

# Public Service Pension Employers



**Hackney Employers' Forum**  
Hackney Learning Trust

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Industry liaison manager

**9th March 2018**

**The information we provide is for guidance only and  
should not be taken as a definitive interpretation of the law.**

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# Agenda

- Our role, responsibilities and powers
- Your role and responsibilities
- Our expectations
- The importance of good data
- Scheme returns
- Reporting a breach
- Lessons from casework
- Data related initiatives: GDPR, pensions dashboard
- The need for cyber resilience

# Introduction

- We regulate the governance and administration of public service pension schemes, which provide pensions for civil servants, the judiciary, local government, teachers, health service workers, members of fire and rescue services, members of police forces and members of the armed forces
- Our Code of Practice 14 sets out the standards of conduct and practice we expect

## 8 workforces



**16.5 million**  
memberships

**24,000**  
employers

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# Our roles and responsibilities

- We regulate compliance with the Governance and Administration requirements introduced by the Public Service Pensions Act 2013:
  - we engage mainly with scheme managers and pension boards
  - investment: not the what (compliance with investment regulations) but the how (investment governance)
    - [www.tpr.gov.uk/guidance/db-investment.aspx](http://www.tpr.gov.uk/guidance/db-investment.aspx)
- To educate and enable:
  - codes, toolkit, news-by-email
    - [www.tpr.gov.uk/doc-library/codes.aspx](http://www.tpr.gov.uk/doc-library/codes.aspx)
    - <https://trusteetoolkit.thepensionsregulator.gov.uk/>
    - <https://forms.thepensionsregulator.gov.uk/news-by-email/subscribe>
- To enforce:
  - improvement and third party notices, fines etc



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# Our regulatory powers

- Appoint a skilled person to assist the pension board
- Civil penalties – up to £5,000 to an individual or £50,000 to a corporate body
- Collect data through the scheme return
- Criminal prosecution
- Improvement notices and third party notices – require specific action to be taken within a certain time
- Information – require any relevant person to produce any relevant document or information
- Inspection – at own premises and/or premises of a third party
- Publish reports about a case (which might include naming those at fault)
- Recover unpaid contributions from employers on behalf of the scheme manager
- Report misappropriation – notify the scheme manager about pension board conflicts or misuse regarding assets
- Skilled person report – require scheme managers to provide a report made by a skilled person nominated by the regulator

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# Legislative scope: Code of practice 14

Scheme governance:

1. knowledge and understanding required by pension board members
2. conflicts of interest and representation
3. publishing information about schemes

Managing risks:

4. internal controls

Administration:

5. scheme record-keeping
6. maintaining contributions
7. providing information to members

Resolving issues:

8. internal dispute resolution
9. reporting breaches of the law

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# TPR focus 2017/18

- Ongoing risk assessment and intelligence gathering
  - 2016 survey 90% response rate covering 98% of combined membership
  - 2017 survey sent out early November 2017
- Increasing emphasis on looking at locally-administered schemes
- Key focus areas:
  - record-keeping and data quality

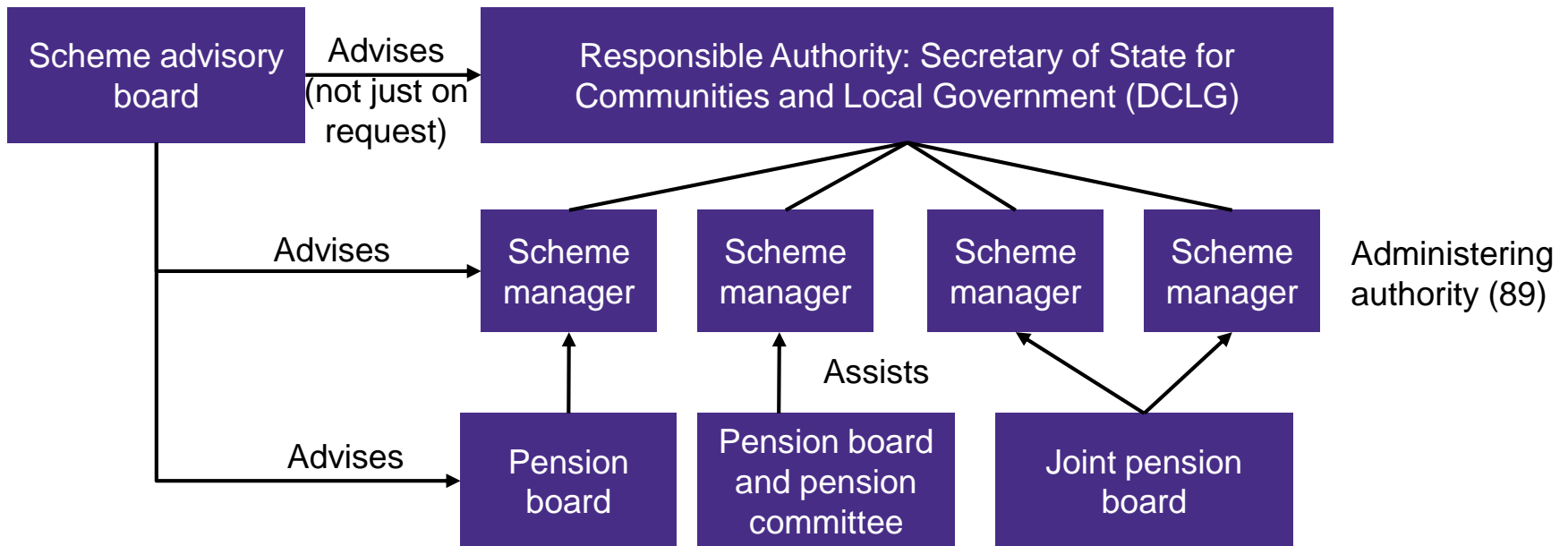
We will use our educate/enable/enforce regulatory approach to help schemes comply and address key risks

