



Glasgow City Council

Strathclyde Pension Fund Committee

Report by Director of Strathclyde Pension Fund

Contact: Richard McIndoe, Ext: 77383

Item 4

11th September 2024

Review of Compliance with the Pension Regulator's General Code of Practice

Purpose of Report:

To conclude a review of SPF Compliance with the Pension Regulator's General Code of Practice.

Recommendations:

The Committee is asked to **NOTE** the contents of this report.

Ward No(s):

Citywide: ✓

Local member(s) advised: Yes No consulted: Yes No

PLEASE NOTE THE FOLLOWING:

Any Ordnance Survey mapping included within this Report is provided by Glasgow City Council under licence from the Ordnance Survey in order to fulfil its public function to make available Council-held public domain information. Persons viewing this mapping should contact Ordnance Survey Copyright for advice where they wish to licence Ordnance Survey mapping/map data for their own use. The OS web site can be found at <<http://www.ordnancesurvey.co.uk>> "

If accessing this Report via the Internet, please note that any mapping is for illustrative purposes only and is not true to any marked scale

1 **Background**

From 1st April 2015 the Pension Regulator (TPR) became responsible for regulatory oversight of public service pension schemes including the LGPS as a result of the Public Service Pensions Act 2013. In January 2015 TPR published a Code of Practice for the Governance and Administration of Public service Pension Schemes.

In 2024, TPR published a single General Code of Practice ([GCoP](#)) for all pension schemes including the public sector. This became effective on 28th March 2024.

Review of the General Code and SPF compliance with it is included as a priority in the SPF 2024/25 Business Plan.

2 **GCoP and LGPS**

GCoP applies to all pension schemes, public and private. But there are distinctions between the two which are important in the context of the Code. Perhaps the most significant of these are their respective Governing Bodies and Systems of Governance.

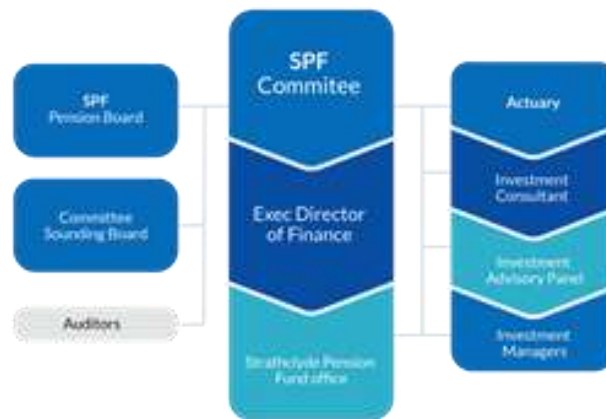
2.1 **Governing Body**

The Code applies to Governing Bodies of pension schemes. In a private sector scheme this is likely to be the trustees or managers of the scheme. In a public sector scheme the Governing Body will usually be the Scheme Manager. In the case of Strathclyde Pension Fund (SPF), the Scheme Manager is Glasgow City Council (GCC) in its role as LGPS Administering Authority.

The Code provides that “Each public service pension scheme should determine who fulfils the role of scheme manager according to their regulations and local arrangements.” In the case of SPF, GCC delegates all functions and responsibilities relating to its role as Administering Authority to the SPF Committee.

The SPF Committee is assisted by the SPF Board, and receives expert advice from internal and external sources. The Committee also: delegates implementation of policies, strategies and other decisions to officers; and appoints investment managers and consultants.

The SPF Governance Structure is illustrated below.



The roles and responsibilities of the various parties are set out in SPF's policy documents and have been taken into account in assessing SPF compliance with GCoP.

2.2 Systems of Governance

All pension schemes need to have systems of governance and internal controls that:

- provide the governing body with oversight of the day-to-day operations of the scheme;
- include any delegated activities for which the governing body remains accountable; and
- provide the governing body with assurances that their scheme is operating correctly and in accordance with the law

The standards of governance required by law depend on the type of scheme the governing body operates:

- governing bodies of certain schemes must establish and operate an effective system of governance including internal controls; but
- scheme managers of public service pension schemes are required to establish and operate internal controls, which are adequate for securing that the scheme is administered and managed in accordance with the scheme rules and with the requirements of the law.

3 Review of SPF Compliance

3.1 Compliance Checker

Shortly after publication of GCoP, Hymans Robertson launched a TPR General Code of Practice compliance checker for LGPS funds. The checker is a self-assessment tool, which has the following functionality:

- all applicable LGPS areas of the new General Code have been included for self-assessment and ready for Fund Officers to review.
- compliance report available at the touch of a button.
- the ability to track and monitor progress over time.
- fully editable document – can be used by any governance team and can be updated for any future changes to the General Code.

SPF purchased the tracker in April 2024, and has used it to complete an initial assessment of SPF's GCoP compliance.

3.2 Basis of Assessment

There are elements of the code which do not apply to the LGPS and not all requirements carry the same weight. Administering Authorities of LGPS funds must however comply with the sections relevant to them.

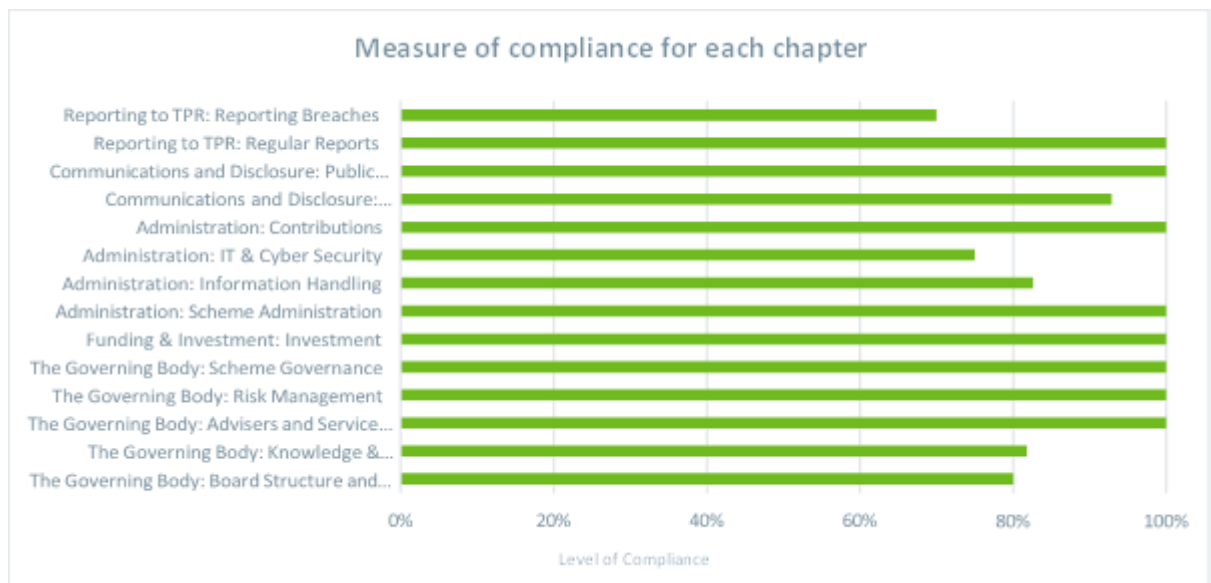
For this assessment the Code has been broken down into 15 distinct sub-sets which are referred to as chapters. Note, there are no requirements for LGPS funds in the "Value for Scheme Members" chapter.

