities,
    - trustee investment decisions and processes,
    - scheme governance,
    - risk management,
    - procedures for handling contributions,
    - legislatively mandated compliance issues,
    - management of information-technology systems,
    - fit and proper requirements (as discussed in Chapter 6),
    - disclosure requirements, and
    - any other areas and issues that the trustees believe should be included.
  - **Independence and objectivity:** Internal audits must be conducted in a manner independent of the activities audited. It must provide unbiased

judgments and impartial advice and must be reported directly to the trustees or an audit committee, if such a committee has been established.

- **Role and responsibilities:** The policy must define the roles and responsibilities of the internal audit KFH, the trustees, and the audit committee, if such exists.
- **Trustee handling of findings produced by the internal audit function:** The policy must indicate how the trustees will consider findings and recommendations reported by the internal audit function and incorporate these into their decision-making processes in managing the scheme. The trustees should set out general timelines for acting upon any findings and recommendations.
- **Reporting requirements:** The policy must set out reporting requirements for the internal auditor function and the timeframes for response by the trustees (and from the audit committee, where such exists).
- **Review of policy:** It must be specified how often the policy will be reviewed.

## Scheme reporting arrangements

68. Trustees must ensure that clear communication processes and procedures are established for obtaining, providing, and reporting information that is necessary for the operation of their scheme. These processes must be kept under ongoing review and adapted, as needed, to meet the scheme's objectives and to assist with managing identified risks.

## Chapter 4 – Investment

### Introduction

69. This chapter covers investment matters for trustees of both DB and defined contribution (DC) schemes. It sets out the Authority's expectations for trustees regarding their investment responsibilities. These include:

- a statement of investment governance,
- setting investment strategy (including, in the case of DC schemes, deciding on investment choices and the default investment), and
- appointment and oversight of investment managers.

### Statement of investment governance

70. Trustees must have a written statement outlining the governance process whereby investment objectives and strategy will be decided upon and implemented. The trustees must take into account the statement of investment governance when appointing or reviewing any investment service provider, or when making decisions in relation to the investment of the pension scheme assets. This statement of investment governance must be reviewed by the trustees at least once every three years and also whenever amendment of the investment governance process is planned. There must be documented evidence of the review.

71. These requirements are separate from the trustees' obligation to prepare a Statement of Investment Policy Principles (SIPP). While the statement of investment governance is intended primarily to be a governance document for the trustees, the content of the SIPP is prescribed in legislation and is subject to disclosure requirements. The statement of investment governance must be available to members on request.

### Defined benefit schemes

72. In the case of a DB scheme, the statement of investment governance must define the process whereby agreement is to be reached on investment objectives and choice of investment strategy. In addition, it must consider the responsibilities and process for funding of DB schemes as described in Chapter 5. The statement must include how each of the following are to be decided:

- the scheme's investment objectives and level of risk tolerance,
- the process that will be followed in agreeing the investment strategy,

- the extent to which professional advice will be sought regarding various aspects of the process and, where relevant, the role of the advisers,
- whether the sponsoring employer will be consulted,
- how frequently and under what circumstances the investment strategy will be reviewed,
- whether environmental, social, and governance factors will be considered, and if so, the processes by which these will be incorporated into the investment process,
- the investment management structure, investment mandates, and the appointment of investment managers, and
- the information to be considered in assessing investment performance.

### **Defined contribution schemes**

73. For DC schemes, the statement of investment governance must include how each of the following are to be decided:

- the scheme's investment objectives and the number of investment choices that will be offered to scheme members,
- the investment strategy and risk tolerance for each investment choice and for the default investment,
- the extent to which professional advice will be sought and, where relevant, the role of the advisers,
- the frequency at which investment choices and default investment will be reviewed and under what circumstances they will be subjected to immediate review,
- whether environmental, social, and governance factors will be considered, and if so, the processes by which these will be incorporated into the investment process,
- the investment management structure, investment mandates, and the appointment of investment managers, and
- the information to be considered in assessing investment performance.

### **Setting the investment objectives and strategy**

74. In their management of DB schemes, trustees must specify, in writing, clear quantitative and qualitative targets for the scheme's rate of investment return and risk tolerance and must include any constraints that apply to these. In the management of DC schemes, these investment targets should be specified for each investment choice. Where this is not possible, for example in the case of pooled funds or a lifestyle default investment strategy, the trustees can define investment targets in terms of investment benchmarks appropriate to the objectives of the scheme. In each case, these objectives must be realistic,

consistent with each other, and, in the case of DB schemes, must be consistent with the scheme's funding strategy.

75. The investment strategy must include:

- the objective for rates of return,
- the maximum acceptable level of investment risk based on objective and quantifiable measures,
- procedures for keeping the scheme compliant with legislatively mandated investment obligations and any specific investment obligations required under the rules of the scheme,
- a requirement that the strategy be reviewed at least once every three years and specification of the kinds of events that would trigger an immediate review, and
- where applicable, the environmental, social, and governance factors that are to be considered.

76. The investment strategy must be written in language that is easily understood so that the trustees can monitor and implement it without having to rely on experts to interpret it for them. The stated objectives must be specific, quantifiable and verifiable.

### **Implementation of investment objectives and strategy**

77. Once agreement is reached on the investment objectives and investment strategy, the trustees must decide how these objectives and strategy will be implemented. For DB schemes, the implementation process will be applicable to the scheme overall. For DC schemes, there will be separate implementation processes for each investment choice, as well as for the default investment.

