Regulation of public service pension schemes from April 2015

Robert Plumb

Scheme liaison manager

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Who we are

Established by Pensions Act 2004 to regulate work-based pensions

Our statutory objectives:
- protect member benefits
- reduce calls on the Pension Protection Fund
- ensure employers comply with automatic enrolment
- promote good administration.

We aim to be: **P**roportionate, **A**ccountable, **C**onsistent, **T**ransparent and **T**argeted and risk-based
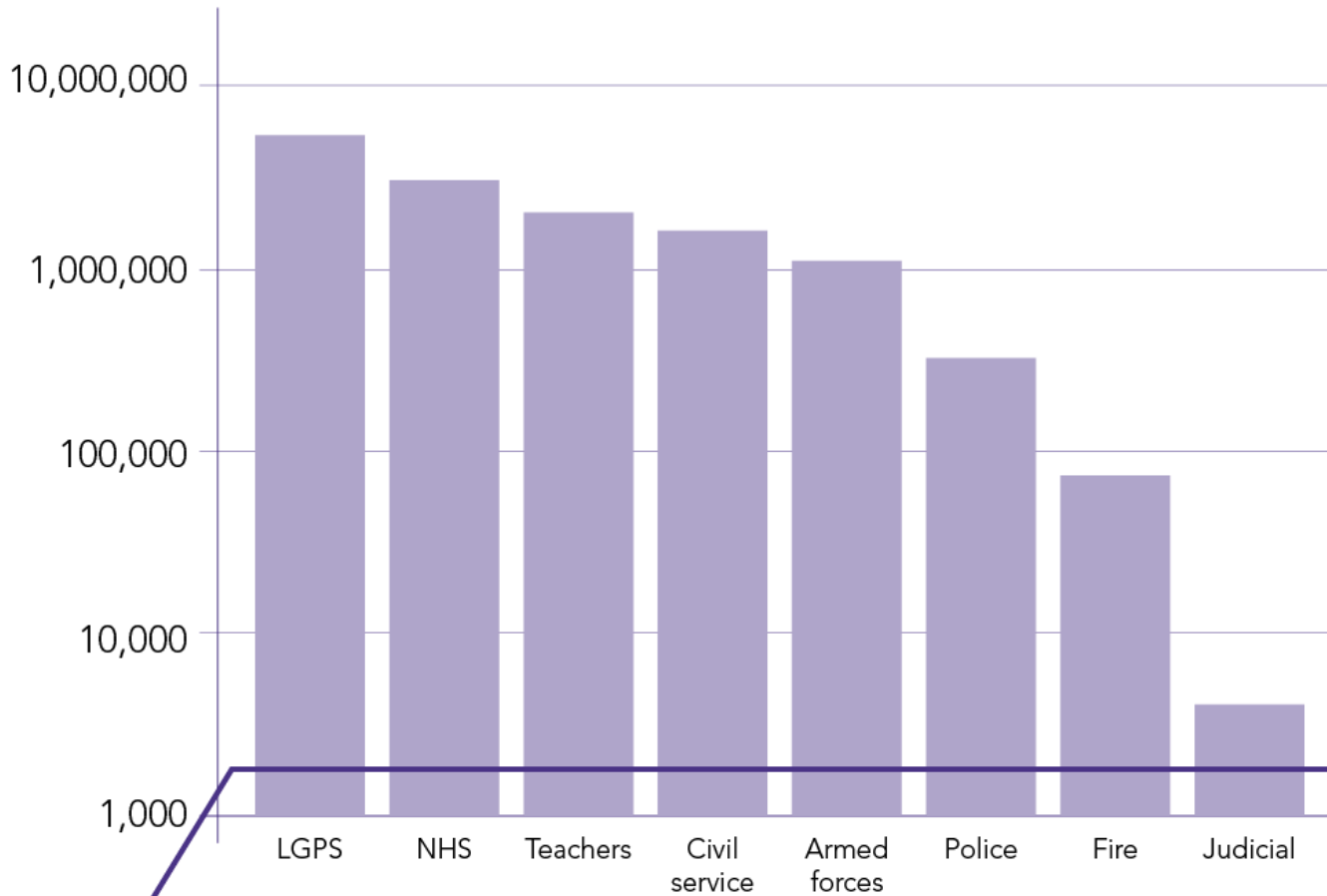
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Application to public service schemes