# Who are we trying to reach?

- Advisers, including actuaries, accountants and pensions lawyers
- Employers
- Service providers
- Scheme managers, scheme advisory boards, pension scheme board members (public sector pension schemes)
- Particular focus on the disengaged and those at risk of non-compliance
- Trustees, including chairs and professional trustees



# LGPS (England and Wales)



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# Local pension boards

**Pension boards** are responsible for assisting the scheme manager in securing compliance with:

- scheme regulations
- other governance and administration legislation
- any requirements of The Pensions Regulator
- additional matters, if specified by scheme regulations
- pension boards need to have an equal number of employer representatives and member representatives (they may also have other types of members, such as independent experts).

# Record keeping

- Good record keeping is a key part to the successful running of a scheme and allows schemes to meet their legal obligations
- We know from engagement that standards vary widely, and some schemes do not prioritise this appropriately, so TPR expects:
  - scheme managers to engage with administrators over service and security
  - assess data and put in place a plan to address issues
- Guidance on developing an improvement plan:
  - [www.tpr.gov.uk/docs/improve-data-guide.pdf](http://www.tpr.gov.uk/docs/improve-data-guide.pdf)

# Improving your data (i)

- Scheme managers should undertake an annual data review and put in place a data improvement plan where they identify issues
- Our quick guide ([www.tpr.gov.uk/docs/improve-data-guide.pdf](http://www.tpr.gov.uk/docs/improve-data-guide.pdf)) can help you design a plan or assess an existing one, setting out key areas to consider:
  - objectives, outcomes, scope and prioritising, activities, dependencies, timeframes and timelines, resourcing, governance
- Accurate records are key to ensuring
  - the right members get the right benefits at the right time,
  - accurate valuations and calculation of the cost cap
- Poor data integrity has a real impact on members

# Pension scheme data improvement plan



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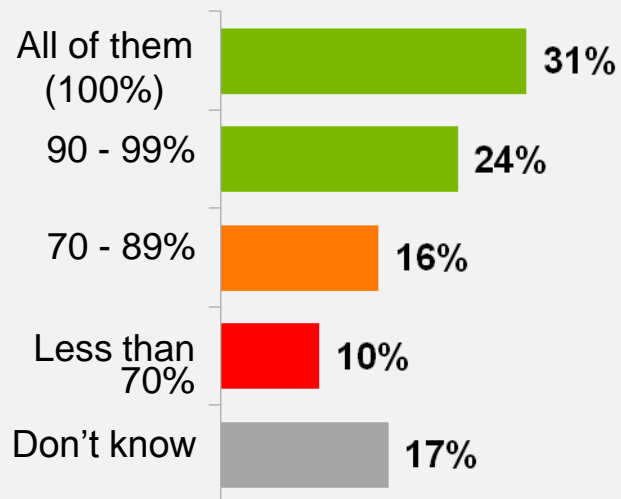
## Improving your data (ii)

- Data improvement is a continuous process, not a one-off exercise
- The data needed to run an efficient and effective scheme should be checked regularly – both ‘common data’ (applicable to all schemes) and ‘conditional data’ (dependent on scheme type, structure and system design)
- Data should be well managed day to day to ensure it is accurate and complete
- Though administrators may look after records on a day-to-day basis, scheme managers are still accountable

# Employers role in public service pension schemes

- Scheme managers have a legal obligation to maintain certain data
- Employers provide most of the data needed
- Issue is particularly acute for large schemes with multiple employers – Teachers Pension Scheme and Local Government Pension Schemes

## Proportion of employers providing timely, accurate & complete data



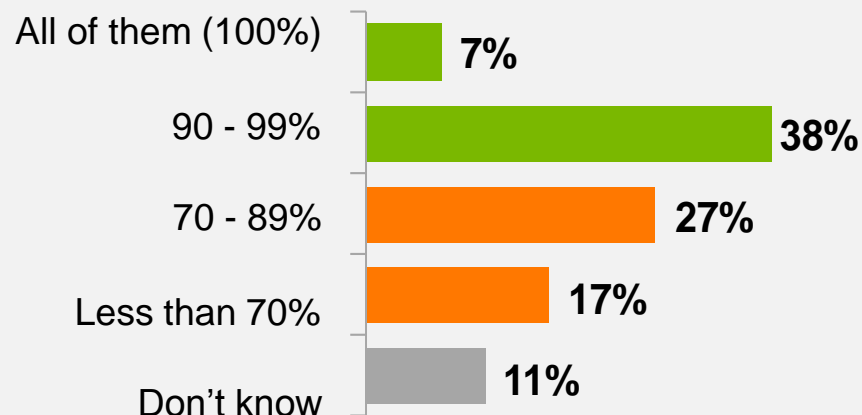
- **Only 55% of employers providing good data as a matter of course.**
- **23% of schemes report employer compliance as being one of their top 3 risks. This rises to 30% for local government pension schemes.**
- **20% report employer compliance as being top barrier to them improving their governance and administration, this rises to 34% in local government schemes.**

Employer data is a significant concern, action is being taken but the quality varies. 40% of schemes see record-keeping as a top risk.

# Record keeping - survey results

- Employer data remains an issue, with only **55%** providing good data as a matter of course.
- The larger the scheme, the lower the proportion of employers providing good data
- Single employer schemes see higher proportion of employers providing good data

## Proportion of employers providing timely, accurate & complete data



**40%**

respondents identify poor records as a top risk

**36%**

respondents report delays in payment benefits as one of top three complaints received

Employer data is a significant concern, action is being taken but the quality varies. 40% of schemes see record-keeping as a top risk.