78. There are a range of options available to trustees in implementing their agreed objectives and strategy. These include direct appointment of investment manager(s) for segregated investment management, unitised funds, insurance company policies, the use of bundled investment and administration contracts, and delegated investment solutions including fiduciary investment management. The type of investment and the number of investment managers should reflect the size of the scheme's assets, the complexity of the scheme's requirements, and, in the case of a DC scheme, an appropriate range of investment choices. The trustees must consider this decision primarily in the context of what is in the best interests of members and their pension outcomes.

79. The selection and review process by which the trustees appoint investment managers must be based on a set of written criteria drawn up beforehand by the

trustees. These criteria must include consideration of fees and their impact on investment outcomes, ensuring that every element of the prospective charges has been disclosed and taken into account.

80. The trustees must give consideration to conflicts of interest that may arise for their advisers when the latter are asked to advise on the appointment of investment managers. In such situations, the trustees must carefully weigh such potential conflicts of interest when appointing investment advisers and considering advice received. When acquiring and considering information in relation to the appointment or retention of investment services, the trustees should consult with independent experts to the extent that they require assistance with identifying potential investment managers, organising requests for proposal and interviews, understanding the capabilities of proposers, making comparisons, and analysing costs. Such assistance must be obtained, whenever possible; from parties who do not have a direct conflict of interest in advising the trustees.
81. Based on the review and selection process, the trustees will decide whether to appoint a new manager or to retain, the existing investment manager.
82. If the trustees decide to invest some or all of the assets of the scheme into directly held debt instruments, they must retain information on the credit-assessment process used to evaluate these debt instruments, both prior to their purchase and as an ongoing process while these assets are held. Information on the credit-assessment process must be made available to the Authority on request. This requirement excludes debt instruments that are held by the scheme in collective-investment undertakings and in insurance policies.

## **Investment contracts**

83. There must be a written contract in place for each investment manager appointed by the trustees. Details on generic content for outsourcing contracts can be found in paragraph 21.
84. The additional provisions of this contract must include:
  - the manager's mandate(s), objectives, performance benchmark(s), investment return target(s), and risk tolerance,
  - custody arrangements for administration and safekeeping of assets,
  - provisions governing any sub-contracting of investment management (where permitted),
  - obligations of the investment manager, custodian, and any sub-contractors to provide information directly to the Authority on request by the trustees,

- the fees that will be charged by the investment manager (inclusive of those charged by sub-contractors) and identification of any expenses that may be charged in addition to these fees,
- details regarding the type of information that the investment manager is expected to provide on a regular basis to the trustees and specification of when this information is to be provided, and
- provisions that define the investment manager's obligations in the event that they are replaced or resign.

85. The investment contract must not contain any provisions that limit the trustees' ability to obtain relevant information from the investment manager nor any provisions that impair the trustees' ability to review and replace, subject to reasonable notice, an investment manager or otherwise modify arrangements.

### **Overseeing investment performance**

86. At the outset of an investment manager's appointment, the trustees must specify in writing how they will define satisfactory performance and must also specify in advance the steps that will be taken in the event that the investment manager's performance turns out to be unsatisfactory.

87. The trustees must conduct regular performance reviews of their investment manager(s) and must seek independent advice where appropriate.

- Investment performance must be monitored on a quarterly basis and reviews conducted at least once annually. These reviews must evaluate investment performance in the light of previously agreed investment objectives, performance benchmarks, investment return targets, and pre-specified levels of risk tolerance where applicable.
- A critical review is an in-depth review of an investment service conducted against the criteria that were first applied when appointing the investment manager, while also taking into account any modifications that were subsequently agreed upon during the course of the investment manager's contract (for example, an additional passive investment mandate that was added to the original mandate). The critical review forms the basis for a decision by the trustees as to whether to retain the current investment manager or consider their replacement. A critical review does not automatically require that the trustees initiate a tender process. Such a process must be initiated, however, if the performance assessment gives rise to substantial issues of concern, including concerns regarding value for money.
- Critical reviews must be conducted at least once every three years (except as noted below), or earlier if circumstances arise which suggest that an

investment manager's ability to meet their agreed investment mandate is negatively affected or impaired. Based on circumstances existing as the end of the three-year period approaches, the trustees may also use their discretion to extend the period for critical review of investment performance to a total of five years. If this is done, the rationale underlying such a decision must be documented and the decision must be based on clear and relevant information.

88. When an incumbent investment manager is retained following a critical review, the trustees must clearly document why they chose this course of action.

### **Safekeeping and administration of scheme assets**

89. The trustees must have arrangements in place for the safekeeping and administration of all scheme assets. In most cases, these arrangements are organised through the investment manager appointed by the trustees and the trustees do not have a direct role or direct relationship with the depositary.
90. Where trustees do appoint a depositary directly, certain requirements are triggered in accordance with legislation. The trustees must document the rationale for the direct appointment of a depositary and how the appointment complies with legislation.
91. Where the trustees appoint a depositary directly, they must keep the performance of the depositary under review in accordance with the criteria used for their selection, including criteria regarding value for money. The trustees must consider replacement of a depositary where there are grounds for concern regarding the depositary's performance.

## Chapter 5 – Defined benefit financial management

### Introduction

92. This chapter specifies the kinds of studies and evaluations that trustees must commission and consider in their management of DB schemes. In line with the trustees' governance, financial management, and risk-management responsibilities, they must:
- ensure that they have access to the financial and actuarial data that they need in order to meet their responsibilities, and
  - have a proper understanding of the issues related to the funding of the scheme.
93. Trustees must have a thorough understanding of:
- the scheme's solvency position (the degree to which the funding is adequate to meet the obligations of the scheme),
  - the financial risks facing the scheme,
  - the likelihood that additional support will be required from the sponsoring employer beyond those contributions already planned, and
  - the scheme's sustainability, i.e., the degree to which contributions to the scheme will be adequate to meet the cost of ongoing benefit accrual.
94. Trustees must conduct these studies and evaluations often enough to ensure that their understanding of funding issues is up to date.