Hutton report 2011

Public Service Pensions Act 2013

- Schemes defined
- Reform of benefit design
- Governance arrangements
- Explicit regulatory oversight
- Governance and administration – not funding
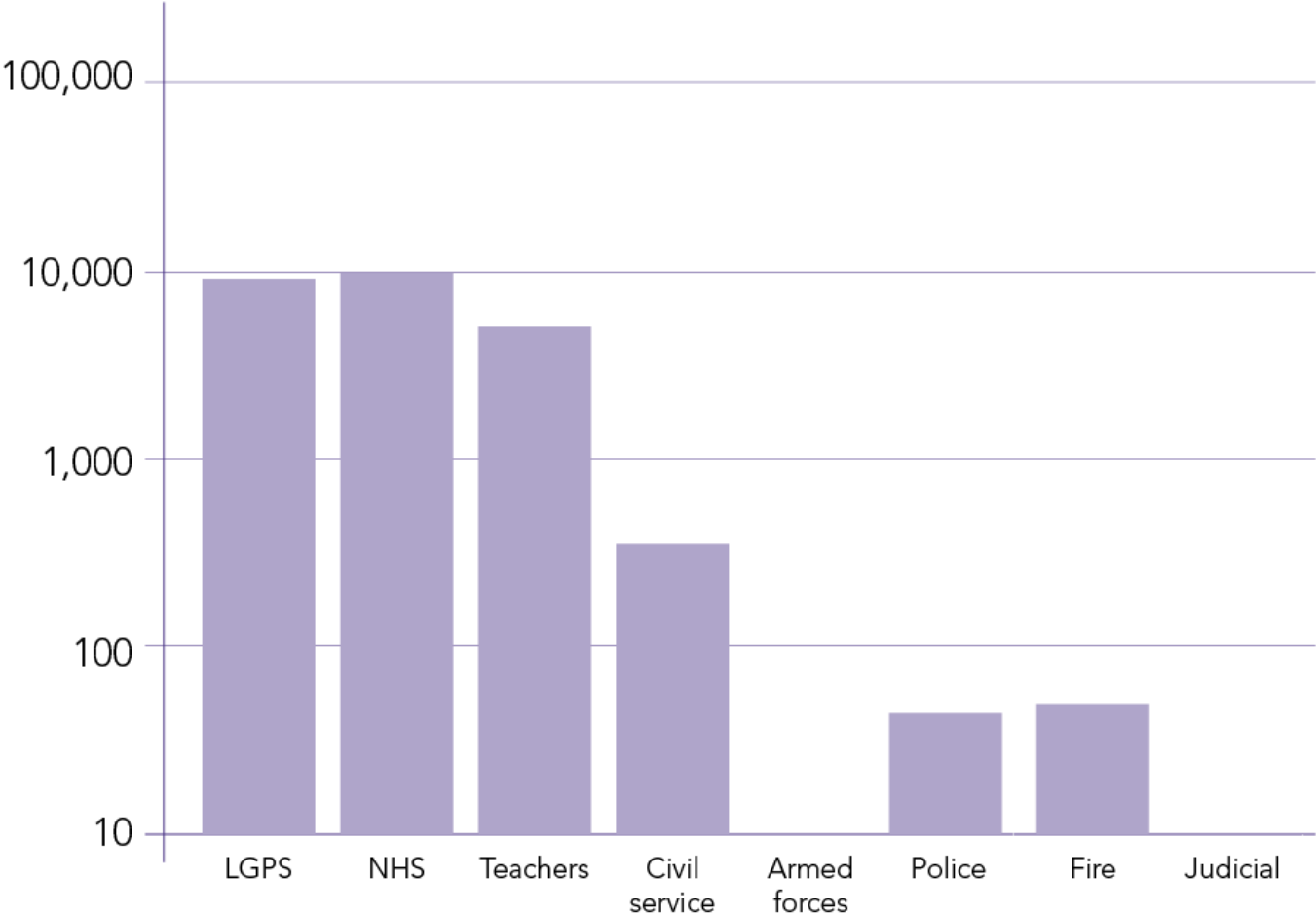- Largely analogous to private sector

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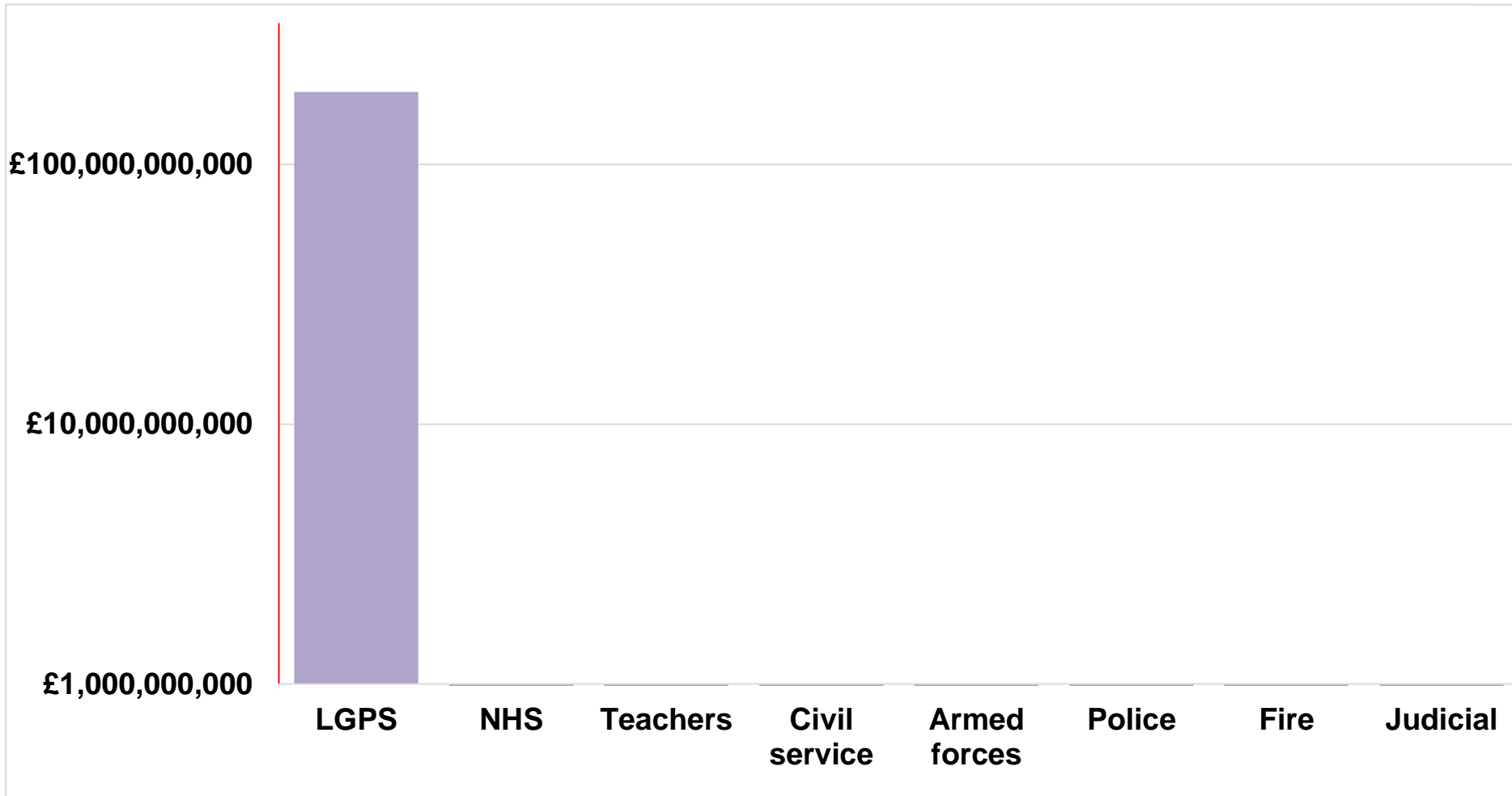# Public service pension scheme membership

Number of employers

Assets

Assets and liabilities

Is there a board training plan?