# Record keeping - survey results

Most schemes are meeting our expectations of doing a data review annually

Last data review
83% in last 12 months
10% longer ago
2% never
5% don't know



But there are concerns as to the effectiveness of these reviews

Identified issues
61% identified issues
31% no issues identified
1% don't know if issues
7% not reviewed (inc. DK)



And take up of data improvement plans is low

Data improvement plans
23% data improvement plan
38% no data improvement plan
32% no issues identified (inc. DK)
7% not reviewed (inc. DK)

Schemes are doing an annual data review, but take up of data improvement plans is low. Although LGPS are ahead of other schemes, employer data is a bigger concern than for other schemes.

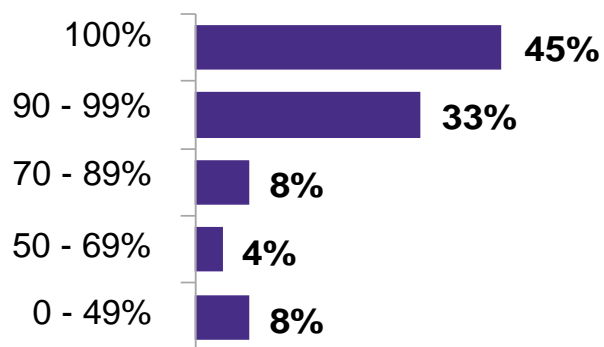
# Scheme return requirements

- From 2018 will be asked to report on:
  - when scheme last measured common data
  - common data score
  - when scheme last measured scheme-specific (conditional) data
  - scheme-specific data score
- This will help us understand and segment the landscape and target interventions/track progress
- Common data = data used to identify members (eg DOB, NINO, name)
- Scheme-specific data = other data needed to run the scheme:
  - in public service schemes this includes data required by the regulations, data needed for valuation, compliance with scheme regulations etc
- This change for public service schemes may require systems and process changes
- Data measuring guidance - [www.tpr.gov.uk/docs/measure-data-guide.pdf](http://www.tpr.gov.uk/docs/measure-data-guide.pdf)

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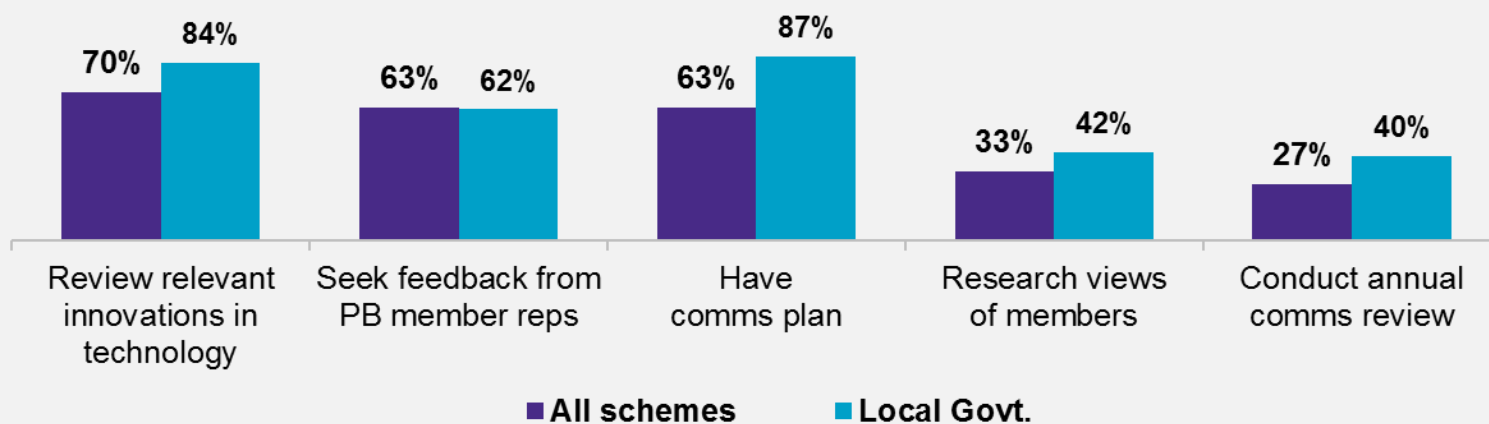
# Member communications - survey results

## Proportion of active members receiving annual benefit statement by statutory deadline



- Only 45% of schemes reported that all members received their ABS on time
- 13% of memberships did not receive their ABS in time
- Performance was significantly worse among smaller schemes

## Tools/processes to improve effectiveness of member communications



- The larger the scheme, the more likely it is to use a range of tools to try and improve communications

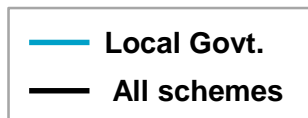
One in 5 members did not received their benefit statements in time. Schemes are using a variety of mechanisms to improve member communications.