### Solvency

95. For the purpose of this section, 'solvency' means the ability of the scheme to meet its liabilities.
96. Trustees must review the solvency of the scheme using a variety of actuarial bases, including:
- the basis underlying the funding standard,
  - the best estimate of future conditions,
  - the likelihood that current investment conditions will persist, (taking into consideration, for example, yield curves, general levels of equity markets, and current rates of price inflation), and
  - bases that would be unfavourable to the scheme.



97. As well as considering present value totals, trustees' understanding of the scheme finances must include a good understanding of the scheme's projected cashflows.

## **Sustainability**

98. Trustees must confirm that ongoing contributions to the scheme can reasonably be expected to meet the cost of ongoing benefit accrual. Trustees must also consider whether the employer is likely to be able to maintain such contributions into the future.

## **Financial risks**

99. Trustees must commission and consider quantitative estimates of the financial risks that the scheme faces.
100. Where the scheme has a funding proposal in place, the risk estimates should assess the likelihood that the funding proposal might fail to meet its objective.
101. While there are many methods and models that can be used to measure financial risk, analyses carried out by the trustees must include the Authority's defined benefit financial risk measure, details of which will be made available by the Authority.

## **Support from sponsoring employers**

102. Trustees must form a comprehensive view of the scheme's ability to absorb financial risks, through the solvency, sustainability and financial risk assessments described above, and through regular discussions with the sponsoring employer. These discussions must assess the ability and willingness, if any, of the employer to support the scheme with supplemental contributions, should they be needed.

## Chapter 6 – Fit and proper requirements

### Introduction

103. The Act requires that trustees and KFHS must be fit and proper.
104. ‘Fit’ means having the appropriate qualifications, knowledge, and experience for a position. For trustees, fit is a collective obligation, meaning that the trustee board or the directors of a sole corporate trustee must as a whole have the appropriate qualifications, knowledge, and experience to run the scheme. For KFHS, fit is an individual obligation. Each individual KFHS must comply with the fit requirement.
105. ‘Proper’ in relation to trustees and KFHS means being of good repute and integrity. Being proper is an individual requirement for both trustees and KFHS. This means that every trustee and every KFHS must be of good repute and integrity.
106. It is the trustees’ responsibility to ensure that the fit and proper requirements are properly applied. Where the trustees determine that a person or a body corporate (as the case may be) does not satisfy the fit and proper requirements they must take the appropriate steps to ensure that the person or body corporate is either not appointed, resigns, or is removed. In situations where the power to appoint or remove trustees is vested in another party, the trustees must inform the other party of their findings and request them to take the necessary actions to ensure that only persons or body corporates that meet the fit and proper requirements be and remain appointed. Should the other party fail to take the necessary actions, the trustees must inform the Authority of their findings and the failure of the other party to act as requested.

### Part A – Trustees

#### The ‘fit’ requirement for trustee boards and directors of sole corporate trustees

107. The trustee board or the directors of a sole corporate trustee must have appropriate qualifications, knowledge, and experience to act for the scheme. This means that at, a minimum, at least one trustee on the board or one director of a sole corporate trustee must:
- have completed a trustee qualification course listed on the Authority’s website as meeting the requirements, and



- have been a trustee or a director of a sole corporate trustee of a similar type of scheme for at least two of the previous three years and thereby have obtained adequate experience to ensure they will be able to contribute in a sound and prudent manner to the management of the scheme.

108. One trustee on the board or one director of a sole corporate trustee can meet the experience, qualification, and knowledge requirements. It is the Authority's preference, however, that at least one of the trustees on the board or one director of a sole corporate trustee meets the experience requirement and at least one other trustee on the board or one director of a sole corporate trustee meets the qualification and knowledge requirement. This is to avoid over-reliance on one trustee or director.

### **The 'proper' requirement for individual trustees and directors of sole corporate trustees**

109. Proper means being of good repute and integrity. In determining good repute and integrity, trustees must consider whether their own suitability for the role or that of one of their fellow trustees has been adversely affected to a material degree (including to the extent that the trustee is automatically disqualified from acting, as per section 64AE of the Act). An individual's qualification as proper could be adversely affected by one or more of the following events or conditions:

- The person is or was a sole trader or a director or partner in a legal entity which has, in any jurisdiction, been prohibited, restricted, or suspended from the right to carry on any trade, business, or profession for which a licence, registration, or other authorisation is required by law in that jurisdiction, or has had any such registration, authorisation, membership, or licence revoked, otherwise than on a voluntary basis.
- The person has been the subject of any upheld complaint made to any regulatory body relating to activities regulated by the Authority or regulated by an equivalent authority in any jurisdiction.
- The person has been, in any jurisdiction, dismissed, or asked to resign (other than in the normal course of business) and did resign, from any professional body, vocation, office, or employment, or from any position of trust or fiduciary appointment, whether remunerated or not.
- The person has, in any jurisdiction, been a director of a company that was struck off the Register of Companies (or its equivalent) by the Companies Registration Office (or its equivalent) on an involuntary basis.
- The person has been disqualified or restricted from acting as a director in any jurisdiction or has been disqualified from acting in any managerial capacity.

