

Prudential UK & Europe  
Terms of Reference – UK & Europe  
Independent Governance Committee



## 1. Introduction

The purpose of this document is to set out the Terms of Reference for the Prudential UK & Europe Independent Governance Committee. COBS 19.5 is set out in Appendix A. These Terms of Reference will be reviewed annually.

## 1. Objectives

### 1.1. The objectives of the Committee are to:

1.1.1. Act solely in the interests of scheme members, and to assess, raise concerns and report on the value for money of the firm's contract-based defined contribution workplace pension schemes on an ongoing basis.

1.1.2. Focus on the quality of their scheme(s) and on-going review of compliance with the Quality Standards and other regulatory and legislative requirements.

## 2. Constitution

**2.1.** The Committee is constituted by the Board of Directors of The Prudential Assurance Company Ltd (PAC)<sup>1</sup>.

**2.2.** The scope of the Committee covers both active and deferred members during the accumulation phase of all contract-based defined contribution workplace pension schemes<sup>2</sup> issued by, or reinsured into, The Prudential Assurance Company Ltd (PAC).

## 3. Duties

The Committee has the following duties:

**3.1.** Assessing the ongoing value for money for members delivered by schemes, particularly, though not exclusively, through assessing:

3.1.1. Whether default investment strategies are designed and executed in the interests of members, with a clear statement of aims, objectives and structure appropriate for those members.

3.1.2. Whether the characteristics and net performance of investment strategies are regularly reviewed to ensure alignment with the interests of members, and action taken to make any necessary changes.

3.1.3. Whether core scheme financial transactions are processed promptly and accurately.

3.1.4. The levels of charges borne by scheme members.

3.1.5. The direct and indirect costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the pension savings of members, including transaction costs.

3.1.6. Scheme administration including communication with members.

**3.2.** Raising with the firm's board any concerns it may have in relation to:

3.2.1. the value for money offered to members.

3.2.2. the information or resources that the firm provides or the arrangements in place to ensure that the views of the members are directly represented to the Committee.

**3.3.** The Committee will escalate concerns as appropriate where the firm has not, in the Committee's opinion, addressed those concerns satisfactorily. This may be to the FCA, TPR, members and employers and/or the public as appropriate.

**3.4.** The Committee will produce an annual report setting out:

3.4.1. The Committee's opinion on the value for money delivered by schemes, particularly against the matters listed in 3.1 above. How the Committee has considered members' interests.

3.4.2. Any concerns raised by the Committee to the firm's Board and the response received to those concerns.

<sup>1</sup> In accordance with COBS 19.5.2(1),

<sup>2</sup> Relevant schemes are those in which there are at least two relevant policyholders (COBS 19.5.1)

3.4.3. Whether the membership of the Committee has sufficient expertise, experience and independence to act in members' interests.

3.4.4. Each independent member of the Committee, together with confirmation that the Committee considers these members to be independent.

3.4.5. The arrangements put in place by the firm to ensure the views of members are directly represented to the Committee.

#### 4. Membership

**4.1.** The Committee will have a minimum of five members, the majority of whom, including the Chair, will be independent of Prudential.

**4.2.** Members will be recruited by PAC through an open and transparent recruitment process and appointed for a fixed term of no longer than five years, with a cumulative maximum duration of ten years.

**4.3.** The Committee may invite any individual, whether internal or external, to attend all or part of any meeting in whatever capacity as the Chair of the Committee deems appropriate.

**4.4.** The Members and Attendees of the Committee are detailed in Appendix B.

#### 5. Quorum

**5.1.** A quorum is at least three members, the majority of whom must be independent.

#### 6. Support

PAC will provide the Committee with sufficient resources, as are reasonably necessary, to allow it to carry out its duties, including:

**6.1.** Information requested or relevant to its terms of reference, and:

**6.2.** Providing independent advice to the Committee if this is necessary and proportionate. This may include investment and legal advice.

**6.3.** Putting in place arrangements to ensure that the views of members can be directly represented to the Committee.

**6.4.** Taking reasonable steps to address concerns raised by the Committee and providing written responses as to why it has decided to depart in any material way from any advice or recommendations made by the Committee to address concerns it has raised.