# Reporting breaches of the law

- Legal duty to report a breach of the law that is likely of material significance to TPR for:
    - scheme manager
    - pension board member
    - professional advisers
    - employers
    - administrators and others providing advice to the manager
  - Reporters to determine if a breach has occurred based on reasonable cause and not a mere suspicion
  - TPR provides example scenarios and RAG system for assessing scale of materiality by way of:
    - cause
    - effect
    - reaction
    - wider implications
- [www.tpr.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf](http://www.tpr.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf)

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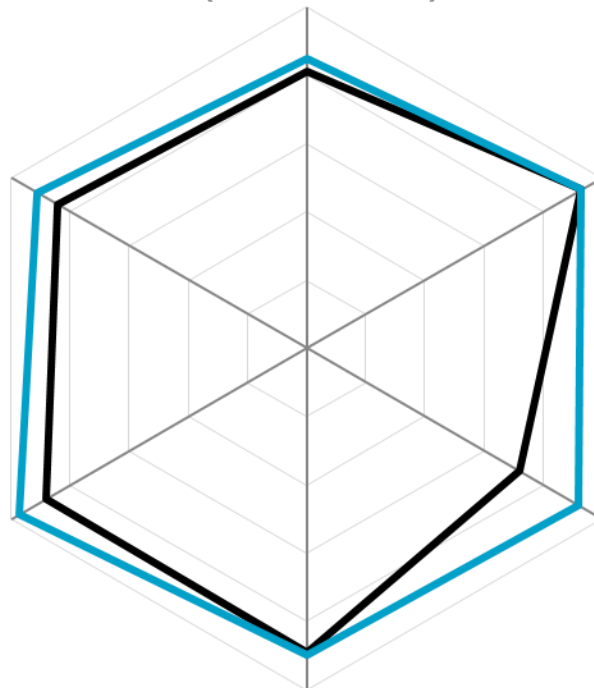
# Key governance processes



**91%** have procedures to identify, assess and report breaches of the law  
(+40% on 2015)

**97%** have a process for resolving payment issues and assessing whether to report failures to TPR  
(+6% on 2015)

**85%** have a conflicts policy and procedure for pension board members  
(-2% on 2015)



**93%** have policies and arrangements to help board members acquire and retain knowledge & understanding  
(+8% on 2015)

**92%** have documented procedures for assessing and managing risks  
(+13% on 2015)

**90%** have processes to monitor records for all membership types

LGPS more likely to have some key processes in place than average, in particular around managing risks. Significant improvement made in processes for reporting breach.

# Breach of law reports - Teachers' Pension Scheme

- 2 breach of law reports were received in 2016 from an administrator
- 43 employers were failing to submit their End of Year Certificates (EOYCs) to the scheme manager by the legal deadline
- The administrator had made multiple contacts with each employer
- Our engagement:
  - we engaged with the non-compliant employers
  - the engagement identified a lack of knowledge and understanding by employers on EOYC submissions
  - all but one employer is now compliant
  - the scheme manager removed the final employer from the scheme (the employer has now gone insolvent)
- For more detail:
  - [www.tpr.gov.uk/docs/regulatory-intervention-section-89-teachers.pdf](http://www.tpr.gov.uk/docs/regulatory-intervention-section-89-teachers.pdf)

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# Key lessons

- Scheme managers have a legal obligation to maintain certain data
- Employers provide most of the data needed
- Both employers and scheme managers must ensure they are meeting their legal obligations to the scheme:
  - employers must ensure they understand their obligations to the scheme
  - scheme managers must have robust processes to ensure accurate data is provided on time
- TPR can, and has, intervened where these actions don't resolve the issues:
  - a range of powers at our disposal, including the issuing of an improvement notice and / or third party compliance notice and associated fines

# Public service pension scheme fined £1000

- We issued a £1,000 fine against the London Borough of Barnet scheme manager for failing to submit its 2016 scheme return:
  - we issued a scheme return notice to the scheme manager on 9 July 2016, requesting the scheme return be submitted by 12 August
  - the return was not received and further communications from TPR not replied to
  - so the matter was referred to TPR's Determinations Panel on 24 February 2017
  - the penalty notice was issued to the scheme manager on 13 April and paid on 9 June
- As the scheme return was not submitted a case team continues to engage with local authority staff to discuss the scheme's future governance and administration



# Key lessons

- Outsourcing does **not** reduce or remove a scheme manager's responsibility or accountability.
- It is the legal responsibility of trustees and managers to submit a scheme return by the specified deadline:
  - failure to submit may signal further governance and administration problems within the scheme
  - good scheme governance is a key factor to achieving positive outcomes for members
- The £1,000 fine against the scheme manager took into account:
  - size of scheme (23,000 members)
  - governance and administration being a priority for TPR



Failure to provide the scheme return by the deadline can lead to fines of up to

**£5,000**

per individual and

**£50,000**

in other cases

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# What does this mean in practice?

- Make sure there are appropriate internal controls:
  - service level agreements are set up, even with in-house administrators
  - there are processes to receive, check and review data
  - and processes around the Data Protection Act and data breaches
    - more guidance coming from us
- Data to be reviewed:
  - annually and on triggering events (new administrator)
  - common/scheme-specific data
  - the review is robust
- Robust data improvement plans:
  - new guidance coming from TPR

# What are the challenges facing pension schemes?

- Member engagement:
  - online access
- Enhanced requirements:
  - increased reporting requirements
  - GDPR (25 May 2018)
  - pensions dashboard (might become a legal requirement to provide member benefit data)
  - cyber security



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# GDPR

- General Data Protection Regulation applies from 25 May 2018
  - brings consistency across the EU
  - strengthens provisions of current data protection
    - stronger individual rights (new right to data portability)
    - new obligations on data processors
  - 72 hour reporting *if a breach is likely to result in a risk to people's rights and freedoms*
  - greatly enhanced fines available to the ICO
  - will remain after we leave the EU
- Data Protection Bill
  - will replace 1998 Act
  - some implementation of GDPR, but other aspects.
  - pension scheme 'exception'

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# The good news

*“If you are already complying with the terms of the Data Protection Act, and have an effective data governance programme in place, then you are already well on the way to being ready for GDPR” - Steve Wood, Deputy Commissioner for Policy, ICO*

- Controls put in place for GDPR help you meet your internal controls requirements under pension legislation