Within each of these chapters, there are a number of different modules each with their own set of requirements. Each requirement has been assessed and a corresponding risk rating applied. These requirements fall into one of three categories:

- Regulatory Requirement;
- TPR Expectation; and
- Best Practice

3.3 Results

The Chart below summarises SPF's assessment of current risk rating for each chapter. A score of 100% for a particular chapter indicates that all requirements are fully met. A score of 50% would indicate that half of the requirements in that chapter fully meet requirements within the Code.



It can be seen from the Chart above that there are 8 areas of the Code where the requirements are fully met. It is important that these areas are monitored to ensure the requirements continue to be fully met.

This means that there are 6 chapters where the requirements of the Code are not fully met. The areas where more actions are required are:

- Reporting to TPR: Reporting Breaches
- Communications and Disclosure: Information to Members
- Administration: IT & Cyber Security
- Administration: Information Handling
- The Governing Body: Knowledge & Understanding
- The Governing Body: Board Structure and Activities

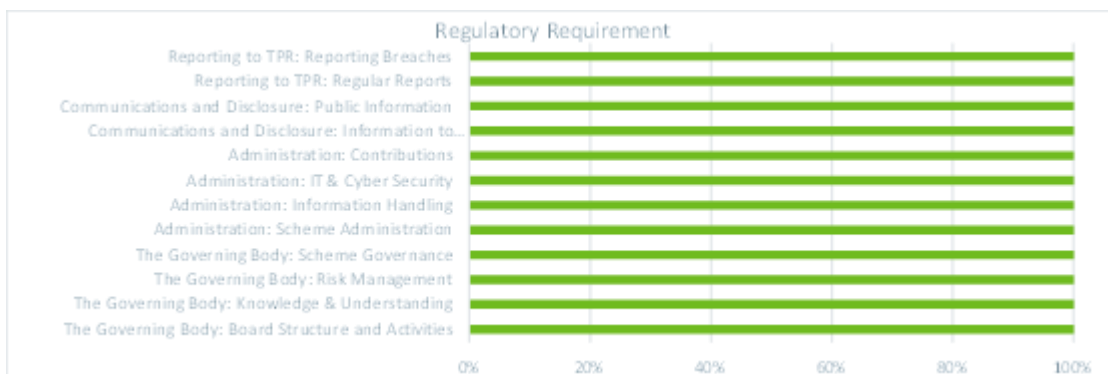
3.4 Further Analysis

The following chart shows the aggregate position of each chapter, when the individual requirements are assessed as either "Fully met", "Partially met" or "Not completed".



3.5 Regulatory Requirements

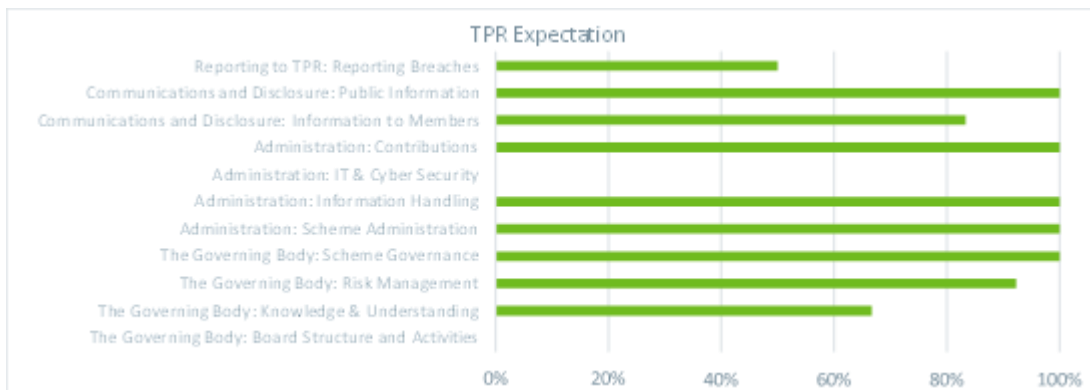
The chart below summarises the Regulatory requirements (as opposed to TPR Expectations of Best Practice) which have been assessed to be fully met.



All regulatory requirements have been fully met in SPF's assessment.

3.6 Other requirements

The charts below summarise TPR's expectations and Best Practice requirements, which have been assessed to be fully met.



3.7 Summary Scorecard

The Summary Scorecard from the assessment is included at Appendix A. It contains more detail of the requirements, and the actions required in areas of TPR expectation and best practice in order for SPF to be fully compliant.

4 Next Steps

4.1 GCoP Awareness

A number of the actions in the Summary Scorecard involve ensuring greater awareness and understanding by the Governing Body of certain requirements of GCoP. This report, and associated briefing, are intended as a significant step towards that awareness and understanding.

To further that awareness and understanding:

Appendix B sets out certain GCoP expectations of the Governing Body which Committee and Board members should be aware of; and

Appendix C sets out SPF's Policy on Reporting Breaches of the Law, which members should also be aware of, though the policy requires to be updated in light of GCoP's content on [Whistleblowing - reporting breaches of the law](#)

4.2 Action Plan

SPF officers will give further consideration to each of the actions highlighted in **Appendix A**, and develop a plan to address them.

4.3 Internal Audit

At its meeting in March 2024, the SPF agreed to the implementation of the Strathclyde Pension Fund Audit Plan for 2024/25.

One of the Main Assurance Areas listed in the plan is: to provide assurance that the SPF is complying with the requirements of the new Regulator's Code of Practice requirements. It is expected that Internal Audit will now commence work on this with a view to reporting to the Committee later in the year.

4.4 Further Training

SPF can provide or arrange any further training on TPR, GCoP, and/or its requirements which the Board or Committee might consider necessary.

4.5 Further Review

A further review of compliance will be completed annually.

5 Policy and Resource Implications

Resource Implications:

Financial: None. The cost of the compliance checker is £4,500.

Legal: The communications policy is published in accordance with regulation 59 of the Local Government Pension Scheme (Scotland) Regulations 2018.

Personnel: None.

Procurement: None.

Council Strategic Plan: SPF supports all Missions within the Grand Challenge of: ***Enable staff to deliver essential services in a sustainable, innovative and efficient way for our communities.*** The LGPS is one of the key benefits which enables the Council to recruit and retain staff.