Fire and police — LGPS — National
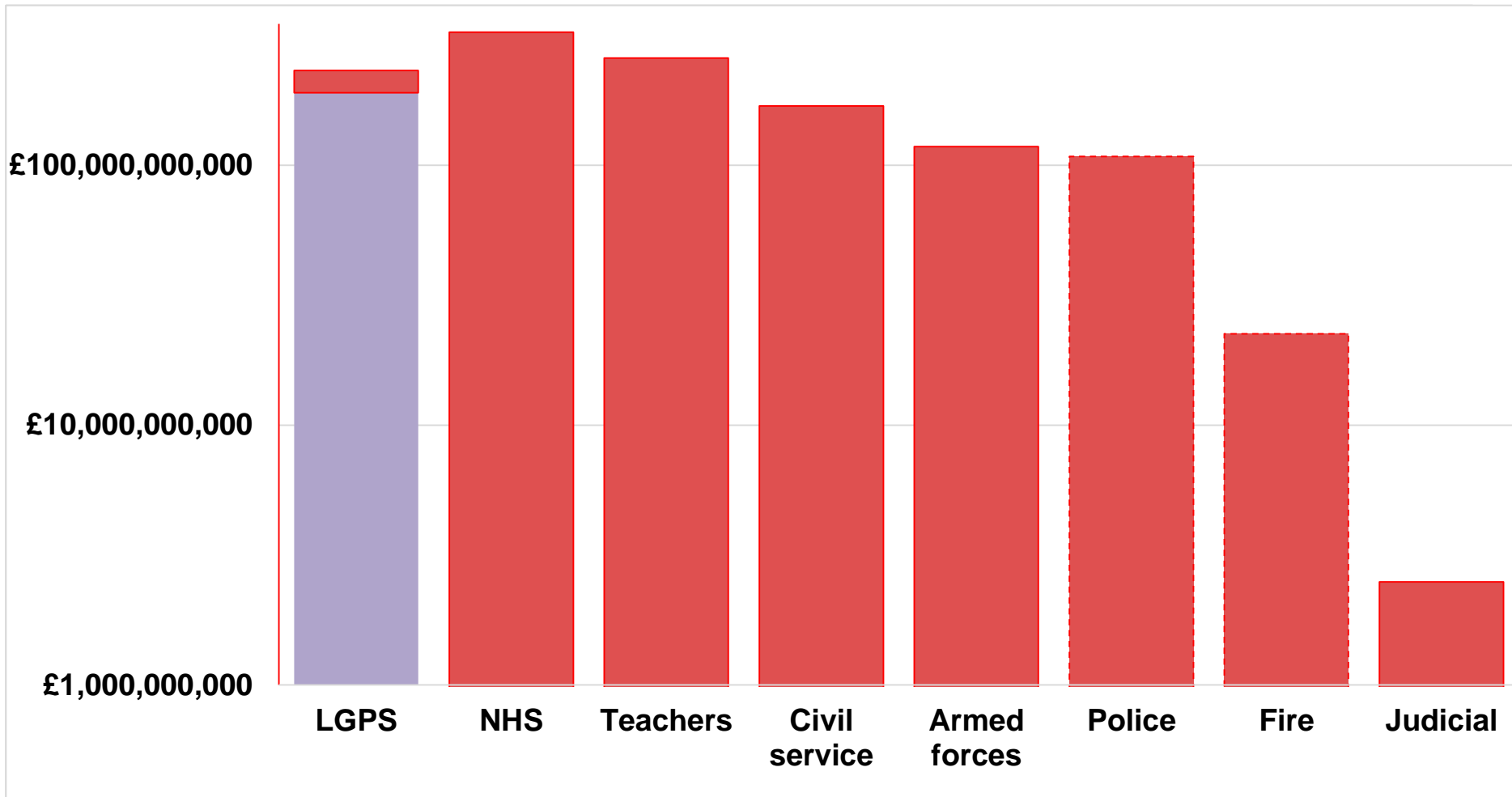
Y Yes   N No   ? Don't know

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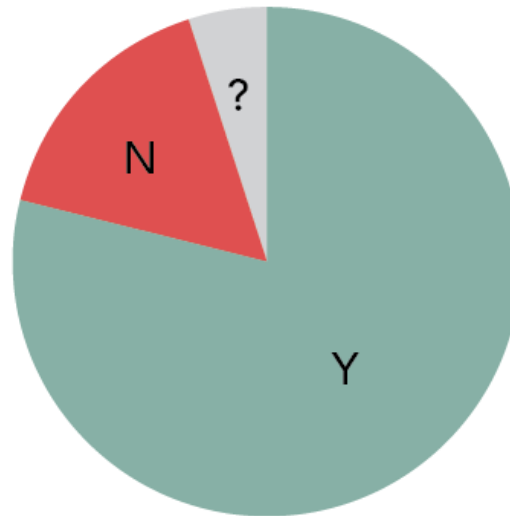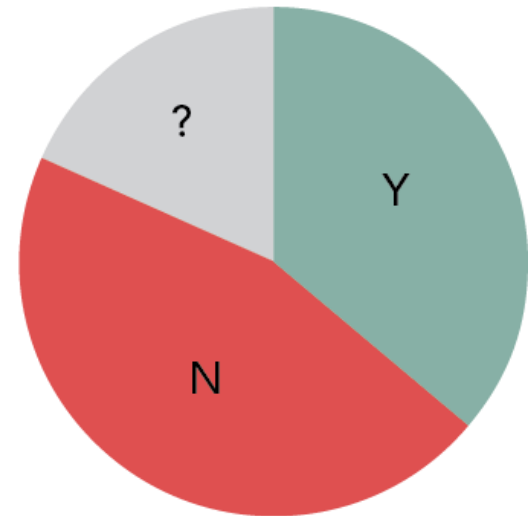
Is there a conflicts of interest policy?