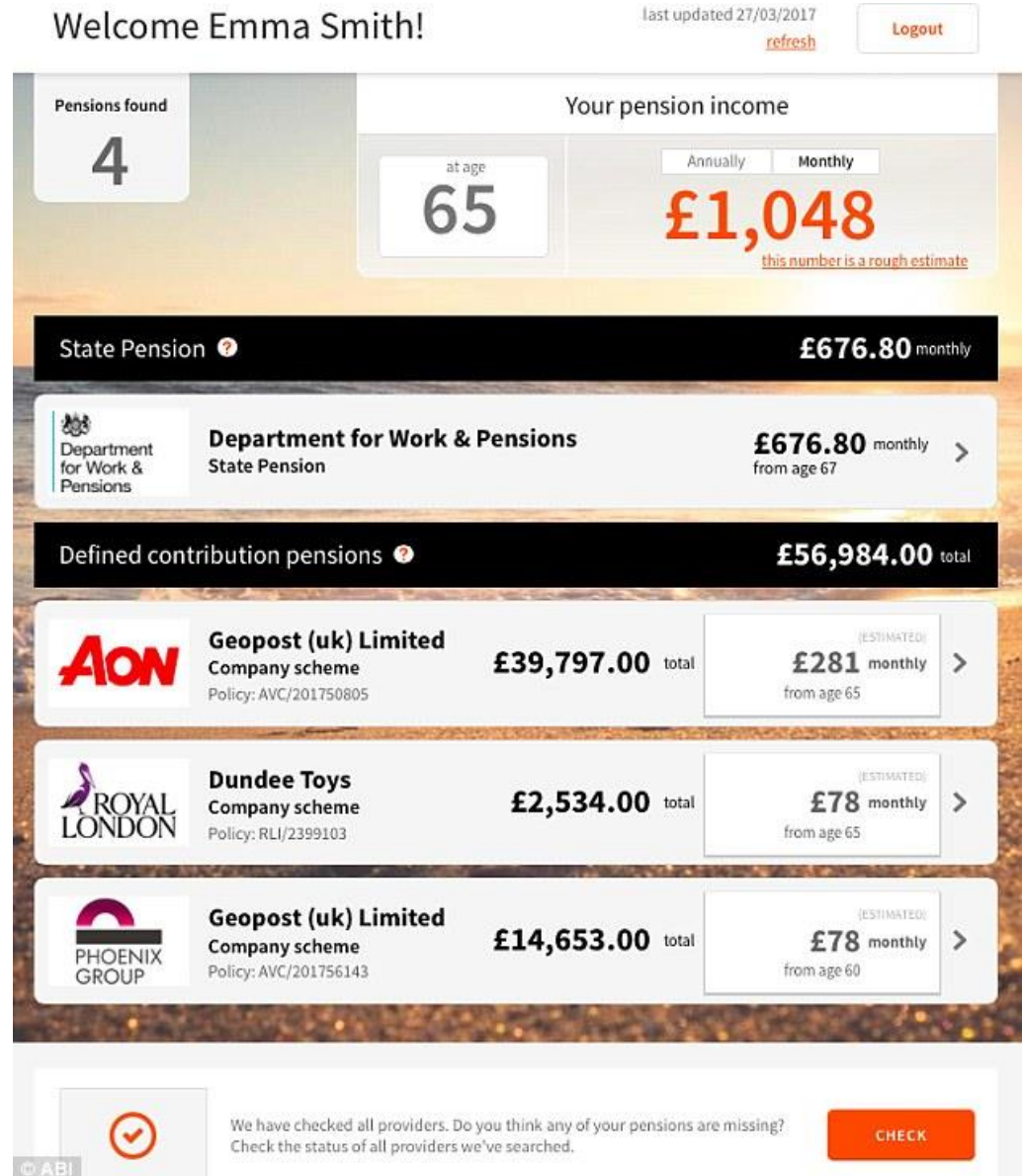
# Useful links on GDPR

- Information Commissioner's Office (ICO) - <https://ico.org.uk/for-organisations/guidance-index/>
- ICO - 12 steps to preparing for the GDPR
- [ICO - myth-busting blog](#)
- [ICO - overview of the GDPR \(evolving page\)](#)
- Industry guides also being published eg
  - [PLSA guide](https://www.plsa.co.uk/Policy-and-Research-Document-library-General-Data-Protection-Regulation-Made-Simple) - <https://www.plsa.co.uk/Policy-and-Research-Document-library-General-Data-Protection-Regulation-Made-Simple>
  - [LGPS briefing](#)
- [DCMS Data Protection Bill factsheet](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644634/2017-09-13_Factsheet01_Bill_overview.pdf)  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/644634/2017-09-13\\_Factsheet01\\_Bill\\_overview.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644634/2017-09-13_Factsheet01_Bill_overview.pdf)

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# Pensions dashboard

- Put forward in Budget 2016
- Prototype dashboard delivered by the ABI - <https://pensionsdashboardproject.uk/industry/about-the-pensions-dashboard-project/>
- DWP now leading on feasibility study
- Whether scheme participation will be voluntary or mandatory is to be confirmed



# Cyber resilience in pension schemes

- Pension schemes are potentially valuable targets for fraudsters as they hold large amounts of personal information
- Scheme managers are responsible for putting in place controls to ensure the security of data and assets
- TPR CEO has said that cyber should be on schemes' risk register
- Not just an administrator problem – (eg what controls are around the data shared with the scheme actuary, legal advisors and pension board)
- Not just about cyber 'defence' but cyber resilience:
  - look at systems, processes and people (access and training) to reduce the risk
  - prepare for when things go wrong – how to recover data, how to report internally and externally (members, ICO, TPR)



# Mitigation against cyber threats

- Most cyber attacks exploit basic weaknesses in software and IT systems
- Government estimates that 80% of breaches could be prevented by following these ten steps
- National Cyber Security Centre (part of GCHQ):
  - 10 steps to cyber security

[www.ncsc.gov.uk/guidance/10-steps-executive-summary](http://www.ncsc.gov.uk/guidance/10-steps-executive-summary)
- Cyber Essentials is a Government-backed, industry-supported scheme to help organisations protect themselves against the most common threats found on the internet. It shows you how to fix basic weaknesses and get a good level of cyber security in place.