Equality and Socio-Economic Impacts:

Does the proposal support the Council's Equality Outcomes 2021 - 25 The Communications Policy has been the subject of an Equalities Impact Assessment.

What are the potential equality impacts as a result of this report? No specific impacts.

Please highlight if the N/a.

policy/proposal will help address socio economic disadvantage.

Climate Impacts:

Does the proposal support any Climate Plan actions? Please specify: N/a.
Strathclyde Pension Fund's Climate Change strategy and Climate Action Plan are published separately on the www.spfo.org.uk Website.

What are the potential climate impacts as a result of this proposal? N/a.

Will the proposal contribute to Glasgow's net zero carbon target? N/a.

Privacy and Data Protection impacts:

Are there any potential data protection impacts as a result of this report
Y/N No.

If Yes, please confirm that a Data Protection Impact Assessment (DPIA) has been carried out N/a.

6 Recommendations

The Committee is asked to note the contents of this report.

Appendices

Appendix A

Appendix B

Appendix C

Summary Scorecard

The Governing Body – GCoP Expectations

SPF Policy for Reporting Breaches of the Law

Summary Scorecard

The Governing Body: Board Structure and Activities			
Requirements	Current rating	Actions	Responsibility
The governance of a public service pension scheme will need to take into account the differing responsibilities of the scheme manager, pension board and, where appropriate, pension committee.	Fully met		Fund Officers
The pension board must have an equal number of employer and member representatives	Fully met		Head of Fund
Legislation dictates how the governing body of a PSPS is made up and pension board members must not have a conflict of interest and must evidence such if required by the scheme manager	Fully met		Head of Fund
Members of governing bodies to display the characteristics shown in Appendix 1.	Partially met	GCOP briefing for Board and Committee.	Head of Fund
To have a process in place for appointing pension board members	Fully met		Head of Fund
Schemes will have governing bodies where appointments are made in accordance with scheme- specific legislation. The governing body, or pension board, should seek to inform those making the appointment of the expectations and any legislative requirements placed on members of the governing body.	Fully met		Head of Fund
Expectations of a chair in particular the skills and behaviours which are expected to be shown are set out (see Appendix 2 for more detail)	Partially met	GCOP briefing for Board and Committee.	Head of Fund
Scheme managers of PSPS are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules, and with the requirements of the law. This applies to the running of meetings and making decisions.	Fully met		Head of Fund
Meeting arrangements and decision making should comply with the requirements of The Local Government Act 1972 and Local Government and Housing Act 1989.	Fully met		Head of Legal
The pension board should maintain a record of the specified records which are shown in Appendix 3.	Fully met		Head of Legal

The Governing Body: Knowledge & Understanding			
Requirements	Current rating	Actions	Responsibility
All governing bodies should maintain a list (in an accessible format) of items the members of the governing body should be familiar with	Fully met	Training plan to be published on www.spfo.org.uk	Head of Fund
The governing body should regularly carry out an audit of its members' skills and experience to identify gaps and imbalances	Partially met	GCOP briefing for Board and committee, and to consider potential improvements to current training assessment processes.	Head of Fund
Pension board members must be conversant with The rules of the scheme, and Any document recording policy about the administration of the scheme which is for the time being adopted in relation to the scheme. And have knowledge and understanding of— The law relating to pensions, and Such other matters as may be prescribed.	Fully met	Consider future training on scheme rules and policy documents.	Head of Fund
Scheme managers or their delegates should achieve at least basic competence in knowledge and skills.	Fully met		Head of Fund
Pension board members should have a working knowledge of the topics in Appendix 4	Fully met		Head of Fund
Demonstrate that, as a group, the pension board possess the skills, knowledge, and experience to run the scheme effectively	Fully met	To consider further how we demonstrate skills and knowledge.	Head of Fund
The pension board meet the requirements in Appendix 5	Partially met	To consider further how we demonstrate skills and knowledge.	Head of Fund
Members of the pension board should be aware that their responsibilities and duties begin from the date they take up their post	Fully met		Head of Fund
Governing bodies should provide the necessary training and support to it's members	Fully met		Head of Fund
Members of the pension board can work towards completing TPR public service toolkit or equivalent learning programmes	Fully met		Head of Fund
To enable the pension board to ensure their knowledge and understanding is established and maintained, members of a governing body should comply with the points laid out in Appendix 6	Fully met	To consider further how we demonstrate skills and knowledge. Query with Hymans if this should be Governing Body and Pension Board.	Head of Fund

The Governing Body: Advisers and Service Providers			
Requirements	Current rating	Actions	Responsibility
Follow the processes set out for selecting advisers and service providers. (see Appendix 7 for more detail)	Fully met		Fund Officers
Follow the processes set out for appointing advisers and service providers. (see Appendix 8 for more detail)	Fully met		Fund Officers
Follow the processes set out for managing advisers and service providers. (see Appendix 9 for more detail)	Fully met	Review KPIs with service providers.	Fund Officers
Follow the processes set out for replacing advisers and service providers. (see Appendix 10 for more detail)	Fully met	Develop internal contracts log.	Fund Officers

The Governing Body: Risk Management			
Requirements	Current rating	Actions	Responsibility
Scheme managers of public service pension schemes are required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules and with the requirements of the law.	Fully met		Head of Fund
The governing body should identify risks, record them, and regularly review and evaluate them (see Appendix 11 for guidance on identifying, evaluating and recording risk)	Fully met		Head of Fund
The scheme manager should have in place internal controls, including; The arrangements and procedures to be followed in the administration and management of the scheme The systems and arrangements for monitoring that administration and management, and Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme.	Fully met		Head of Fund
The governing body should design internal controls which ensure that the scheme is administered and managed in accordance with the requirements of the law and the scheme rules. The scheme's internal controls should also: Include a clear separation of duties for those performing them, and processes for escalation and decision-making Require the exercise of judgement, where appropriate, in assessing the risk profile of the scheme and in designing appropriate controls.	Fully met		Head of Fund
The governing body should make sure that their internal controls are documented.	Fully met	Review procedure notes and policy documents to ensure continued compliance.	Fund Officers
A scheme's internal controls should be reviewed at least annually. However, the review of controls can be staggered if they address different areas of a scheme's operations or governance.	Fully met		Head of Internal Audit
Reviews should also be carried out when: Substantial changes to the scheme take place. These include changes to pension scheme personnel, service providers, scheme advisors, or administration and other IT systems; A control is not working to the standard required by the law.	Fully met		Head of Internal Audit