- The person has been removed as a trustee under section 63 of the Act.
- The person has, in any jurisdiction:
  - been convicted of an offence either of money laundering or terrorist financing (or their equivalents),
  - been convicted of an offence which could be relevant to that person's suitability to perform the role, or
  - had a conviction, judgment or order made against him/her involving fraud, misrepresentation, dishonesty, or breach of trust, or where the person is subject to any current proceedings for fraud, misrepresentation, dishonesty, or breach of trust.
- The person, or any business with which the person held a position of responsibility, has been or is being, in any jurisdiction, disciplined, or suspended by a regulatory or professional body, a court or tribunal, or any similar body, whether publicly or privately.
- The person has defaulted upon any payment that was due because of a compromise or scheme of arrangement made with their creditors or an assignment made for the benefit of their creditors.
- The person is subject, in any jurisdiction, to a judgment debt, which is unsatisfied, either in whole or in part.
- The person is or has been, in any jurisdiction, the subject of a bankruptcy petition.
- The person has been, in any jurisdiction, adjudicated a bankrupt and the bankruptcy is undischarged.
- The person was a director of an entity, which has been the subject of insolvency.

110. Where any of the above applies to an individual trustee or director of a sole corporate trustee, but it has been determined (other than for specific issues set out in section 64AE of the Act that prevent a trustee from acting) that it does not materially impact on them being considered proper, the review performed and the reasons for still appointing that individual must be clearly documented.

### **The 'proper' requirement for corporate trustees**

111. In determining good repute and integrity, trustees must consider whether a corporate trustee's ability to perform its role is adversely affected to a material degree (including to the extent that the trustee is automatically disqualified from being appointed, as per section 64AE of the Act) by any of the following conditions:

- The company's directors do not meet the 'fit and proper' requirements set out in legislation.



- The corporate trustee is subject to a judgment debt in any jurisdiction that is unsatisfied, either in whole or in part.
- The corporate trustee has commenced a voluntary winding up.
- The corporate trustee is subject to a winding-up order or is subject to proceedings from such an order.
- The corporate trustee has a receiver or examiner appointed.
- The corporate trustee has proposed a compromise or an arrangement with its creditors, has defaulted upon any payment that was due because of a compromise or scheme of arrangement made with its creditors, or an assignment made for the benefit of its creditors.
- The corporate trustee has, in any jurisdiction, been refused, prohibited, restricted, or suspended from the right to carry on any trade, business, or profession for which a licence, registration, or other authorisation is required by the law in that jurisdiction, or has had any such registration, authorisation, membership, or licence revoked, otherwise than on a voluntary basis.
- The corporate trustee has been the subject of any upheld complaint made to any regulatory body relating to activities regulated by the Authority or regulated by an equivalent authority in any jurisdiction.
- The corporate trustee has, in any jurisdiction:
  - been convicted of an offence either of money laundering or terrorist financing (or their equivalents),
  - been convicted of an offence which could be relevant to that person's ability to perform the role, or
  - had a finding, judgment or order made against it involving fraud, misrepresentation, dishonesty, or breach of trust or where the corporate trustee is subject to any current proceedings for fraud, misrepresentation, dishonesty, or breach of trust.
- The corporate trustee has defaulted upon any payment that was due because of a compromise or scheme of arrangement made with its creditors, or an assignment made for the benefit of its creditors.

112. Where any of the above applies to a corporate trustee, but it has been determined (other than for specific issues set out in section 64AE of the Act that prevent a trustee from acting) that it does not materially impact on it being considered proper, the review performed and the reasons for still appointing the corporate trustee must be clearly documented.

113. Section 64AC of the Act requires the appointment of at least two persons as trustees who effectively run the scheme. For sole corporate trustees, the requirement is satisfied where at least two directors effectively run the scheme. It is important for all of a sole corporate trustee's directors to note that all directors are responsible for any decisions taken in relation to the scheme.

114. Trustees must document their determinations concerning matters of fit and proper. In this regard, they may find it useful to complete a questionnaire on proper requirements. An example of such a questionnaire is provided in Appendix 2. This questionnaire is generally applicable to all schemes. Trustees may need to make modifications to the questionnaire to adapt it to the specific characteristics of the scheme under their stewardship. In their determinations, the trustees may rely on the veracity of the information provided by a person or corporate.

### **Ongoing compliance with fit and proper requirements**

115. Trustees and directors of corporate trustees must review and document their compliance with the fit and proper requirements on an annual basis.

116. A person or corporate trustee previously considered fit and proper may subsequently be considered not fit and proper if one or more of the following events or conditions have occurred:

- The person or corporate trustee has demonstrated a lack of willingness to comply with legal obligations, regulatory requirements, or professional standards, or has been obstructive, misleading, or untruthful in dealing with their fellow trustees, regulatory bodies, or a court.
- The person or corporate trustee has breached a fiduciary obligation.
- The person or corporate trustee has perpetrated or participated in negligent, deceitful, or otherwise discreditable business or professional practices.
- The person or corporate trustee has been reprimanded, disqualified, or removed by a professional or regulatory body because of issues relating to that person's or trustee's honesty, integrity, or business conduct.
- The person or corporate trustee has seriously or persistently failed to manage personal debts or financial affairs satisfactorily in circumstances where such failure has caused loss to others.
- The person or corporate trustee has been substantially involved in the management of a business or company that has failed, where that failure has been occasioned in part by deficiencies in such management.
- The person or corporate trustee was the subject of criminal proceedings, or an enforcement action related to their management of an entity or to their commercial or professional activities that were then determined adversely for that person or corporate trustee (including cases in which the person or corporate trustee consented to an order or direction or was giving an undertaking not to engage in unlawful or improper conduct) and that

reflected adversely on the person's or corporate trustee's competence, diligence, judgment, honesty, or integrity.