[www.cyberaware.gov.uk/cyberessentials](http://www.cyberaware.gov.uk/cyberessentials)
- Prepare for GDPR – controls put in place will also help mitigate the cyber risk

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# What you can do to combat cyber attacks

## Reducing The Impact

Most cyber attacks are composed of four stages: **Survey, Delivery, Breach and Affect**. The following **security controls**, applied at each stage of an attack, can reduce your organisation's exposure to a successful cyber attack.

## Survey



### User Education

Train all users to consider what they include in publicly available documents and web content. Users should also be aware of the risks from discussing work-related topics on social media, and the potential of being targeted by phishing attacks.

### Who might be attacking you?

Cyber Criminals interested in making money through fraud or from the sale of valuable information.

Industrial competitors and foreign intelligence services interested in gaining an economic advantage for their companies or countries.

Hackers who find interfering with computer systems an enjoyable challenge.

Hacktivists who wish to attack companies for political or ideological motives.

Employees, or those who have legitimate access, either by accidental or deliberate misuse.

## Delivery



### Network Perimeter Defences

Can block insecure or unnecessary services, or only allow permitted websites to be accessed.



### Malware Protection

Can block malicious emails and prevent malware being downloaded from websites.



### Password Policy

Can prevent users from selecting easily guessed passwords and locks accounts after a low number of failed attempts.



### Secure Configuration

Restrict system functionality to the minimum needed for business operation, systematically apply to every device that is used to conduct business.

**£600K-£1.15m**  
**Average cost of security breach**



## Breach



### Patch Management

Apply patches at the earliest possibility to limit exposure to known software vulnerabilities.



### Monitoring

Monitor and analyse all network activity to identify any malicious or unusual activity.



### Malware Protection

Malware protection within the internet gateway can detect malicious code in an important item.



### Secure Configuration

Remove unnecessary software and default user accounts. Ensure default passwords are changed, and that automatic features that could activate malware are turned off.



### User Access

Well maintained user access controls can restrict the applications, privileges and data that users can access.



### User Training

User training is extremely valuable in reducing the likelihood of successful social engineering attacks.



### Device Controls

Devices within the internal gateway should be used to prevent unauthorised access to critical services or inherently insecure services that may still be required internally.

## Affect

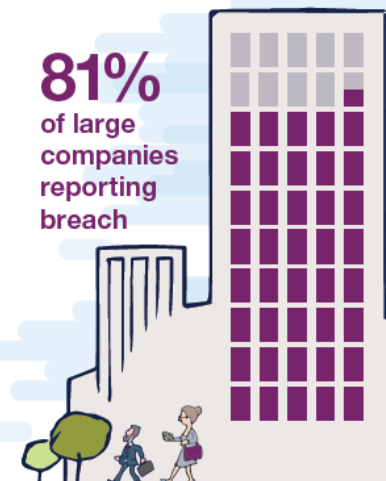


### Controls For The Affect Stage

Once an attacker has achieved full access, it's much harder to detect their actions and eradicate their presence. This is where a more in-depth, holistic approach to cyber security can help.

**10 Steps To Cyber Security** outlines many of the features of a complete cyber risk management regime.

**81%**  
**of large companies reporting breach**



# 10 Steps to Cyber Security

Defining and communicating your Board's Information Risk Regime is central to your organisation's overall cyber security strategy. The National Cyber Security Centre recommends you review this regime – together with the nine associated security areas described below, in order to protect your business against the majority of cyber attacks.



## Network Security

Protect your networks from attack. Defend the network perimeter, filter out unauthorised access and malicious content. Monitor and test security controls.



## User education and awareness

Produce user security policies covering acceptable and secure use of your systems. Include in staff training. Maintain awareness of cyber risks.



## Malware prevention

Produce relevant policies and establish anti-malware defences across your organisation.



## Removable media controls

Produce a policy to control all access to removable media. Limit media types and use. Scan all media for malware before importing onto the corporate system.



## Secure configuration

Apply security patches and ensure the secure configuration of all systems is maintained. Create a system inventory and define a baseline build for all devices.



## Managing user privileges

Establish effective management processes and limit the number of privileged accounts. Limit user privileges and monitor user activity. Control access to activity and audit logs.



## Incident management

Establish an incident response and disaster recovery capability. Test your incident management plans. Provide specialist training. Report criminal incidents to law enforcement.



## Monitoring

Establish a monitoring strategy and produce supporting policies. Continuously monitor all systems and networks. Analyse logs for unusual activity that could indicate an attack.



## Home and mobile working

Develop a mobile working policy and train staff to adhere to it. Apply the secure baseline and build to all devices. Protect data both in transit and at rest.