When designing internal controls governing bodies should consider TPR expectations (see Appendix 12 for more detail)	Fully met		Fund Officers
To maintain internal controls governing bodies should consider TPR expectations (see Appendix 13 for more detail)	Fully met		Fund Officers
The governing body may consider using assurance reports to assess whether the scheme or a service provider meets the relevant legislative requirements on internal controls.	Fully met		
If selecting a suitable internal auditor, the governing body should consider: The candidate's independence Any actual or potential conflicts of interest (see Conflicts of interest) The candidate's knowledge of the subject	Not applicable		Fund Officers
The governing body should read and understand assurance reports provided by service providers to establish if the controls used by the organisations that they outsource various functions to are adequate. This will also include assurance reports produced by the scheme's investment manager and custodian. They should consider the scope of such reports and the degree to which these are applicable. For	Fully met		Fund Officers
Governing bodies should consider having a continuity plan that meets the requirements of Appendix 14	Fully met	Cyber security group action plan.	Fund Officers
When identifying and evaluating risks, governing bodies should consider conflicts of interest.	Fully met		Head of Fund
Where management of conflicts of interest form part of the scheme manager's internal controls the following expectation apply; Members of governing bodies should understand when potential and actual conflicts arise legal and professional requirements and legislation that apply to English local authorities should apply The requirements in Appendix 15 are met.	Fully met		Fund Officers
Where management of conflicts of interest does not form part of the scheme manager's internal controls the following expectation apply; Members of governing bodies should understand when potential and actual conflicts arise Legal and professional requirements and legislation that apply to English local authorities should apply The requirements in Appendix 15 are met.	Fully met		Fund Officers
Governing bodies should have processes in place to ensure that their decision-making is not compromised by actual or potential conflicts	Fully met		Fund Officers
Governing bodies should consider seeking independent legal advice, to help decide whether an actual or potential conflict of interest can be eliminated (and if so, the best	Fully met		Fund Officers

way of achieving it)			
<p>Regarding the pension board, scheme managers of public service pension schemes must:</p> <p>Be satisfied that a prospective member of the pension board does not have a conflict of interest</p> <p>Remain satisfied that none of the members of the pension board has a conflict of interest</p>	Fully met		Head of Fund
<p>Regarding the pension board, scheme managers of public service pension schemes should:</p> <p>Circulate the register of interests and the other relevant documents to the pension board for ongoing review</p> <p>Publish these documents (for example, on a scheme's website)</p>	Fully met	Check recent publication of register of interest.	Head of Fund

The Governing Body: Scheme Governance			
Requirements	Current rating	Actions	Responsibility
<p>The scheme manager needs to have a system of governance and internal controls that;</p> <p>Provide the governing body with oversight of the day-to-day operations of the scheme Include any delegated activities for which the governing body remains accountable Provide the governing body with assurances that their scheme is operating correctly and in accordance with the law</p>	Fully met		Fund Officers
<p>Scheme managers are required to establish and operate internal controls, which are adequate for securing that the scheme is administered and managed in accordance with the scheme rules and with the requirements of the law. Internal controls means;</p> <p>Arrangements and procedures to be followed in the administration and management of the scheme, Systems and arrangements for monitoring that administration and management, and Arrangements and procedures to be followed for the safe custody and security of the assets of the scheme;</p>	Fully met		Fund Officers

Funding and Investment: Investment			
Requirements	Current rating	Actions	Responsibility
It is best practice for governing bodies to meet the requirements set out in Appendix 16	Fully met		Fund Officers
It is best practice for governing bodies to meet the requirements set out in Appendix 17	Fully met		Fund Officers
In respect of any DC arrangement, best practice is for governing bodies to meet the requirements set out in Appendix 18	Fully met		Fund Officers
<p>The governing body should:</p> <p>Have governance policies that ensure the form and structure of liabilities, the strength of the employer covenant, the risk of sponsor default, life expectancy of members, and the need to access cash at particular times are taken into account in investment decision-making</p> <p>Clearly communicate the policies above to advisers, investment managers, and other relevant stakeholders</p>	Fully met		Fund Officers

In relation to investment monitoring, governing bodies should follow the steps in Appendix 19	Fully met	Review service provider KPIs.	Fund Officers
Governing bodies should set clear expectations for their investment managers	Fully met		Fund Officers
The expectations for governing bodies in relation to climate change are set out in Appendix 20	Fully met		Fund Officers

Administration: Scheme Administration			
Requirements	Current rating	Actions	Responsibility
Every scheme must operate internal controls which should include administration.	Fully met		Fund Officers
With regard to planning and preparation governing bodies should comply with the requirements in Appendix 21.	Fully met		Fund Officers
To maintain proper administration, governing bodies should comply with the requirements set out in Appendix 22.	Fully met		Fund Officers

Administration: Information Handling			
Requirements	Current rating	Actions	Responsibility
<p>The governing body should maintain the following records;</p> <p>Records of member and beneficiary information</p> <p>Records of transactions</p> <p>Records of pension board meetings and decisions (for further information see Appendix 23)</p>	Fully met		Fund Officers
<p>The scheme manager is required to establish and operate internal controls, which are adequate for the purpose of securing that the scheme is administered and managed in accordance with the scheme rules, and with the requirements of the law.</p> <p>Governing bodies should make sure financial transactions are managed as part of their internal controls.</p>	Fully met		Fund Officers
<p>The management of financial transactions should be proportionate to the nature, complexity, and activity of the scheme. Governing bodies should comply with the requirements of Appendix 24.</p>	Fully met		Fund Officers
<p>When deciding to grant statutory transfers, governing bodies must carry out appropriate checks to decide if one of the conditions for transfer are met.</p>	Fully met	Pre-retirement section to complete modules to self-certify for TPR's pension scams pledge	Fund Officers
<p>Governing bodies should ensure that they have the necessary administrative procedures to deal with transfer requests, without undue delay and in line with scheme rules and the law.</p>	Fully met		Fund Officers
<p>Governing bodies should also maintain accurate and complete records of all requests received and the transfers that have been made.</p>	Fully met		Fund Officers
<p>The governing body must provide the statement of entitlement within approximately three months of receiving the request, unless this information has been provided in response to a request in the previous 12 months</p>	Fully met		Fund Officers
<p>Before paying a transfer s the governing body must check that the receiving scheme is;</p> <p>Able to accept the transfer</p> <p>Willing to accept the transfer</p> <p>A scheme to which a transfer can be made under the relevant legislation</p>	Fully met		Fund Officers
<p>Where the governing body suspect the receiving scheme is an illegitimate arrangement, they should report it to Action Fraud.</p>	Partially met	Transfer out procedure notes to be updated	Fund Officers