117. Failure to maintain compliance with fit and proper requirements must be acted upon by trustees and all necessary actions must be taken to rectify situations in which a person or corporate trustee previously considered to be fit and proper no longer fulfils that qualification.

### **Skills, knowledge, training, and experience of trustee boards**

118. In addition to meeting the fit and proper requirements, trustees and directors of sole corporate trustees must also:

- undertake trustee training, and
- have a policy in place that determines how they will acquire and maintain a mix of skills, knowledge, and experience adequate to ensure good governance for their scheme.

119. As part of this policy, the trustees must assess the skills, knowledge, and experience of the trustee board or directors of a sole corporate trustee annually and thereby determine what, if any, gaps need to be filled, either through recruitment of additional expertise or through further training. There must be documented evidence of the conclusions reached through this assessment and of appropriate follow-up actions that are then taken.

### **Part B – Key function holders**

120. It is the Authority's view that a named individual must be appointed as a KFH, even in cases in which the key function has been outsourced to a service provider, as per section 64AD(2) of the Act. While the trustees may enter into a contract with the service provider, they must assess whether that named individual meets the fit and proper requirements.

### **The 'fit' requirement for key function holders**

121. The trustees must ascertain that the risk management KFH:

- holds a qualification that the trustees consider relevant and is at a minimum of level seven on the Irish National Framework of Qualifications (NFQ) or holds an equivalent professional qualification not included on the NFQ that the trustees consider relevant,
- has a minimum of two years' experience gained in relevant employment,



- has knowledge that is sufficient and appropriate to competently support the trustees and to perform the risk management KFH role effectively, including comprehensive knowledge regarding operation of pension schemes (specific to either DB or DC schemes, as appropriate) and advanced understanding and capability in one or more of the following areas:
  - actuarial advice on funding, reserving, and solvency for DB schemes,
  - investment advice covering investment policy principles, strategic advice, budgeting, and risk-mitigation techniques (hedging and derivative bases structures),
  - asset liability modelling,
  - stress tests or scenario analysis,
  - operational risk – particularly for DC schemes, and
  - regulatory environment,
- has a clear and comprehensive understanding of the governance, regulatory, and legal environments relating to the risk management key function,
- can demonstrate the ability to manage concurrent responsibilities and ensure capability to discharge all the duties of the role, and
- is aware of their obligation to identify and report personal conflicts of interest in carrying out their duties.

122. The trustees must ascertain that the internal audit KFH:

- holds a qualification that the trustees consider relevant and is at a minimum of level seven on the NFQ,
- has a minimum of two years' experience gained in relevant employment,
- has appropriate knowledge to perform competently and effectively the internal audit key function role incorporating a sound knowledge of pensions and the specific responsibilities of the internal audit key function,
- has a clear and comprehensive understanding of the governance, regulatory, and legal environments relating to the internal audit key function,
- can demonstrate the ability to manage concurrent responsibilities and ensure capability to discharge all the duties of the role, and
- is aware of their obligation to identify and report personal conflicts of interest in carrying out their duties.

123. For each appointment of a KFH, the trustees must retain documentation showing how they ascertained that the appointed KFH met the fit requirement.

### **The 'proper' requirement for key function holders**

124. Proper means being of good repute and integrity. In determining good repute and integrity, trustees must consider whether a KFH's ability to perform the role is



adversely affected to a material degree (including to the extent that the KFH is automatically disqualified from being appointed as per the terms of section 64AE of the Act). Such disqualification could be due to one or more of the following events or conditions:

- The person is or was a sole trader or a director or partner in a legal entity which has, in any jurisdiction, been refused, prohibited, restricted, or suspended from the right to carry on any trade, business, or profession for which a licence, registration, or other authorisation is required by law in that jurisdiction, or has had any such registration, authorisation, membership, or licence revoked, otherwise than on a voluntary basis.
- The person has been the subject of any upheld complaint made to any regulatory body relating to activities regulated by the Authority or regulated by an equivalent authority in any jurisdiction.
- The person has been, in any jurisdiction, dismissed, or asked to resign and did resign, from any profession, vocation, office, or employment or from any position of trust or fiduciary appointment, whether remunerated or not.
- The person has, in any jurisdiction, been a director of a company that was struck off the Register of Companies (or its equivalent) by the Companies Registration Office (or its equivalent) on an involuntary basis.
- The person has been disqualified or restricted from acting as a director in any jurisdiction or has been disqualified from acting in any managerial capacity.
- The person has, in any jurisdiction:
  - been convicted of an offence either of money laundering or terrorist financing (or their equivalents),
  - been convicted of an offence which could be relevant to that person's ability to perform the role, or
  - had a conviction, judgment, or order made against him/her involving fraud, misrepresentation, dishonesty, or breach of trust or where the person is subject to any current proceedings for fraud, misrepresentation, dishonesty, or breach of trust.
- The person, or any business with which the person held a position of responsibility, has been or is being, in any jurisdiction, disciplined, or suspended by a regulatory or professional body, a court or tribunal, or any similar body, whether publicly or privately.
- The person has defaulted upon any payment that was due because of a compromise or scheme of arrangement made with their creditors or an assignment made for the benefit of their creditors.
- The person is subject, in any jurisdiction, to a judgment debt that is unsatisfied, either in whole or in part.



- The person is or has been the subject, in any jurisdiction, of a bankruptcy petition.
- The person has been adjudicated, in any jurisdiction, a bankrupt and the bankruptcy is undischarged.
- The person was a director of an entity, which has been the subject of insolvency.

125. Where any of the above applies to a KFH, but it has been determined (other than for specific issues set out in section 64AE of the Act that prevent a KFH from acting) that it does not materially impact on them being considered proper, the review performed and the reasons for still appointing a KFH must be clearly documented.