# Summary

- Our key focus areas are record-keeping and data quality
- Employers must provide accurate and timely data for record keeping
- Data quality to be continuously reviewed:
  - the reviews are sufficiently comprehensive
  - and robust data improvement plans are in place and progressed
- Good governance and administration - make sure there are appropriate controls:
  - service level agreements are set up, even with in-house administrators
  - processes around the Data Protection Act / GDPR
  - report breaches of the law when appropriate
- Additional scheme return requirements from 2018
- Scheme managers are responsible for having controls for cyber resilience
- Outsourcing does **not** reduce or remove a scheme manager's responsibility or accountability

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# Useful tools, checklists and guidance (i)

- **Annual benefits statement** -  
[www.tpr.gov.uk/docs/public-service-annual-benefit-statements-guide.pdf](http://www.tpr.gov.uk/docs/public-service-annual-benefit-statements-guide.pdf)  
[www.tpr.gov.uk/docs/public-service-annual-benefits-statement-checklist.pdf](http://www.tpr.gov.uk/docs/public-service-annual-benefits-statement-checklist.pdf)  
[www.tpr.gov.uk/docs/PS-guide-key-information-to-provide-to-members.pdf](http://www.tpr.gov.uk/docs/PS-guide-key-information-to-provide-to-members.pdf)
- **Data measuring guidance** - [www.tpr.gov.uk/docs/measure-data-guide.pdf](http://www.tpr.gov.uk/docs/measure-data-guide.pdf)
- **GDPR guidance** - Information Commissioner's Office (ICO) - <https://ico.org.uk/for-organisations/guidance-index/>
- **Improvement plan guidance** - [www.tpr.gov.uk/docs/improve-data-guide.pdf](http://www.tpr.gov.uk/docs/improve-data-guide.pdf)
- **Internal controls checklist** - [www.tpr.gov.uk/docs/public-service-internal-controls-checklist.pdf](http://www.tpr.gov.uk/docs/public-service-internal-controls-checklist.pdf)

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## Useful tools, checklists and guidance (ii)

- **Public service - scheme self assessment toolkit -**  
[www.tpr.gov.uk/public-service-schemes/assess-your-scheme.aspx](http://www.tpr.gov.uk/public-service-schemes/assess-your-scheme.aspx)
- **Public service - personal self assessment tool -**  
<https://education.thepensionsregulator.gov.uk/login/index.php>
- **Reporting a breach -**  
[www.tpr.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf](http://www.tpr.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf)
- **Risk register example -**  
[www.tpr.gov.uk/docs/public-service-example-risk-register.pdf](http://www.tpr.gov.uk/docs/public-service-example-risk-register.pdf)
- **Trustee Toolkit -** <https://trusteetoolkit.thepensionsregulator.gov.uk/>

# Useful links

- **Our website** - [www.tpr.gov.uk/](http://www.tpr.gov.uk/)
- **Codes** - [www.tpr.gov.uk/doc-library/codes.aspx](http://www.tpr.gov.uk/doc-library/codes.aspx)
- **Code of practice 14 - Governance and administration of public service pension schemes** - [www.tpr.gov.uk/public-service-schemes/code-of-practice.aspx](http://www.tpr.gov.uk/public-service-schemes/code-of-practice.aspx)
- **Governance** - [www.tpr.gov.uk/21c-trustee](http://www.tpr.gov.uk/21c-trustee)
- **Latest research** - [www.tpr.gov.uk/public-service-schemes/research-and-analysis.aspx](http://www.tpr.gov.uk/public-service-schemes/research-and-analysis.aspx)
- **NAO report** - [www.tpr.gov.uk/docs/vfm-review.pdf](http://www.tpr.gov.uk/docs/vfm-review.pdf)
- **Pension scams** - [www.tpr.gov.uk/pension-scams.aspx](http://www.tpr.gov.uk/pension-scams.aspx)
- **Public service area** - [www.tpr.gov.uk/public-service-schemes.aspx](http://www.tpr.gov.uk/public-service-schemes.aspx)
- **TPR Future** - [www.tpr.gov.uk/about-us/protecting-workplace-pensions.aspx](http://www.tpr.gov.uk/about-us/protecting-workplace-pensions.aspx)

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# Thank you

**We are here to help!**

**Request a guest speaker:**

<https://secure.thepensionsregulator.gov.uk/speaker-request.aspx>

**Contact us at:**

[www.tpr.gov.uk/contact-us.aspx](http://www.tpr.gov.uk/contact-us.aspx)

**Subscribe to our news by email:**

<https://forms.thepensionsregulator.gov.uk/subscribe.aspx>



**The information we provide is for guidance only and should not be taken as a definitive interpretation of the law.**

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# Additional slides



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# Transitional period has ended

- The transitional period for pension schemes with defined benefits ended on 30 September 2017.
- On 1 October 2017, staff who had the transitional period applied to them needed to be assessed to see which of them needed to be put into a pension scheme<sup>†</sup>.
- Staff that meet the age and earnings criteria must be put into a scheme with defined benefits which can be used for automatic enrolment.
- It was possible to delay assessing staff, on a one-off basis, from 1 October 2017 by using postponement – but this can only be for up to 6 weeks (ie before 12 Nov 2017).
- For more information see: [www.tpr.gov.uk/en/employers/the-transitional-period-for-automatic-enrolment-is-ending.aspx](http://www.tpr.gov.uk/en/employers/the-transitional-period-for-automatic-enrolment-is-ending.aspx)

<sup>†</sup> Exceptions may be applicable  
(eg they have HMRC pension tax protection)

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# Staff who are no longer eligible after Transitional Period