Where the governing body believe they will not meet the legislative deadlines, they should make an application to TPR before the deadline	Not completed		Fund Officers
The governing bodies of DB schemes that receive a request to transfer or convert safeguarded benefits of £30,000 or more, must check the scheme member (or survivor) has received appropriate independent advice.	Fully met		Fund Officers
When checking written confirmation governing bodies should follow advised steps around record keeping and responding to suspected fraudulent activity (See Appendix 25 for full details)	Fully met		Fund Officers
Governing bodies are required to complete transfers within six months. For DB benefits, this is measured from the guarantee date provided in the statement of entitlement.	Fully met		Fund Officers
Governing bodies should meet the record keeping requirements set out in Appendix 26	Fully met		Fund Officers
Governing bodies may consider the record keeping requirements set out in Appendix 27 as best practice [can we link to an appendix listing page 106 para 7]	Fully met		Fund Officers
When maintaining administrative systems governing bodies should comply with the measures laid out in Appendix 28	Fully met		Fund Officers
When maintaining administrative systems governing bodies may consider the measures laid out in Appendix 28 as best practice	Fully met		Fund Officers
Governing bodies should ensure that appropriate processes are in place: To enable participating employers to provide timely and accurate data To reconcile employer data and scheme data For situations where an employer fails to meet their legal duties to the scheme	Fully met		Fund Officers
Governing bodies may consider educating employers to understand where member information must and should be shared to the scheme and/or another employer	Fully met		Fund Officers
Governing bodies should retain records for as long as they are needed	Fully met		Fund Officers
Governing bodies should have appropriate processes in place for monitoring scheme data (see Appendix 29 for full details)	Partially met	Formal procedures to review output of data quality reports to be put in place. This will follow from data readiness for the pensions dashboard.	Fund Officers
Governing bodies should have appropriate processes in place for reviewing scheme data (see Appendix 30 for full details)	Partially met	Formal procedures to review output of data quality reports to be put in place. This will follow	

			from data readiness for the pensions dashboard.	Fund Officers
	Governing bodies should have appropriate processes in place for protecting scheme data (see Appendix 31 for full details)	Fully met		Fund Officers

Administration: IT and Cyber Security Requirements			
Requirements	Current rating	Actions	Responsibility
Governing bodies should take steps to make sure their service providers can prove they meet our expectations for maintaining IT systems as listed in Appendix 32	Partially met	Further assurances to be sought from third parties of their cyber risk processes.	Fund Officers
Scheme managers should establish adequate internal controls in relation to any regulatory or legal obligations in respect of cyber risk	Fully met	Exercise needs to be completed to test SPF Disaster Recovery Procedures.	Fund Officers
When assessing cyber risk governing bodies should follow the procedures set out in Appendix 33	Fully met		Fund Officers
When managing cyber risk governing bodies should follow the procedures set out in Appendix 34	Fully met		Fund Officers

Administration: Contributions			
Requirements	Current rating	Actions	Responsibility
Employee Contributions must be paid to the scheme by day 19 of the following month, or day 22 if paid electronically.	Fully met		Fund Officers
Employer contribution payments must be paid by the date specified in the scheme rules, regulations, or documentation.	Fully met		Fund Officers
Governing bodies should develop a record to monitor contribution payments to the scheme (a contributions monitoring record).	Fully met		Fund Officers
Governing bodies should have processes in place to check contributions due to the scheme and to reconcile them with what is actually paid to identify payment failures.	Fully met		
Governing bodies should develop and maintain records for monitoring contribution payments to the scheme. This should include: contribution rates, date contributions are due, interest on late payments. (see Appendix 35 for full details)	Fully met		Fund Officers
Governing bodies must also keep records of any employer contributions due to the scheme that have been written off.	Fully met	Confirm record maintained of employer contribution write offs.	Fund Officers
When a payment failure is identified, the governing body should contact the employer quickly to resolve the overdue payment.	Fully met		Fund Officers
The governing body should obtain overdue payments and rectify administrative errors. (see Appendix 36 for more detail)	Fully met		
Governing bodies should maintain a record of their investigation and the communications between themselves and the employer.	Fully met		Fund Officers
The governing body should review current processes to detect situations where fraud may be more likely to occur and where additional checks may be needed.	Fully met		Fund Officers

Communications and Disclosure: Information to Members			
Requirements	Current rating	Actions	Responsibility
The scheme manager should comply with the requirements of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.	Fully met		Fund Officers
The governing body should follow the principles set out in the section entitled "General Principles for Member Communications". TPR expectations are listed in Appendix 37	Fully met		Fund Officers
Scheme managers must provide all active members with an annual benefit information statement. They may also be required to provide a benefit information statement to certain types of members on request.	Fully met		Fund Officers
Scheme managers should follow the principles set out in the section entitled "General Principles for Member Communications" when drafting benefit information statements. (see Appendix 38 for more detail)	Fully met		Fund Officers
For active members the scheme manager must: Include a description of the benefits earned by members during their pensionable service Issue the annual statement by no later than 31 August of the year following the period to which the statement relates Comply with any HM Treasury directions, in terms of any other information that must be included and the way it must be provided to members.	Fully met		Fund Officers
For active, deferred, or pension credit members the scheme manager must: Provide a benefit information statement following a request for one, if the information has not been provided to that member in the previous 12 months Issue a benefit information statement as soon as possible following a valid request for one, and within two months	Fully met		Fund Officers
For members with defined contribution (DC) benefits, scheme managers must: provide a benefit information statement regarding their DC benefits to every member within 12 months of the end of the scheme year (irrespective of whether they also have DB benefits) include the information required by law in any benefit information statement.	Fully met		Fund Officers
Where the applicable public service scheme regulations require additional benefit information to be provided to members, or for statements to be given at shorter intervals	Fully met		Fund Officers

than set out above, those scheme regulations will also apply.			
Where a member has a right to a cash transfer sum or a contribution refund the information in s101AC of the Pension Schemes Act 1993 must be provided within a reasonable period.	Fully met		Fund Officers
The term "reasonable period" in the phrase above should be construed as 3 months from leaving. Governing bodies should advise members where it is likely to take more than 3 months to provide the information.	Partially met	Need to build in notification to members when a transfer out will exceed "reasonable" period.	Fund Officers
The governing body should give members 3 months to confirm if they wish to transfer their cash transfer sum and can extend this deadline at their discretion. If the member does not respond, the governing body may arrange to pay a contribution refund after a further month.	Fully met		Fund Officers
Where a member elects for a cash transfer sum the governing body should pay it within 3 months but can extend in exceptional circumstances.	Fully met		Fund Officers
When processing a transfer, governing bodies must check that at least one of the conditions for the transfer to proceed is met (see Transfers out module within Information Handling section of this checker).	Fully met	Review transfer out procedure notes.	Fund Officers
As part of their internal controls, governing bodies should ensure that they take the steps set out in Appendix 39.	Fully met		Fund Officers