Fire and police   LGPS   National

Y   Yes   N   No

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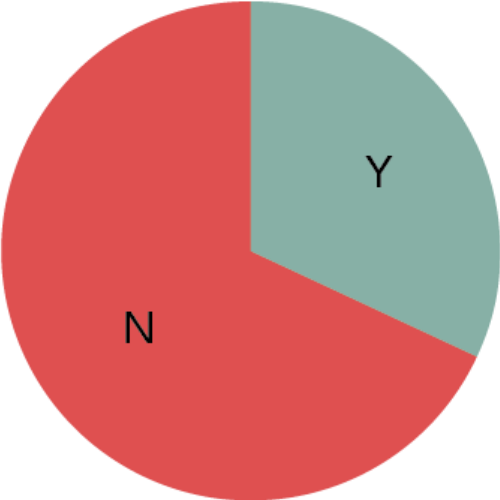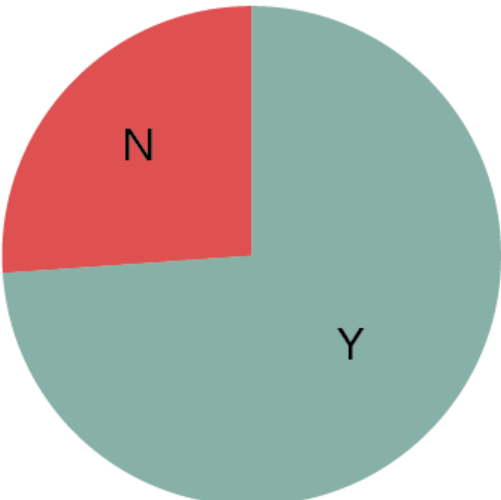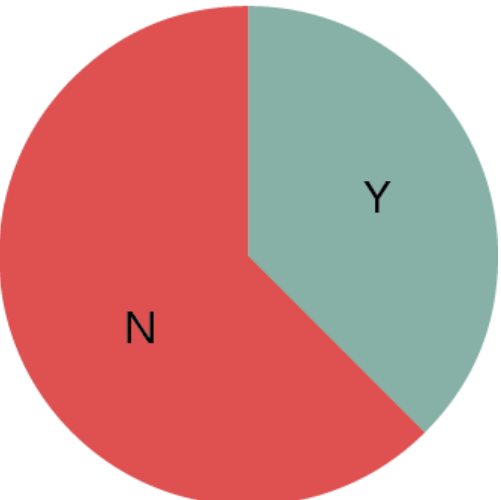
Are there formal processes to identify and manage risks?

Fire and police

LGPS

National

Y Yes   N No   ? Don't know

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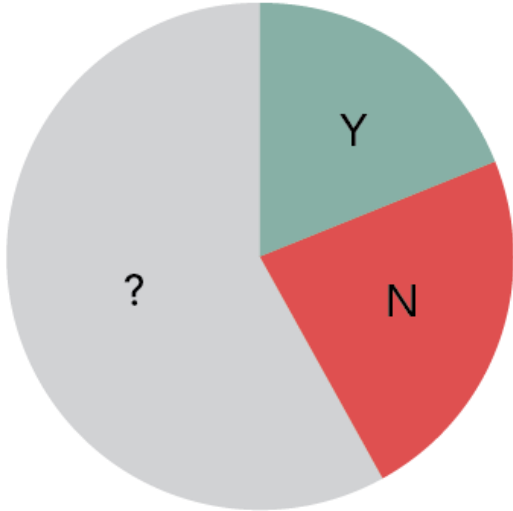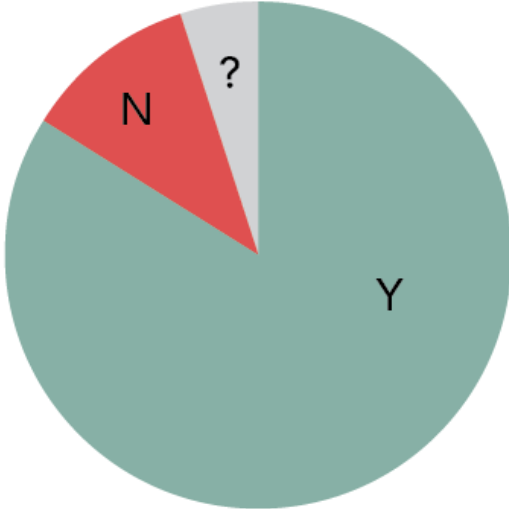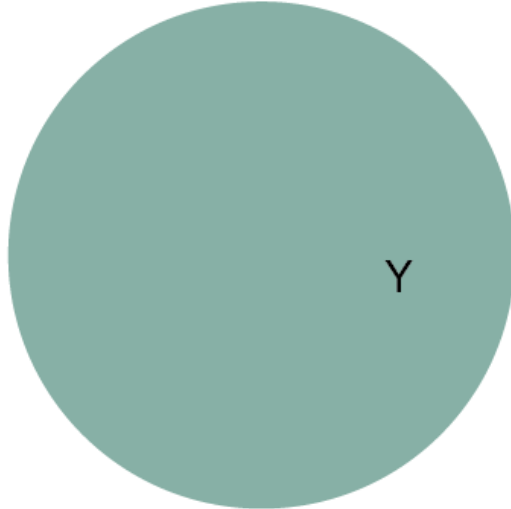
Have internal controls been documented?