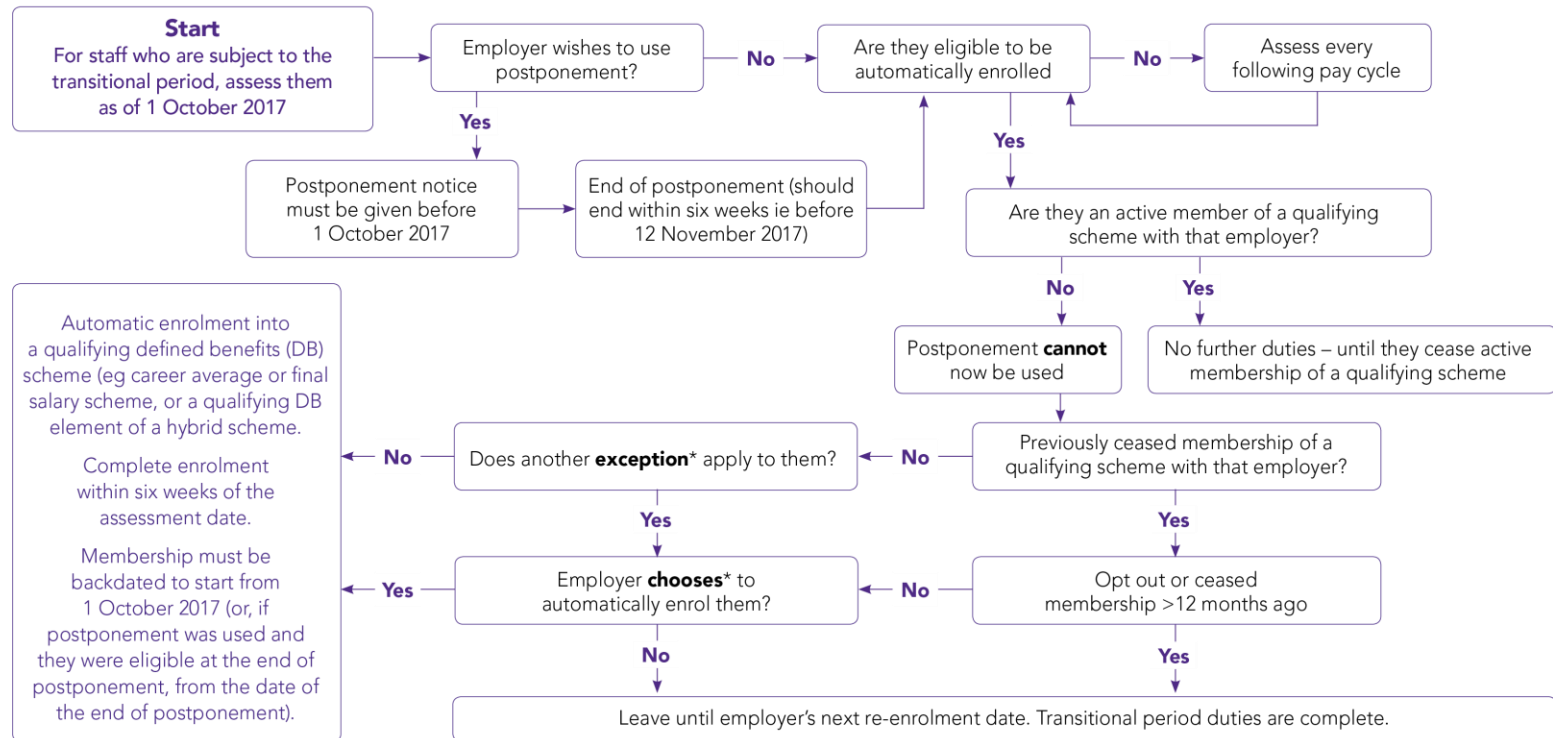
- When the employer applied the transitional period on their staging date, they would *only* have been able to use it for staff who:
  - i. were able to join a defined benefits (DB), and
  - ii. were an eligible jobholder on their employer's staging date.
- Some employers may now have staff who had the transitional period applied to them, but who were no longer an eligible jobholder on 1 Oct 2017 (or the end of postponement, if postponement was used).
- These staff will now need to be assessed every pay period and, if they become eligible in the future, would have to be enrolled into a DB pension – ***with membership backdated to 1 Oct 2017.***
- However, if an 'exception' applied, this duty could fall away.

# Staff previously a member of a qualifying pension

- If a member of staff has previously been an **active member of any qualifying scheme** (DB, DC or hybrid), then an exception would apply.
- They may have previously been an active member because:
  - the worker was previously enrolled (contractually) as a new joiner; or
  - the worker asked to join or opted in to the pension at some point; or
  - the employer contractually enrolled them (even if after 1 Oct 2017).
- **NB.** If an employer was restructured in the past and is now a new legal entity, then they are a “**new**” employer and the exception does **not** apply to any worker who ceased membership of the scheme whilst working for the ‘old’ employer.
- For any worker who becomes an eligible jobholder, who has previously been an **active member of a qualifying scheme**, the employer can leave them until the employer’s next re-enrolment date. If they do this then:
  - i. if the Transitional Period has previously been applied to this worker then the employer’s duty to enrol them into a DB scheme, with membership backdated to 1 Oct 2017, would ***no longer*** apply; and
  - ii. if the worker is eligible on a future re-enrolment date, then they should be re-enrolled into ***any*** automatic enrolment scheme from the re-enrolment date.

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# Assessing staff when the transitional period ends



## \*Exceptions

The employer may **choose** whether or not to automatically enrol an eligible member of staff, if they are:

- ▶ directors working under an employment contract
- ▶ LLP partners who are not 'salaried members' under HMRC tax rules
- ▶ individuals who ceased active membership of a qualifying pension with that employer in the previous 12 months
- ▶ people who have HMRC tax protected status for their pension savings.

The employer must **not** automatically enrol a member of staff if they:

- ▶ have been paid a winding up lump sum then left, but were subsequently re-employed by the same employer
- ▶ ceased active membership of a qualifying pension (with that employer) **more** than 12 months earlier.

NB: No exception applies here to a worker who is in their notice period – they **must** be put into a pension scheme.

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