Communications and Disclosure: Public Information			
Requirements	Current rating	Actions	Responsibility
<p>Scheme managers must publish certain information about the pension board and keep that information up to date.</p> <p>The scheme manager must publish and maintain:</p> <p>The names of pension board members Details about the representation of scheme members on the pension board Details of the matters for which the pension board is responsible</p>	Fully met		Fund Officers
<p>Scheme managers may consider publishing information about pension board business, for example, board papers, agendas, and minutes of meetings. These may be redacted to the extent that they contain confidential information and/or data protected by law.</p>	Fully met	Review Board page on website.	Fund Officers
<p>Scheme managers should consider requests for additional information to be published, to encourage scheme member engagement and promote</p>	Fully met		Fund Officers
<p>Scheme managers may consider how best to publish information, making use of the principles outlined in General principles for member communications.</p> <p>See appendix 37</p>	Fully met		Fund Officers
<p>Scheme managers may also publish: the employment and job title (where relevant) and any other relevant position each board members holds details of the pension board recruitment process who each pension board member represents the full terms of reference for the pension board, including details of how it will operate</p>	Fully met		Fund Officers
<p>Scheme managers should:</p> <p>Have policies and processes to monitor all published data on an ongoing basis to ensure it is accurate and complete Ensure any out-of-date or incorrect information identified is updated as soon as possible and in any event, within one month</p>	Fully met	Start logging review dates of website.	Fund Officers
<p>Governing bodies must put formal procedures and processes in place to investigate and decide upon pension scheme disputes quickly and effectively</p> <p>These processes must be followed to resolve various matters</p>	Fully met		Fund Officers

<p>Where a person no longer has an interest in the scheme or claims to be such a person, governing bodies must ensure their scheme's procedures allow a reasonable period for that person or their representatives to make their applications. The reasonable period in these circumstances is six months beginning on the date their interest in the scheme stopped.</p> <p>Governing bodies can accept an application outside of this timeframe if they believe it is</p>	Fully met		Fund Officers
<p>In relation to dispute resolution processes, governing bodies must:</p> <p>- Provide their internal dispute resolution procedure to:</p> <p>prospective members if it is practicable to do so any scheme members who have not been given the information certain people who request the information and who have not been given that information in the previous 12 months members or prospective members when schemes receive jobholder information, or when a jobholder becomes an active member, in connection with automatic enrolment</p>	Fully met		Fund Officers
<p>The governing body must provide information about the Money and Pensions Service and the Pensions Ombudsman to the complainant at certain stages of the dispute</p>	Fully met		Fund Officers
<p>There are further considerations the governing body should make in relation to the dispute resolution process.</p> <p>(see Appendix 40 for further details).</p>	Fully met		Fund Officers
<p>In relation to reasonable time periods governing bodies should:</p> <p>Decide the matter in dispute within four months of receiving the application In the case of a two-stage dispute resolution procedure, reach a first stage decision within four months of receiving the application In the case of a two-stage dispute resolution procedure, reach a second stage decision within four months of the point when the governing body receives the referral Notify applicants of the decision no later than 21 days from when it is made. Not delay a decision where it is possible to process an application sooner than four months Allow more than four months to reach a decision if it is appropriate to do so</p> <p>For public sector schemes, where the governing regulations provide for shorter periods to consider grievances than set out above, those regulations will apply</p>	Fully met		Fund Officers

<p>When reviewing an application, decision-makers should:</p> <p>Ensure they have all the appropriate information to make an informed decision Request further information if required Be satisfied that the time and action to reach a decision and notify the applicant are appropriate to the situation, and be able to demonstrate this</p>	<p>Fully met</p>		<p>Fund Officers</p>
<p>The governing body should keep members informed about dispute resolution. This can include:</p> <p>Publishing and making readily available timescales for an application Making their procedure accessible on the Fund's website Keeping applicants advised of the progress of their dispute and expected timescales</p>	<p>Fully met</p>	<p>Review communications when IDRPs responses take longer than expected.</p>	<p>Fund Officers</p>

Reporting to TPR: Regular Reports			
Requirements	Current rating	Actions	Responsibility
Governing bodies of registrable schemes must provide TPR with all registrable information when registering their schemes.	Fully met		Fund Officers
The governing body must tell TPR about changes to the registrable information as soon as reasonably practicable, at the very latest within five working days of the governing body becoming aware of the change.	Fully met		Fund Officers
Governing bodies must complete a scheme return, including registrable information, plus any other information TPR may require to exercise their functions for a registered scheme. This must be provided by the date specified in the scheme return notice.	Fully met		Fund Officers
Governing bodies should have measures in place to review and ensure the accuracy of the information in their scheme return	Fully met		Fund Officers

Reporting to TPR: Reporting Breaches			
Requirements	Current rating	Actions	Responsibility
Report breaches of the law when: A legal duty which is relevant to the administration of a scheme, has not been, or is not being, complied with, and the failure to comply is likely to be of material significance	Fully met		Fund Officers
Governing bodies should be satisfied that those responsible for reporting breaches are aware of the legal requirements and this code. Training should be provided for the Governing body and any in-house administrators (see Appendix 41 for more details)	Partially met	Refresh awareness of responsibilities for reporting breaches.	Fund Officers
Breaches must be reported if they are likely to be of 'material significance' to TPR in carrying out any of their functions.	Fully Met		Fund Officers
Those responsible for reporting breaches, including the governing body, should establish and operate procedures to ensure they are able to meet their legal duties (see Appendix 42 for list of procedures governing bodies could have in place)	Fully met		Fund Officers
Breaches of the law must be reported as soon as reasonably practicable.			

		Fully met		Fund Officers
	Breach report should contain the information listed in Appendix 43	Fully met		Fund Officers
	There are other requirements placed on those running pension schemes to report to other bodies. Where the duty to report to another body coincides with the duty to report to TPR, the report to us should include details of the other bodies the matter has been reported to.	Not completed	Data breach and TPR breach procedure notes to be updated to reflect duty of dual reporting where duty to report to TPR coincides with duty to report to another body.	Fund Officers
	If a scheme or an individual is at risk, for example where there has been dishonesty, the reporter should not take any actions that may alert those implicated that a report has been made. Similarly, reporters should not delay their report to TPR, to check whether any proposed solutions will be effective	Partially met	TPR breach procedure to be updated to clarify points re confidentiality and exigency.	Fund Officers
	Where contributions are not paid on time, and the governing body has reasonable cause to believe that the payment failure is likely to be of material significance to TPR they should send a written report of the matter to TPR.	Fully met		Fund Officers
	Reports of late contribution payments should be made to us within 14 days of the trustees having reasonable cause to believe that a material payment failure exists. Members should be notified within 30 days of the report to TPR. When reporting to members, governing bodies should provide payment information that will enable them to understand what has been paid to the scheme and by whom	Fully met		Fund Officers

GCoP Expectations of the Governing Body (Extracts)

Expected behaviours and standards

- a. Act honestly and with integrity, competence, and capability.
- b. Act with financial probity, including in matters outside their role.
- c. Meet their legal obligations and govern their scheme properly and according to scheme rules.
- d. Act in the interest of scheme members and beneficiaries.
- e. Seek to ensure that all scheme members, whether active, deferred, drawing a pension, or in a decumulation phase, benefit from good governance, see Systems of governance.
- f. Be open and honest in their dealings with us.
- g. Have or be able to acquire the appropriate levels of knowledge and understanding (see Knowledge and understanding) and keep these up to date (see Governance of knowledge and understanding).
- h. Identify and, where relevant, challenge others on any potential or actual failure to comply with the scheme rules, regulations, and legislation (see Managing advisers and service providers).