Fire and police

LGPS

National

Y Yes   N No   ? Don't know

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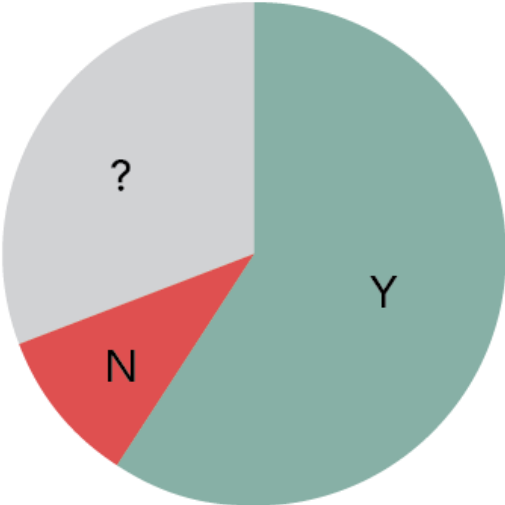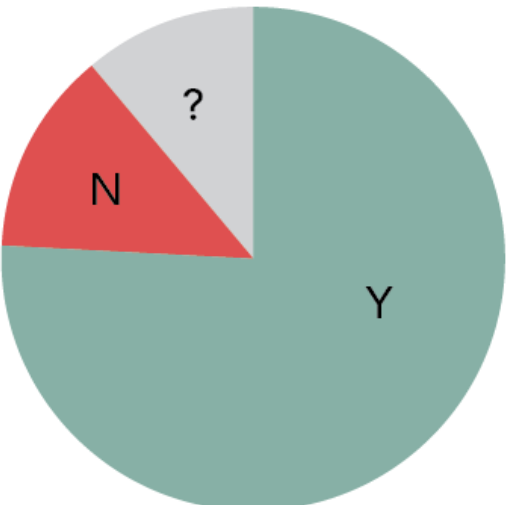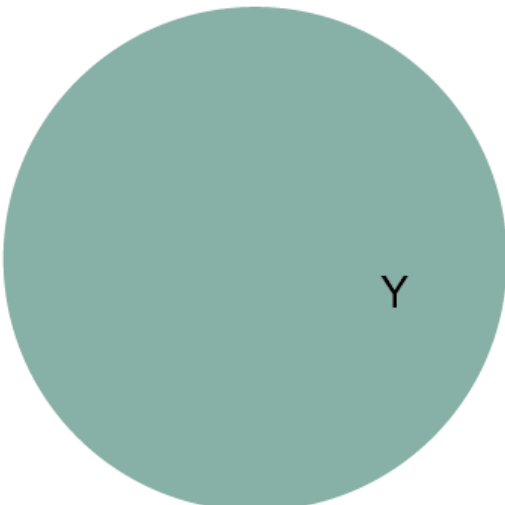
Has common data been measured?

Fire and police   LGPS   National

Y Yes   N No   ? Don't know

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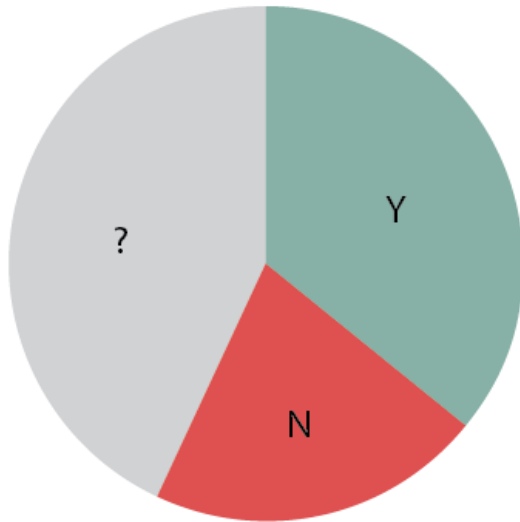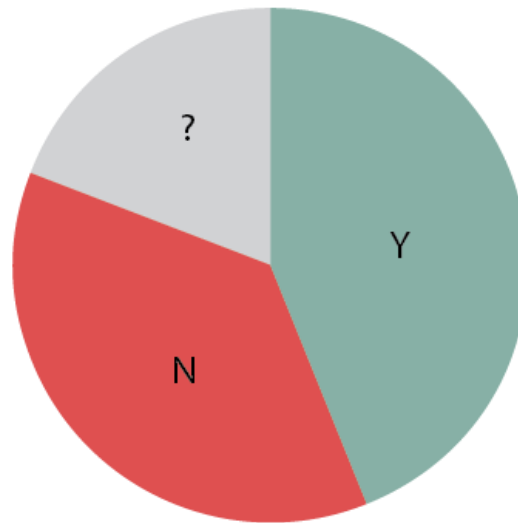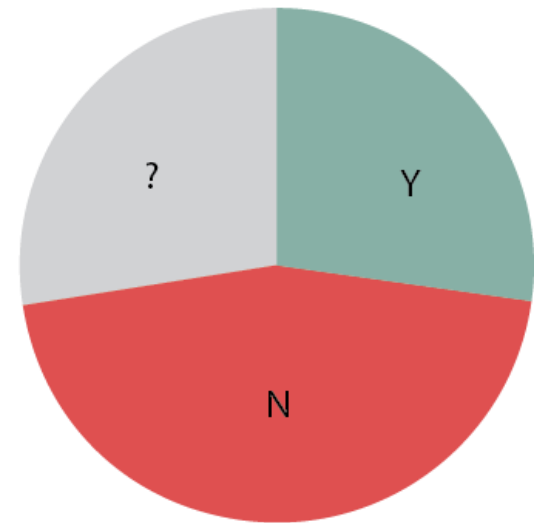
How about conditional data?

Fire and police — Y, N, ?

LGPS — Y, N, ?

National — Y, N, ?

Y Yes   N No   ? Don't know
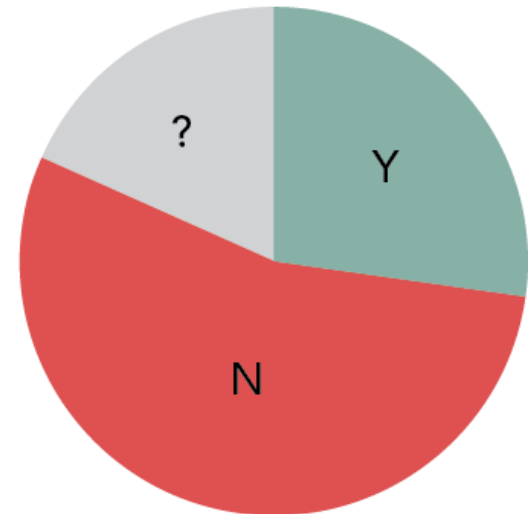
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Are service levels published?