126. Trustees must document their determinations concerning matters of fit and proper for KFHs. In this regard, they may find it useful to complete a questionnaire on proper requirements. An example of such a questionnaire is provided in Appendix 2. This questionnaire is generally applicable to all schemes. Trustees may need to make modifications to the questionnaire to adapt it to the specific characteristics of the scheme under their stewardship. In their determinations, the trustees may rely on the veracity of the information provided by a person.

## **Procedure for the selection and appointment of key function holders**

127. Trustees must have detailed procedures for selecting and appointing KFHs. This procedure must include:

- details as to how trustees will ascertain that the scheme's appointed KFHs meet the fit and proper requirements,
- a clear description of the duties and responsibilities of the post to be filled,
- a process of selection and appointment that clearly matches the selected person to the requirements of the position,
- details of any professional qualifications and memberships in professional organisations or societies that are relevant to the position,
- a requirement to hold an up to date and signed curriculum vitae and proof of qualifications, experience, and expertise, and
- a process for the verification of professional references provided.

128. The procedures for selection and appointment of KFHs must be reviewed and approved by the trustees every three years. This review must ensure that the procedures remain fit for purpose.



## Ongoing compliance with fit and proper requirements

129. Trustees must ensure that KFHs continue to meet fit and proper requirements on an ongoing basis. At least once every three years, the trustees must review and consider whether a KFH has failed to maintain compliance with fit and proper requirements and the findings from these reviews must be documented and retained. Reviews of this sort must also be conducted whenever consideration is given to whether a KFH is suitable for reappointment.
130. Trustees must have a written procedure for the removal of KFHs. This procedure must include a non-exhaustive list of circumstances that would trigger consideration of whether the KFH had breached or failed to maintain compliance with the fit and proper requirements. This list must include the following circumstances:
- The KFH has demonstrated a lack of willingness to comply with legal obligations, regulatory requirements, or professional standards, or has been obstructive, misleading, or untruthful in dealing with regulatory bodies or with a court.
  - The KFH has breached a fiduciary obligation.
  - The KFH has perpetrated or participated in negligent, deceitful, or otherwise discreditable business or professional practices.
  - The KFH has been reprimanded, disqualified, or removed by a professional or regulatory body because of concerns regarding their honesty, integrity, or business conduct.
  - The KFH has seriously or persistently failed to manage personal debts or financial affairs satisfactorily in circumstances where such failure caused loss to others.
  - The KFH has been substantially involved in the management of a business or company that has failed, where that failure was occasioned in part by deficiencies in that management.
  - The KFH was the subject of criminal proceedings, or an enforcement action related to their management of an entity or their commercial or professional activities which were then determined adversely to that KFH (including cases in which the KFH consented to an order or direction or was giving an undertaking not to engage in unlawful or improper conduct) and which reflected adversely on the KFH's competence, diligence, judgment, honesty, or integrity.
  - A KFH has failed to maintain the qualifications necessary to fulfilling their KFH role.



## **Chapter 7 – Additional requirements for defined contribution master trusts**

131. This chapter sets out the additional actions that trustees must undertake to ensure satisfactory governance of DC master trusts.

### **Conflicts of interest**

132. Master trusts might be run for profit or could have close connections with for profit entities which gives rise to conflicts of interest that are not seen to the same degree in single employer schemes. The Authority expects the trustee of a master trust to pay particular attention to this and to engage proactively with the conflicts of interest inherent in master trusts.

133. There is significant potential for conflicts of interest in many master trusts where trustee boards are required to consult with or seek approval from the founder in relation to the appointment and removal of service providers and typically the founder provides some, if not all, services to the master trust. Trustees should set out minimum standards for service providers and agree steps to be taken where standards fall short of what is required. Decisions in relation to the removal or appointment of service providers should be made in an objective manner and trustees should not be inhibited in this regard by their relationship with the founder.

134. The rules of the master trust must not place unacceptable constraints on the trustees' powers to act. Where any requirement is not within the trustees' power or requires the founder's agreement, the trustee must ask the founder to address the matter, and, if not satisfied with the outcome, they must notify the Authority of the issue.

### **Capitalisation**

135. DC master trusts must demonstrate that they have sufficient capital to cover running costs and the cost of winding-up the scheme without affecting member funds.

136. The requirements related to capitalisation for DC master trusts are:

- (a) The trustee must have access to sufficient capital to meet the costs of wind-up and running costs until the latest period that the continuity plan projections indicate the trust will be self-sustaining or, where the scheme is already self-sustaining, for a period of two years. The reserve should be held as cash on deposit unless the trustees and sponsor can demonstrate



- to the Authority that an alternative arrangement, such as a legally enforceable commitment, is sufficiently robust.
- (b) For wind-up costs, the master trust must have reserves equal to €70 per member (excluding death benefit only members). The reserve for running costs must be equal to the maximum need projected in the continuity plan. The minimum total reserve held must be €100,000 regardless of membership numbers.
  - (c) The trustee must ensure on an ongoing basis that they continue to be compliant with the capitalisation requirements. Where trustees are in breach of the capital requirement, they must make an immediate report to the Authority and take steps to remedy the situation.

