Summary

- Public sector pension schemes are now answerable to The Pensions Regulator for governance and administration. The regulator has warned of the need to improve governance.
- A recent TPR survey showed 28 per cent of public sector pension schemes had a plan to establish a pension board, ensuring compliance was addressed.
- Forty-four per cent had reviewed their scheme against the practical guidance set out in TPR's Code of Practice for public service pension schemes introduced in April 2015.
- LGPS schemes have been advised to balance priorities with the limited resources they have against cost-cutting exercises.
- *The LGPS-Unsustainable* paper published by the Centre for Policy Studies showed a continued deterioration in financial performance for the LGPS.
- In the year to April 2015, the costs of the 89 LGPS funds increased 40 per cent to £878 million.
- The government has been criticised over its requirements of the structure of pension boards.

Keep in check

Edmund Tirbutt analyses the state of public sector pension scheme governance and the cost disparities within the LGPS funds

Public sector pension schemes are clearly still getting to grips with being answerable to The Pensions Regulator (TPR), which took over formal responsibility for their governance and administration in April 2015. By December 2015, the TPR had published some worrying survey findings and fired a broadside at the schemes, warning them to improve their standards of governance.

Issues

Its survey showed that whilst over nine in 10 responding schemes had complied with the key requirement of establishing a pensions board, only 28 per cent had a plan in place and were addressing key issues to ensure compliance with the Public Service Pensions Act 2013.

Additionally, only 44 per cent had reviewed their scheme against the practical guidance and standards set out in TPR's Code of Practice for public service pension schemes introduced in April 2015. This covers governance issues like the knowledge and understanding required by pension board members, conflicts of interest and representation, publishing scheme information, and administration issues like scheme record keeping, maintaining contributions and providing information to members. It also extends to managing internal risk controls, resolving internal disputes and reporting breaches of the law.

"All schemes, regardless of whether they are in the public or private sector should be well run, and it's disappointing to see there are significant gaps in the public sector approach, particularly around internal controls, scheme record keeping and the provision of timely and high quality administration," Aegon UK regulatory manager Kate Smith says.

"I would say this is all pretty fundamental stuff. Furthermore, TPR says it's very concerned about the fact that 52 per cent of schemes didn't engage with its survey."

Mitigating circumstances

There are, however, a number of commentators who don't feel the situation is quite as bleak as it has been painted or who emphasise mitigating circumstances on the part of the public sector schemes. Some even lay the blame at the regulator's door.

PLSA policy lead, defined benefit, Helen Forrest Hall comments: "TPR survey findings are broadly consistent with our own survey of local government pension scheme (LGPS) members in May 2015. But 57 per cent of our respondents said their main challenge when setting up a local pension board was the delay in regulations, as they only received the final details days before."

Aon Hewitt head of public sector benefits and governance consultancy Karen McWilliam points out that, although TPR's survey results were released in December, the actual surveying was carried out between July and October 2015 and that a lot of work has gone on since then.

"My general perception is that the police and fire brigade schemes I deal with had a big hurdle to jump to comply as a lot of administration work was being outsourced, so they are still learning what they should be doing. We've seen evidence of some of these schemes doing checks against TPR Code of Practice and have found they are complying with the majority of it.

"Complying with the Code of Practice itself is not a legal requirement although some elements, like establishing a pensions board and publishing information about who is on it, are legally binding. I have noticed that when schemes have checked against the code, the majority of legal ones are coming through as compliant and a lot of the non-legal ones are compliant as well."

Mercer principal and public sector benefits services leader Nigel Thomas, who focuses primarily on the LGPS, has issues about the way some of the questions were phased in TPR's survey.

"Success with compliance varies

"All schemes, regardless of whether they are in the public or private sector should be well run, and it's disappointing to see there are significant gaps in the public sector approach"

across the different funds but the way it's been reported that only around a third have plans in place is hard to recognise," he argues.

"We think the majority probably do have plans in place but the questions on TPR's survey were very broad. I think TPR should have delved under the bonnet a bit more with record keeping. My experience on record keeping is that a lot do have plans in place but haven't necessarily executed them.

"In my view there is still a long way for the LGPS funds to go, but I think they are aware of where they need to be and it's a question of balancing their priorities with the limited resources they have. There is a lot of cost-cutting in the public sector and this is certainly affecting the LGPS in the back office functions," Thomas adds.

Financial performance

The LGPS, which – unlike most other public sector schemes – is funded, came in for further criticism in December 2015 with the publication of the Centre for Policy Studies paper *The LGPS: Unsustainable* by Michael Johnson. This showed a continued deterioration in financial performance.

The report says the costs of the 89 LGPS funds increased 40 per cent in the year to April 2015 to £878 million, of which £748 million was third-party fund management costs and £130 million

administration costs. It argues that the scheme ultimately risks running out of cash to meet pensions in payment, because of excessive pension promises relative to contributions, and highlights huge discrepancies between the costs paid by different local authorities.

First Actuarial director Henry Tapper, says: "He's saying there's a fundamental breakdown in governance, with some people reporting costs in full and others not doing so. The cost disparity is extraordinary. Cheshire pays 44 times more that West Yorkshire for fund management and 19 times more in total costs. The LGPS is unable to evidence adherence to the old adage that what gets measured gets managed. Cultural change is required but that could take another decade to materialise."

City Noble director William Bourne feels the government must take a lot of the blame for poor negotiating and decision making.

"I agree with Johnson when he says the LGPS is unsustainable but I disagree with his diagnosis that it is not run efficiently," he says.

Certainly some of the funds could be run more efficiently but the reason it is unsustainable is more to do with the liability side, and this is primarily to do with the government. Johnson says accrual rates have risen by 63 per cent but this is due to the government's decision to change the accrual rate from 1/80th to 1/60th in 2010, and in 2014 the basis got moved to career average and the accrual rate went to 1/49th.

"In my view there is still a long way for the LGPS funds to go, but I think they are aware of where they need to be and it's a question of balancing their priorities with the limited resources they have"

PTL client director Colin Richardson feels the government has been found wanting in the structure of the boards that each public sector scheme has been required to set up.

"The government needs to review these boards to see if they have sufficient powers to make a positive difference. Evidence suggests that cost-effectiveness and standards of administration vary," he says.

Unfortunately, deflecting the blame cannot exonerate public sector pension schemes from facing up to their raft of administration and governance responsibilities. But the consequences of failure with regard to those aspects that are not actually legally enforceable will hopefully not be too frightening for the foreseeable future.

"The regulator expects schemes to follow the code as it's an indication of best practice so it would be inadvisable not to. But it has said that it is focusing on education and enabling before coming onto enforcement. In the first instance it is going to do surveys and use the results to see whether people need further education and enablement. It has got powers to enforce compliance but in my view is unlikely to do so immediately, so there is no need for public sector schemes to panic just yet," Sackers head of the public sector Michaela Berry concludes.

Written by Edmund Tirbutt, a freelance journalist