**6.5.** Secretariat and other administrative support.

#### 7. Meetings

**7.1.** The Committee will meet at least quarterly.

**7.2.** Potential conflicts of interest will be declared and managed in accordance with policy.

#### 8. Reporting

**8.1.** The Chair shall determine, at the end of each Committee meeting, what, if any, matters of significance need to be reported to the firm's relevant board or to the Regulators.

<sup>3</sup> Having taken account of COBS 19.5.11 R and 19.5.12G

<sup>4</sup> Independence as per COBS 19.5.12G

<sup>5</sup> In accordance with COBS 19.5.5 R (5)

## Appendix A – COBS 19.5

In this Annex, all the text is new and is not underlined

### Amendments to the Conduct of Business sourcebook (COBS)

In COBS 19 (Pensions supplementary provisions) insert the following new section after COBS 19.4.

#### 19.5 Independent governance committees (IGCs)

##### Application

- 19.5.1 R This section applies to a *firm* which operates a *relevant scheme* in which there are at least two *relevant policyholders*.

##### Requirement to establish an IGC

- 19.5.2 R (1) Subject to COBS 19.5.3R, a firm must establish an IGC.
- (2) This *rule* does not apply to a *firm* ('Firm A') if another *firm* in Firm A's *group* has made arrangements under this section for an *IGC* to cover *relevant schemes* operated by Firm A.

##### Governance advisory arrangements

- 19.5.3 R (1) If a *firm* considers it appropriate, having regard to the size, nature and complexity of the *relevant schemes* it operates, it may establish a *governance advisory arrangement* instead of an *IGC*.
- (2) If a *firm* has decided to establish a *governance advisory arrangement* rather than an *IGC*, this section (other than *COBS* 19.5.9R(2), *COBS* 19.5.9R(3), *COBS* 19.5.10G, *COBS* 19.5.11R and *COBS* 19.5.12G) apply to the *firm* by reading references to the *IGC* as references to the *governance advisory arrangement*.
- (3) A *firm* must establish a *governance advisory arrangement* on terms that secure the independence of the *governance advisory arrangement* and its Chair from the *firm*.

- 19.5.4 G (1) *Firms* with large or complex *relevant schemes* should establish an *IGC*. For the purposes of this section, a *firm* may determine whether it has large *relevant schemes* by reference to:
- (a) the number of *relevant policyholders* in *relevant schemes*;
  - (b) the funds under management in *relevant schemes*; and
  - (c) the number of employers contributing to *relevant schemes*.
- (2) Examples of features that might indicate complex schemes include:
- (a) schemes that are operated on multiple information technology systems;
  - (b) schemes that have multiple charging structures;
  - (c) schemes that offer a *with-profits fund*; and
  - (d) the *firm* offers *relevant policyholders* access to investment funds it operates or which are operated by an entity with the same ownership.

##### Terms of reference for an IGC

- 19.5.5 R A *firm* must include, as a minimum, the following requirements in its terms of reference for an *IGC*:
- (1) the *IGC* will act solely in the interests of *relevant policyholders*;
  - (2) the *IGC* will assess the ongoing value for money for *relevant policyholders* delivered by *relevant schemes* particularly, though not exclusively, through assessing:
    - (a) whether default investment strategies within those schemes:
      - (i) are designed and executed in the interests of *relevant policyholders*;
      - (ii) have clear statements of aims and objectives;