Expectations of a chair

We do not expect a higher standard of knowledge from the chair. As a matter of good practice, the chair needs to be able to demonstrate the skills and behaviours outlined below:

- a. Act as the leader of the governing body and demonstrate the standards of behaviour expected from other members of the board.
- b. Represent the interests of the scheme to all relevant parties, including employers, advisers, service providers, and members.
- c. Have an independent viewpoint when necessary and be able to manage potential conflicts (see Conflicts of interest).
- d. Be able to recognise each individual trustee's potential, and ensure their knowledge and skills are used effectively (see Knowledge and understanding).
- e. Encourage members of the governing body to think strategically and take the broad, long-term view.
- f. Help achieve compromise and consensus between differing parties to achieve good member outcomes.
- g. Encourage participation from all members of the governing body, including new members.
- h. Be able to demonstrate elements of the following skills:
 - Communication with the governing body and its stakeholders.
 - Organising teaching, and training (sourcing if not delivering). See Governance of knowledge and understanding.
 - Debating, challenging, and negotiating.
 - Ability to gather and understand diverse views.
 - Managing conflicts of interest.

Governance of knowledge and understanding

It is important that the governing body, or pension board, can demonstrate that, as a group, they possess the skills, knowledge, and experience to run the scheme effectively. The governing body should:

- a. have a balance of skills and experience throughout the board and be able to demonstrate this
- b. be able to apply its knowledge to governing the scheme
- c. have enough skills to judge and question advice or services provided by a third party
- d. be able to identify and address skills gaps
- e. have enough understanding of industry good practice and standards to assess scheme performance and its service providers. See Managing advisers and service providers.
- f. keep records of the learning activities of individual members and the body as a whole
- g. be able to demonstrate steps it has taken to comply with the law
- h. have and maintain training and development plans to ensure that individual and collective knowledge and understanding is kept relevant and up to date. See Knowledge and understanding.

SPF Procedure for Reporting Breaches of the Law



**A Procedure for Reporting Breaches of Law to
the Pensions Regulator**

Strathclyde Pension Fund

Effective: 1st August 2016

Contents:

1. Introduction
2. Legal requirements
3. Reasonable cause
4. SPFO Procedure
 - 4.1 Clarification of the law
 - 4.2 Clarification of the facts
 - 4.3 Consideration of significance
 - 4.4 Recording Breaches
 - 4.5 Reviewing Breaches
5. Submitting a report to the Regulator
6. Whistleblowing protection and confidentiality

Appendix A	Factors in consideration of material significance
Appendix B	Requirements for any report to the Regulator
Appendix C	Reporting payment failures
Appendix D	Confidentiality

1. Introduction

In April 2015 the Pensions Regulator (the Regulator) published its Code of Practice no 14 (the Code) *Governance and administration of public service pension schemes*. This is not a statement of law of itself, but nonetheless it carries great weight. In some respects it is like the Highway Code, in that some of its contents refer to statutory items, whilst others are advisory. The Courts may however also rely on the latter. In the same way, if determining whether any pensions related legal requirements have been met, a court or tribunal must take into account the Code.

There are many and various laws relating to the Local Government Pension Scheme, with many and various people having a statutory duty to report material breaches of the law to the Regulator. To assist, the Code states that a procedure should be established to ensure that those with a responsibility to make reports are able to meet their legal obligations. This document is that procedure, which relates to all Strathclyde Pension Fund (SPF) areas of operation.

2. Legal requirements

Certain people are required to report breaches of the law to the Regulator where they have reasonable cause to believe that:

- a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with
- the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions.

People who are subject to the reporting requirement ('reporters') for public service pension schemes are:

- scheme managers
- members of the pension board
- any person who is otherwise involved in the administration of the Fund
- employers, and any participating employer who becomes aware of a breach should consider their statutory duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers
- professional advisers including auditors, actuaries, legal advisers and fund managers and
- any person who is otherwise involved in advising the managers of the scheme in relation to the scheme.

3. Reasonable cause

Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.

Reporters should ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to consult senior officers within Strathclyde Pension Fund Office (SPFO) in the first instance regarding what has happened. The procedure set out below will be followed for all suspected breaches of the law identified within or brought to the attention of SPFO.

It may not be appropriate to check with SPFO in cases of theft, suspected fraud or other serious offences where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances the reporter should alert the Regulator without delay.

If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.

In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Regulator may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

4. SPFO procedure

The following procedure will be followed for all suspected breaches of the law identified within or brought to the attention of SPFO.

4.1 Clarification of the law

Any necessary clarification of the law around the suspected breach will be obtained. Resource available to SPFO to clarify the law includes:

- SPFO senior administration staff
- SPF Solicitor
- Glasgow City Council Legal Services Section
- Scottish Public Pensions Agency/Scottish Pensions Liaison Group
- External Counsel.

4.2 Clarification of facts

Any necessary clarification of the facts around the suspected breach will be obtained. Resource available to SPFO to clarify the facts includes:

- Altair pensions administration system and records of correspondence with members
- Electronic document retention and management system
- Financial and accounting records
- SPFO staff and relevant staff at SPF employers.

4.3 Consideration of significance

The significance of the breach, and whether or not it is material, will be considered taking into account its cause, effect, the reaction to it, and its wider implications. Further details of how each of these factors will be considered are set out at Appendix A.

In the first instance the Pension Scheme Manager will be the appropriate point of referral for a decision as to whether or not to report to the Regulator. More complex cases may be referred for additional consideration by the Strathclyde Pension Fund Office Leadership Team (SPFOLT).

Some matters could be urgent, if for example a fraud is imminent, whilst others will be less so. Non-urgent but material breaches will wherever possible be reported to the Regulator within 30 working days of them being confirmed, and in the same time breaches that are not material will be recorded.

Some breaches could be so serious that they must always be reported, for example a theft of funds by anyone involved with the administration or management of the Fund. It is difficult to be definitive about what constitutes a breach that must always be reported, but one test is: might it reasonably lead to a criminal prosecution or a serious loss in public confidence?

4.4 Recording breaches

All breaches will be recorded, even those that are found not to be material to the Regulator. This is so that if similar breaches continue, then it will be recognised when they become material. Recording all breaches also highlights where improvements are required, to try and prevent similar breaches. All breaches material or not will be recorded on a "Breaches of Law" log devised in conjunction with the Regulator's suggested traffic light framework. The log will be stored centrally on SPFO's electronic document retention and management system (EDRMS).