Fire and police

LGPS
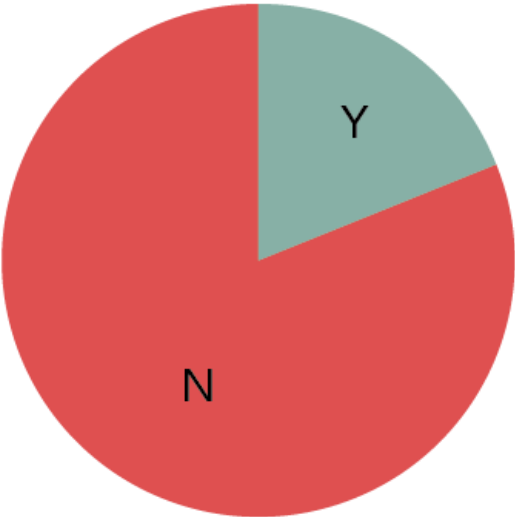
National
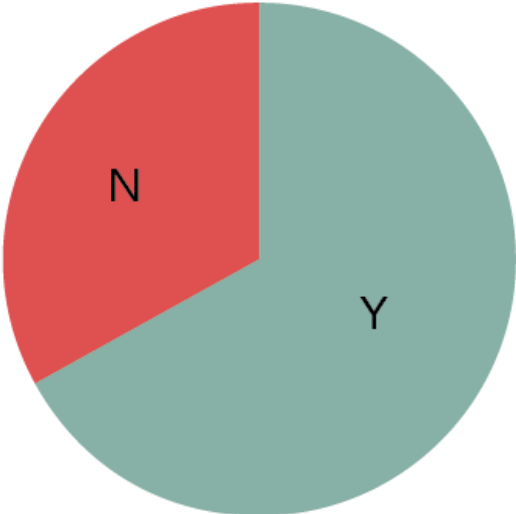
Y Yes   N No
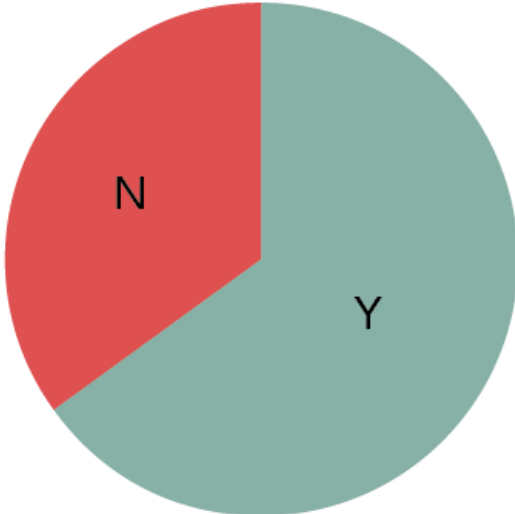
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Where are administration standards 'very good'?

