

Essex Pension Fund Strategy Board	PSB 11a
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The Pensions Regulator (TPR) Single Modular Code Consultation

Joint report by the Technical Hub Manager and Compliance Manager

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1. Purpose of the Report

- 1.1 To share with the Board an overview of the Fund's response to The Pensions Regulator (TPR) consultation concerning the draft Single Modular Code.

2. Recommendations

- 2.1 That the Board note the key themes of the Fund's response to the Single Modular Code Consultation, which was submitted to TPR on 25 May 2021.

3. Background

- 3.1 At its 17 March 2021, the Board were made aware of the release of the TPR's SMC consultation. The Fund's Independent Governance and Administration Adviser (IGAA) notified the Board that the SMC was likely to impact resources if published in its current format.
- 3.2 Fund Officers reviewed the consultation document and completed the required PDF documents to return to TPR.
- 3.3 Due to the prescribed response documents running to some 420 pages and some of the Fund's responses having to be replicated for each module, i.e. 51 times, Fund Officers have provided an overview of the key themes of their response for the Board's information.

4. The Fund's Consultation Response – Key Themes

- 4.1 The draft Single Modular Code comprises of 51 modules all with a lack of acknowledgement of the uniqueness of the Local Government Pension Scheme (LGPS), and how it operates differently to other Public Services Schemes and Private Sector Schemes.
- 4.2 The Fund believes the decision to introduce a Single Code should be based on the needs of the UK pensions industry and not on the ease of future updates for TPR. In particular, the Fund does not believe the Single Code meets the needs of the LGPS which has a unique governance framework with layers of delegation.
- 4.3 The draft Single Modular Code lacks clarity in many areas and would mean it would be down to each LGPS Fund across the country to try to interpret and apply the code or guidance in the context of the LGPS, which would hinder Funds rather than help them. All Funds need codes of practice and guidance that help introduce clarity and consistency, rather than risking ambiguity, confusion, and perceived scope creep.
- 4.4 TPR has attempted to utilise a coverall term ('Governing Bodies') which the Fund believe is weak and does not work for the LGPS. The Code needs to list and define each type of body (Board/manager/committee etc) the Code applies to and each module (and parts of module as applicable) should then show which

type of body it applies to. Trustees/Boards/Committees need guidance to understand what applies to them, it needs to be obvious and explicit.

4.5 The Fund believes that the draft Code is poorly structured with some very confusing headings and sub-headings, for example:

- The structure and numbering of the Governing body, Board structure and activities section is as follows:
 - Role of the governing body (TGB001)
 - Recruiting to the governing body (TGB014)
 - Member-nominated trustee appointments (TGB044)
 - Role of the chair (TGB015)
 - Meetings and decision-making (TGB006)
 - Remuneration policy (TGB016)

Neither the order (jumping from Role to Recruitment back to Role to Meetings to Remuneration) nor the numbering (001, 014, 044, 015, 006, 016) seem to make much sense and the Fund has suggested that a more sensible structure would be:

- Role of the governing body (G01)
 - Role of the chair (G02)
 - Meetings and decision-making (G03)
 - Recruiting to the governing body (including Member-nominated trustee appointments) (G04)
 - Remuneration policy (G05)
- Also, instead of the number prefixes of TGB (The Governing Body), FAI (Funding and Investment), ADM (Administration), CAD (Communications and Disclosures) and RTT (Reporting to TPR) used in the draft Code, the Fund has suggested using G, F, A, C and R for simplicity and clarity.

4.6 The Fund has also pointed out to TPR that the modules are littered with unnecessary cross references/links to other parts and definitions and many of these are in bold and a different colour meaning the bits highlighted in a module are bits that aren't actually part of that module. A scheme needs to be able to go through the Code and easily identify the things they need to ensure they are

doing and a better structure with better wording would remove the requirement for any cross-referencing etc.

- 4.7 The Fund eagerly wait for the final version of the Single Modular Code and hope that the issues raised are resolved prior to publication otherwise the resource impacts on the team would be high to interpret the Code in its current form.

5. Link to Essex Pension Fund Objectives

- 5.1 Ensure compliance with the Local Government Pension Scheme (LGPS) regulations, other relevant legislation and the Pensions Regulator's Codes of Practice.
- 5.2 Deliver a high quality friendly and informative service to all beneficiaries and employers at the point of need.

6. Risk Implications

- 6.1 Non-compliance with regulations caused by lack of knowledge by staff, changes in government policy / Local Government Pension Scheme (LGPS) reforms and systems not kept up-to-date leading to reputational damage and financial loss.
- 6.2 Failure to administer scheme correctly in line with all relevant Regulations and policies owing to circumstances such as, but not limited to:
- lack of regulatory clarity;
 - system issues;
 - insufficient resources.

7. Background Papers

- 7.1 [TPR Consultation Document](#).
- 7.2 [Essex Pension Fund's Response to the TPR Consultation](#).