## **Trustee**

- 137. The trustee must be incorporated as a Designated Activity Company (DAC) with the sole objective of carrying on the business of being a trustee of one, and only one, named master trust.
- 138. There must be a minimum of two directors of the trustee company. There must be at least one independent director and the chair must be independent. An independent director/chair is someone who has no interest in the assets of the scheme other than as trustee and is not currently or recently connected or associated with the shareholder of the trustee company or the service providers to the scheme other than in their capacity as trustee i.e., by being a director or employee of the entity.
- 139. The Authority must be notified by the trustee of the resignation of a director of the trustee company within 21 days of the resignation.
- 140. Each director must satisfy either the qualification or experience requirements for trustees (see Chapter 6), subject to there being a minimum of one director who has a qualification and one director with experience. This means that each director must have either completed a trustee qualification course listed on the Authority's website as meeting the requirements or have been a trustee or a director of a sole corporate trustee of a scheme for at least two of the previous three years.

## **Continuity plan**

- 141. DC master trusts must have a continuity plan, which includes projections for income and expenditure, to demonstrate the viability of the master trust scheme to the Authority.

142. The requirements for DC master trust continuity plans are:

- (a) The trustee must submit a continuity plan, comprised of projections of income and expenditure, to the Authority, covering the greater of three years or the period until all projections demonstrate that the trust is self-sustaining.
- (b) The continuity plan must:
  - (i) show projections on at least three distinct bases, a best estimate, an unfavourable estimate, and a favourable estimate,
  - (ii) set out in detail the assumptions used in projections, which must be both reasonable and to the Authority's satisfaction.
- (c) The continuity plan provided to the Authority must be sufficiently detailed and comprehensive so that the Authority can be satisfied as to its reasonableness and robustness. The Authority will pay particular attention to differences between forecasted projections and actual outcomes.
- (d) The trustee must have agreed the continuity plan and must be able to demonstrate to the Authority that they understand it, including the resulting capital requirement.
- (e) The continuity plan must be reviewed every year and updated if necessary. The trustee must submit the updated continuity plan to the Authority with explanations of any changes made.
- (f) The directors of the trustee company must be able to demonstrate that they have reviewed the continuity plan.

143. The Authority will treat the information contained in the continuity plan confidentially in so far as is legally permitted.

## **Member/employer communications**

144. A master trust faces particular communication challenges given the potential size of the scheme, the number of members in unconnected workplaces, and the different role of the employer in comparison with a traditional scheme.

145. For master trusts, the written policy on engagement must include engagement with employers as well as members. The policy must set out in detail the format and frequency of engagement. The policy must also contain a commitment to actively engage with members and employers. This might include holding an annual meeting to which members and adhering employers are invited. There must be documented evidence that the policy is being implemented.

## **Charges transparency**

146. It is particularly important that members and adhering employers be able to understand the master trust charges and costs that are levied on them and that adhering employers be able to move to another arrangement if they or their members are not satisfied that they are receiving value for money.

147. The trustee must have a written policy specifying:

- (a) how charges and costs payable by members/adhering employers are transparently disclosed. The Authority will need to be satisfied that charges are reasonably understandable for members/employers and that the provider is acting in good faith regarding publication of charges and costs i.e., not deliberately or negligently failing to disclose charges or costs to gain competitive advantage,
- (b) that increases in charges will only be made by giving six months' notice to members/employers to allow the adhering employer to transfer should they so wish before the increase is implemented, and
- (c) that members or prospective members can transfer assets in and out without charge.

148. The trustee must maintain documented evidence that the policy is being implemented.

## **Marketing of the scheme**

149. The trustee of a master trust may not have responsibility for the marketing of the schemes. However, their consent must be required on the general marketing approach for the scheme and to the materials used, which will include information about their scheme, to satisfy themselves that it is not misleading or inadvertently creating potential obligations for the trustee that cannot be met.

## **New members**

150. It is important that trustees are aware of the rate of new scheme members joining the scheme to ensure that they are satisfied the scheme has the capacity to provide for these additional members.

151. The trustee must have consented in advance to the enrolment of new members into the scheme. This can be an agreed overall strategy; it does not require that the trustee individually approve every new member.

## Wind-up procedure

152. Given its potential scale, the wind-up of a master trust could be a significant process. The trustee of a master trust must be able to demonstrate that they have an appropriate wind-up procedure in place that protects the interests of members.
153. The trustee must have a written procedure that they will implement in the event of wind-up. This procedure must be designed to ensure that benefits are transferred efficiently, in a timely manner to other pension arrangements and without cost to members and beneficiaries. The trustee must ensure that the procedure is kept up to date.

## Reporting to the Authority

154. On the occurrence of the following events, the trustee must notify the Authority and provide relevant further information on:
- (a) a breach of the capital requirements, or
  - (b) a decision to wind-up the master trust, or
  - (c) a change of control of the trustee company.
155. The Authority may in time prescribe further notifiable events.



## Appendix 1 – List of key risks and examples of controls

Non-exhaustive list of key risks and sample controls:

Risk	Types of control
1. Risks related to scheme governance and management	<ul style="list-style-type: none"><li>• Regular trustee meetings with proper recording of minutes</li><li>• A formalised and documented structure for decision making</li><li>• Appropriate sub-committees for conducting audits and other forms of monitoring</li><li>• Properly drafted and implemented policies and procedures</li><li>• Documented oversight by the trustees</li><li>• Review of annual business plan at trustee meetings</li><li>• Clear lines of reporting</li></ul>
2. Fraud	<ul style="list-style-type: none"><li>• Segregation of duties</li><li>• Physical control over assets and records</li><li>• Use of depositary</li><li>• Authorisation and approval for transactions</li><li>• Reconciliation procedures</li></ul>
3. Investment risk	<ul style="list-style-type: none"><li>• Review of investment strategies</li><li>• Regular reporting from the investment manager</li><li>• Regular market updates</li><li>• Documented annual reviews of fund choices, default investment strategies, target returns, and risk tolerance</li><li>• Use of key performance indicators (KPIs) for evaluating investment managers</li></ul>
4. Risks related to funding	<ul style="list-style-type: none"><li>• Monitoring of the scheme funding position</li><li>• Monitoring of the employer financial position</li><li>• Obtaining relevant funding advice</li></ul>
5. Risks related to outsourcing	<ul style="list-style-type: none"><li>• Written guidelines for authorisation procedures, including guidelines for cash management (where appropriate)</li><li>• Periodic reviews of outsourced arrangements</li><li>• Meetings between trustees and outsourced providers</li><li>• Adherence to service level agreements (SLAs)</li><li>• Performance appraisals</li><li>• Use of internal auditors</li><li>• Use of KPIs</li></ul>