4.5 Reviewing breaches

The SPFO Breaches of Law Log will be reviewed regularly by the SPFOLT. Breaches which have been reported to the Regulator will be summarised within the quarterly Administration Performance report considered by the SPF Pension Board and SPF Committee.

5. Submitting a report to the Regulator

The required form and content for any report to the Regulator are set out in Appendix B.

6. Whistleblowing protection and confidentiality

The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report. Further details are set out in Appendix C.

Glasgow City Council has its own whistleblowing policy. The Council's whistleblowing arrangements are managed by the Head of Audit and Inspection. Any concerns can be reported at fraud@glasgow.gov.uk.

Factors in consideration of material significance

1. Overview

In deciding whether a breach is likely to be of material significance to the Regulator, it would be advisable for the reporter to consider the:

- cause of the breach;
- effect of the breach;
- reaction to the breach; and
- the wider implications of the breach.

When deciding whether to report, those responsible should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the Regulator.

2. Cause of the breach

The breach is likely to be of material significance to the Regulator where it was caused by:

- dishonesty;
- poor governance or administration;
- slow or inappropriate decision making practices;
- incomplete or inaccurate advice; or
- acting (or failing to act) in deliberate contravention of the law.

When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.

A breach will not normally be materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

3. Effect of the breach

Reporters need to consider the effects of any breach, but with the Regulator's role in relation to public service pension schemes and its statutory objectives in mind, the following matters in particular should be considered likely to be of material significance to the Regulator:

- Pension Board members not having the appropriate degree of knowledge and understanding, which may result in the Board not fulfilling its role, the Fund not being properly governed and administered and/or the Pension Fund Committee breaching other legal requirements;

Factors in consideration of material significance

- Pension Board members having a conflict of interest, which may result in them being prejudiced in the way that they carry out their role, ineffective governance and administration of the scheme and/or the Pension Fund Management Panel breaching legal requirements;
- adequate internal controls not being established and operated, which may lead to the Fund not being run in accordance with the Scheme's Regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the Fund at the right time;
- accurate information about benefits and Scheme administration not being provided to Scheme members and others, which may result in members not being able to effectively plan or make decisions about their retirement;
- appropriate records not being maintained, which may result in member benefits being calculated incorrectly and/or not being paid to the right person at the right time;
- anyone involved with the administration or management of the Fund misappropriating any of its assets, or being likely to do so, which may result in assets not being safeguarded; and
- any other breach which may result in the Fund being poorly governed, managed or administered.
- Reporters need to take care to consider the effects of the breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

4. Reaction to the breach

- Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the Regulator will not normally consider this to be materially significant.
- A breach is likely to be of concern and material significance to the Regulator where a breach has been identified and those involved:
 - do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
 - are not pursuing corrective action to a proper conclusion;
 - fail to notify affected scheme members where it would have been appropriate to do so.

5. Wider implications of the breach

Reporters should consider the wider implications of a breach when they assess which breaches are likely to be materially significant to the Regulator. For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the scheme manager or pension board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For instance, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

Requirements for any report to the Regulator

1. Any report that is made to the Regulator must be in writing and made as soon as reasonably practicable and should be dated and include as a minimum:
 - full name of the Fund;
 - description of the breach or breaches;
 - any relevant dates;
 - name of the employer or scheme manager (where known);
 - name, position and contact details of the reporter; and
 - role of the reporter in relation to the Fund.
 - Additional information that would help the Regulator includes:
 - the reason the breach is thought to be of material significance to the Regulator;
 - the address of the Fund;
 - the pension scheme's registry number (if available); and
 - whether the concern has been reported before.
2. Reporters should mark urgent reports as such and draw attention to matters they consider particularly serious. They can precede a written report with a telephone call, if appropriate.
3. Reporters should ensure they receive an acknowledgement for any report they send to the Regulator. Only when they receive an acknowledgement can the reporter be confident that the Regulator has received their report.
4. The Regulator will acknowledge all reports within five working days of receipt, however it will not generally keep a reporter informed of the steps taken in response to a report of a breach as there are restrictions on the information it can disclose.

Requirements for any report to the Regulator

5. The reporter should provide further information or reports of further breaches if this may help the Regulator to exercise its functions. The Regulator may make contact to request further information.
6. Breaches should be reported as soon as reasonably practicable, which will depend on the circumstances. In particular, the time taken should reflect the seriousness of the suspected breach.
7. In cases of immediate risk to the Fund, for instance, where there is any indication of dishonesty, the Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert the Regulator to the breach.

Reporting payment failures

1. Managing overdue contributions – SPFO Procedure

- contributions should be paid to the Fund by the 19th of the month following deduction.
- all employers are monitored on a monthly basis to ensure payment has been received
- should contributions be late/absent SPFO would contact employer promptly to alert them to the payment failure and to seek to resolve the overdue payment. SPFO would identify the reason for payment failure, agree solution and timescale for payment
- a record of all investigation will be maintained and stored centrally on the electronic document retention and management system
- one-off payment failures or administrative errors should be corrected within 90 days of the due date
- all cases of payment failure will be closely monitored to ensure reoccurrence does not apply
- cases that remain outstanding will be escalated to the Director of Strathclyde Pension Fund

2. Reporting payment failures which are likely to be of material significance to the regulator

SPFO is likely to report instances to TPR:

- where contributions have been outstanding for 90 days from the due date (unless the payment failure was a one-off or infrequent administrative error, which had already been corrected on discovery or is thereafter corrected as soon as possible).
- where SPFO has reasonable cause to believe that the employer is neither willing nor able to pay contributions, for example in the event of a business failure or where an employer becomes insolvent and is unable to make pension payments
- where there is a payment failure involving possible dishonesty or a misuse of assets or contributions. For example, where schemes have concerns that an employer is retaining and using contributions to manage cash flow difficulties or where SPFO have become aware that the employer has transferred contributions elsewhere other than to the pension scheme, which may be misappropriation
- where the information available to SPFO may indicate that the employer is knowingly concerned with the fraudulent evasion of the obligation to pay employee contributions
- where SPFO becomes aware that the employer does not have adequate procedures or systems in place to ensure the correct and timely payment of contributions due and the employer appears not to be taking adequate steps to remedy the situation, for example where there are repetitive and regular payment failures

Confidentiality

1. The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report.
2. The Regulator understands the potential impact of a report on relationships, for example, between an employee and their employer.
3. The statutory duty to report does not, however, override 'legal privilege. This means that oral and written communications between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
4. The Regulator will do its best to protect a reporter's identity (if desired) and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law. This includes circumstances where the regulator is ordered by a court to disclose it.
5. The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the regulator. Consequently, where individuals employed by firms or another organisation having a statutory duty to report disagree with a decision not to report to the regulator, they may have protection under the ERA if they make an individual report in good faith. The Regulator expects such individual reports to be rare and confined to the most serious cases.