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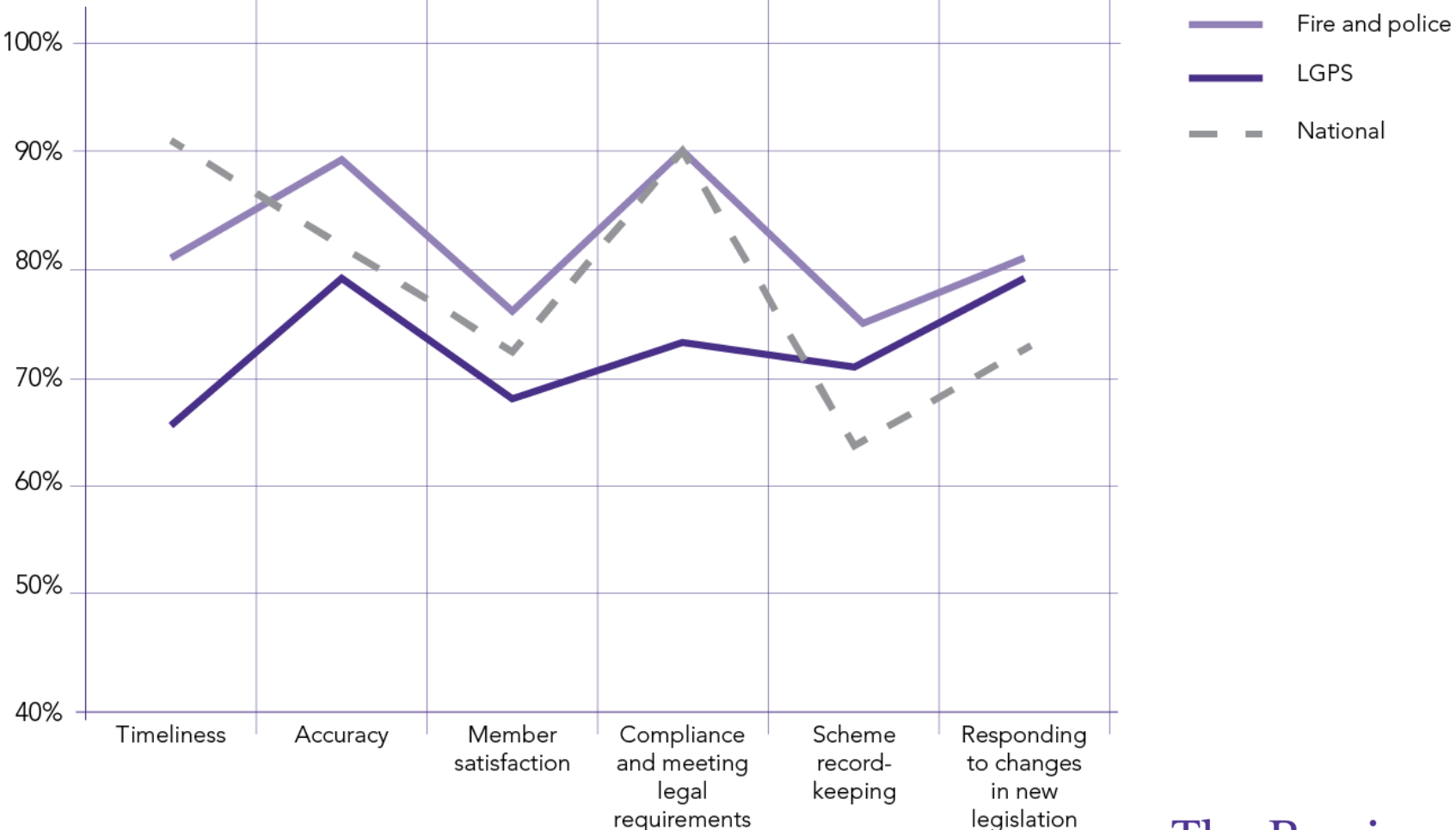
New governance structure (LGPS England and Wales)
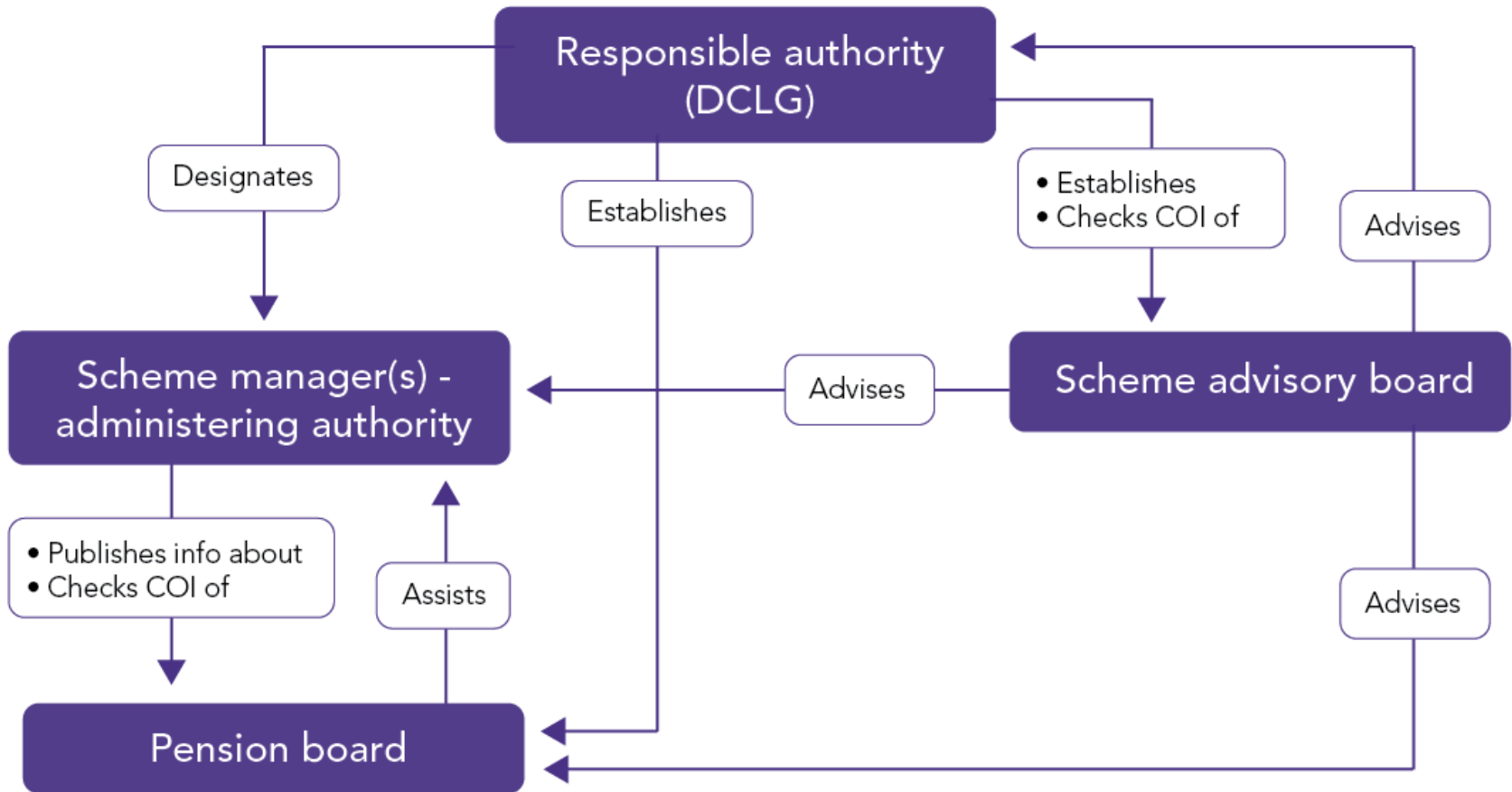
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Requirements under PA 2004

Scheme manager (AA)
Must apply adequate internal controls (S249B)

Reports breach (S70) or late payment (S70A)

Reports breach — **Scheme adviser**

Reports malfeasance (S89A)

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Must produce code of practice (S90A)

Reports breach — **Scheme administrator**

Pension board
Must have knowledge and understanding (S248A)