Risk	Types of control
6. Compliance/regulatory risk	<ul style="list-style-type: none"><li>• Internal compliance audits</li><li>• Procedures for keeping up to date with legislative changes</li><li>• Access to and use of legal advice when interpreting legislation or scheme rules</li></ul>
7. Risks related to financial management	<ul style="list-style-type: none"><li>• Adherence to annual budgets</li><li>• Budget versus actual analysis (variance analysis)</li><li>• Written guidelines for authorisation procedures, including cash management</li><li>• Use of an alert mechanism that is activated in the event of delayed receipt of monthly employer and employee contributions</li><li>• Use of automated banking systems</li><li>• Cost reviews</li><li>• Requirement for approval by the board of trustees when there are costs in excess of budget</li></ul>
8. Operational risk	<ul style="list-style-type: none"><li>• Use of well-defined processes and procedures</li><li>• Use of automated systems</li><li>• Use of data back-up procedures</li><li>• Institutional system recovery plans</li><li>• Password controls</li><li>• Internal audit reviews</li></ul>
9. Risk of control failures	<ul style="list-style-type: none"><li>• Internal audit reviews of effectiveness of controls</li><li>• Timely updates of controls</li><li>• Regular reviews by trustees</li></ul>

## Appendix 2 – Sample questionnaire to evaluate whether applicants for the positions of trustee or key function holder satisfy the ‘proper’ requirement

The applicant must be candid and truthful in providing full, fair, and accurate responses to every question. If you are uncertain how to respond to any specific question, provide as much relevant information as possible in the text box at the end of the questionnaire. You are required to answer each question by ticking on either Yes or No.

No.	Question	Yes	No
1.	An applicant is required to be honest, ethical, act with integrity, and be financially sound. In this regard, have you any information to disclose regarding a material issue or do you have any concerns about your ability to perform the relevant function?		
2.	Have you ever, in any jurisdiction, been refused, prohibited, restricted, or suspended from the right to carry on any trade, business, or profession for which a specific licence, registration, or other authorisation is required in that jurisdiction?		
3.	Have you been the subject of any upheld complaint to any regulatory body relating to activities regulated by the Pensions Authority or regulated by an equivalent authority in any jurisdiction?		
4.	Are you or have you been, in any jurisdiction, subject to any disciplinary proceedings or issued with a warning, reprimand, or other administrative sanction or its equivalent by the Pensions Authority OR an equivalent measure by any other regulatory authority, professional body, or agency?		
5.	Have you ever, in any jurisdiction, been dismissed or asked to resign (other than in the normal course of business) and did resign from any profession, vocation, office, or employment, or from any position of trust or fiduciary appointment, whether remunerated or not?		
6.	Have you ever, in any jurisdiction, been a director of a company that was struck off the Register of Companies by the Companies Registration Office (or equivalent elsewhere) otherwise than on a voluntary basis?		



7.	Have you ever, in any jurisdiction, been disqualified or restricted from acting as a director or from acting in any managerial capacity?		
8.	Have you ever, in any jurisdiction, been convicted of an offence involving money laundering, terrorist financing, fraud, misrepresentation, dishonesty, breach of trust, or other offence that would be relevant to your ability to perform the relevant function?		
9.	Have you ever, in any jurisdiction, had a criminal finding, judgment, or order made against you in relation to proceedings involving money laundering, terrorist financing, fraud, misrepresentation, dishonesty, breach of trust, or other matter that could affect your ability to perform the relevant function?		
10.	Have you ever been untruthful, provided false or misleading information to the Pensions Authority, or been uncooperative in any dealings with Pensions Authority?		
11.	Have you been disciplined, censured, suspended, or criticised by a regulatory or professional body, a court, a tribunal, or any similar body, whether publicly or privately, in any jurisdiction?		
12.	Has any business (or legal entity) where you held a position of responsibility or influence been disciplined, censured, or suspended by a regulatory or professional body, a court, a tribunal, or any similar body, whether publicly or privately, in any jurisdiction?		
13.	Have you ever been removed as a trustee under section 63 of the Pensions Act 1990, as amended?		
14.	Have you ever defaulted upon any payments that were due because of a compromise or scheme of arrangement that you made with your creditors, or an assignment made for the benefit of your creditors?		
15.	Have you ever, in any jurisdiction, been subject to a judgment debt which is unsatisfied, either in whole or in part?		
16.	Were you ever, or are you currently the subject of a bankruptcy petition in any jurisdiction?		
17.	Have you ever, in any jurisdiction, been adjudicated a bankrupt and the bankruptcy is undischarged?		



<b>18.</b>	Have you ever, in any jurisdiction, been the director of an entity which has been the subject of insolvency (i.e., non-voluntary liquidation, receivership, examinership, or administration)?		
<b>19.</b>	Have you ever been convicted of a criminal offence?		
<b>20.</b>	Are there any criminal proceedings pending relating to you or any organisation managed by you?		
<b>21.</b>	<b>Provide additional details if you answered Yes to any question(s) in this section of the form.</b>		