Reports breach
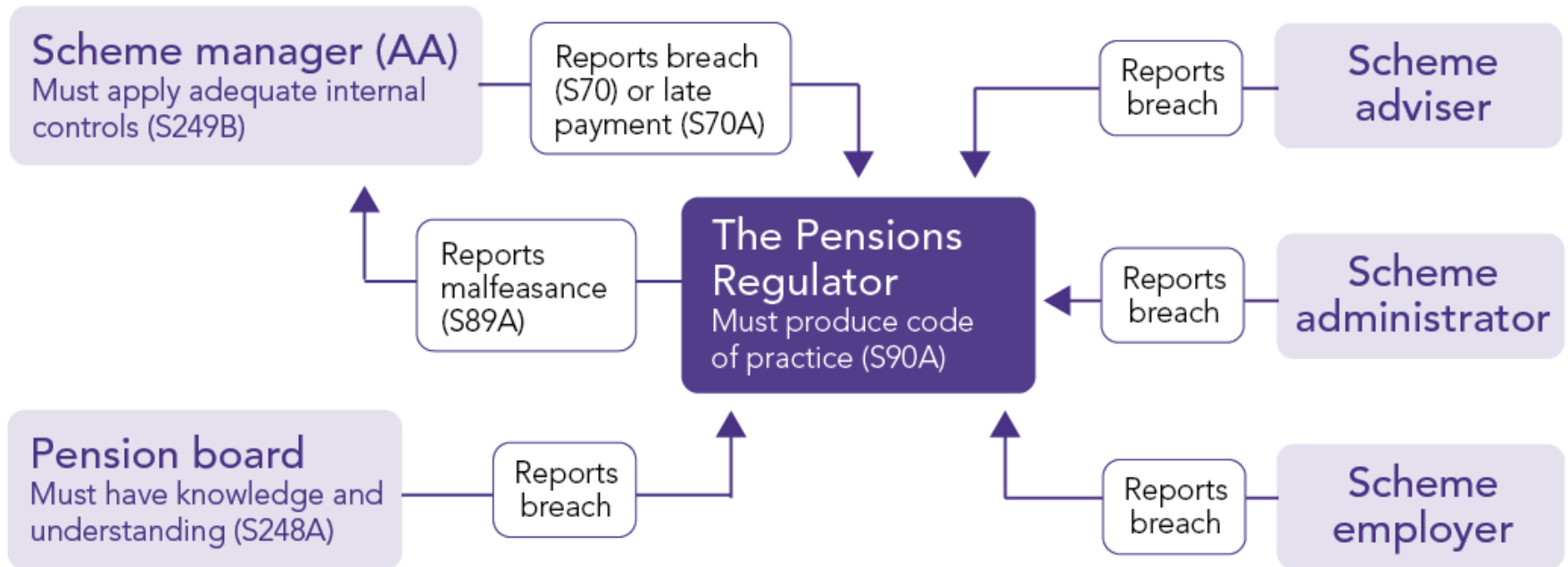
Reports breach — **Scheme employer**

Draft code of practice

Governing your scheme

1. Knowledge and understanding required by pension board members
2. Conflicts of interest
3. Information to be published about schemes

Managing risks

4. Internal controls

Administration

5. Scheme record-keeping
6. Maintaining contributions
7. Information to be provided to members

Resolving issues

8. Internal dispute resolution
9. Reporting breaches of the law

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Public service pensions reform timings (GB)

Consultations close on regulator code and DWP regulations

Regulator's educational materials and 2nd survey

Regulator's first survey of public schemes

Regulator's code published

Regulator's powers come into force

| 2011 | 2012 | 2013 | 2014 | 2015 |

PSPA 2013

New LGPS (E&W) scheme created

New governance and regulation launches

Hutton report

Advisory LGPS (E&W) shadow scheme advisory board starts

LGPS (E&W) 2013 regulations laid

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Regulatory powers

1. **Information** – require any relevant person to produce any relevant document or information
2. **Inspection** – send in an inspector
3. **Skilled person report** – require scheme managers to commission a report
4. **Improvement notices** – require anyone to stop contravening pensions law
5. **Appoint skilled person** – to assist the pension board
6. **Report misfeasance** – notify the scheme manager about pension board conflicts or misuse regarding assets
7. **Publish reports** – about a case
8. **Civil penalties** – up to £5,000 to an individual or £50,000 to a corporate body

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What will regulation look like?

- Educate, enable and enforce

- **P**roportionate, **A**ccountable, **C**onsistent, **T**argeted, **T**ransparent

- Consistent with private sector approach

- Determined nearer to April 2015

- Driven by the extent of breaches of pensions legislation

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Questions?

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Appendix 1 - scheme manager

The regulations must designate a person as scheme manager to manage or administer the scheme and connected schemes. The scheme manager **may** be the responsible authority.

The regulations **may** provide for parts of a scheme to have different scheme managers, which will probably apply to schemes split by local authority.

(In centrally-administered schemes, the scheme manager will probably be the relevant secretary of state or minister.)

Appendix 2 - pension board

Scheme regulations must provide for a pension board for 'assisting' the scheme manager(s) in:

- securing compliance with scheme regulations, other governance and administration legislation and TPR requirements
- whatever else the regulations specify.

The regulations must:

- specify that prospective and existing members do not have a conflict of interest
- require members to provide the scheme manager with information to show there is no conflict of interest
- require employer and member representatives in equal numbers.

The regulations **may** give the pension board responsibility for other matters.

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Appendix 3 - scheme advisory board

Scheme regulations must establish a 'scheme advisory board' to advise the responsible authority (on request) on the desirability of scheme changes. The regulations must require the responsible authority to be satisfied that prospective and existing members do not have a conflict of interest, and require members to provide the responsible authority with information.

Where there is more than one scheme manager (eg the LGPS), the regulations **may** also provide for the scheme advisory board to advise the scheme managers or pension boards, on request or otherwise, on the effective and efficient administration and management of the scheme and fund.

Anyone advised by the scheme advisory board must have regard to the advice.

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Appendix 4 – secondary legislation and commencement orders

Secondary legislation

- Scheme regulations (Local Government Pension Scheme Regulations 2013)
- Treasury directions on benefit information statements (S14) – to come
- Treasury directions on information about schemes (S15)
- Records (S16) – DWP consultation Dec 2013 – Feb 2014

Commencement orders

- First order to enable review of MOD fire and police – July 2013
- Second order bringing in more provisions – October 2013
- Most regulator powers likely to commence April 2015

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Appendix 5 – references for our regulatory powers

- Information – S72 PA 2004

- Inspection – S73 PA 2004

- Skilled person report – S71 PA 2004

- Improvement notices – S13/14 PA 2004

- Appoint skilled person – S14A PA 2004

- Report misfeasance – S89 PA 2004

- Publish reports – S89 PA 2004

- Civil penalties – S10 PA1995

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