## Appendix A – COBS 19.5 – continued

- (b) whether the characteristics and net performance of investment strategies are regularly reviewed by the *firm* to ensure alignment with the interests of *relevant policyholders* and that the *firm* takes action to make any necessary changes;
  - (c) whether core scheme financial transactions are processed promptly and accurately;
  - (d) the levels of charges borne by *relevant policyholders*; and
  - (e) the direct and indirect costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the pension savings of *relevant policyholders*, including transaction costs;
- (3) the *IGC* will raise with the *firm's governing body* any concerns it may have in relation to the value for money for *relevant policyholders* delivered by a *relevant scheme*;
- (4) the *IGC* will escalate concerns as appropriate where the *firm* has not, in the *IGC's* opinion, addressed those concerns satisfactorily or at all;
- (5) the *IGC* will meet, or otherwise make decisions to discharge its duties, using a quorum of at least three members, with the majority of the quorum being independent;
- (6) the Chair of the *IGC* will be responsible for the production of an annual report setting out:
- (a) the *IGC's* opinion on the value for money delivered by *relevant schemes*, particularly against the matters listed under (2);
  - (b) how the *IGC* has considered *relevant policyholders'* interests;
  - (c) any concerns raised by the *IGC* with the *firm's governing body* and the response received to those concerns;
  - (d) how the *IGC* has sufficient expertise, experience and independence to act in *relevant policyholders'* interests;
  - (e) how each independent member of the *IGC*, together with confirmation that the *IGC* considers these members to be independent, has taken into account *COBS 19.5.12G*;
  - (f) the arrangements put in place by the *firm* to ensure that the views of *relevant policyholders* are directly represented to the *IGC*.
- 19.5.6 G (1) An *IGC* is expected to act in the interests of *relevant policyholders* both individually and collectively. Where there is the potential for conflict between individual and collective interests, the *IGC* should manage this conflict effectively. An *IGC* is not expected to deal directly with complaints from individual policyholders.
- (2) The primary focus of an *IGC* should be the interests of *relevant policyholders*. Should a *firm* ask an *IGC* to consider the interests of other members, the *firm* should provide additional resources and support to the *IGC* such that the *IGC's* ability to act in the interests of *relevant policyholders* is not compromised.
- (3) An *IGC* should assess whether all the investment choices available to *relevant policyholders*, including default options, are regularly reviewed to ensure alignment with the interests of *relevant policyholders*.
- (4) Where an *IGC* is unable to obtain from a *firm*, and ultimately from any other person providing relevant services, the information it requires to assess the matters in *COBS 19.5.5R(2)*, the *IGC* should explain in the annual report why it has been unable to obtain the information and how it will take steps to be granted access to that information in the future.

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- (5) If, having raised concerns with the firm's *governing body* about the value for money offered to *relevant policyholders* by a *relevant scheme*, the *IGC* is not satisfied with the response of the *firm's governing body*, the *IGC* Chair may escalate concerns to the *FCA* if the *IGC* thinks that would be appropriate. The *IGC* may also alert *relevant policyholders* and employers and make its concerns public.
- (6) The *IGC* Chair should raise with the *firm's governing body* any concerns that the *IGC* has about the information or resources that the *firm* provides, or arrangements that the *firm* puts in place to ensure that the views of *relevant policyholders* are directly represented to the *IGC*. If the *IGC* is not satisfied with the response of the *firm's governing body*, the *IGC* Chair may escalate its concerns to the *FCA*, if appropriate. The *IGC* may also make its concerns public.
- (7) The *IGC* should make public the names of those members who are *employees* of the provider *firm*, unless there are compelling reasons not to do so. The *IGC* should consult *employee* members as to whether there are such reasons.

### Duties of firms in relation to an IGC

#### 19.5.7 R A *firm* must:

- (1) take reasonable steps to ensure that the *IGC* acts and continues to act in accordance with its terms of reference;
- (2) take reasonable steps to provide the *IGC* with all information reasonably requested by the *IGC* for the purposes of carrying out its role;
- (3) provide the *IGC* with sufficient resources as are reasonably necessary to allow it to carry out its role independently;
- (4) have arrangements to ensure that the views of *relevant policyholders* can be directly represented to the *IGC*;

- (5) take reasonable steps to address any concerns raised by the *IGC* under its terms of reference;
- (6) provide written reasons to the *IGC* as to why it has decided to depart in any material way from any advice or recommendations made by the *IGC* to address any concerns it has raised;
- (7) take all necessary steps to facilitate the escalation of concerns by the *IGC* under *COBS* 19.5.5R(4) and *COBS* 19.5.6G(5); and
- (8) make the terms of reference and the annual report of the *IGC* publicly available.

- 19.5.8 G
- (1) A *firm* should consider allocating responsibility for the management of the relationship between the *firm* and its *IGC* to a person at the *firm holding* an *FCA significant-influence function*.
  - (2) A *firm* should fund independent advice for the *IGC* if this is necessary and proportionate.
  - (3) A *firm* should not unreasonably withhold from the *IGC* information that would enable the *IGC* to carry out a comprehensive assessment of value for money.
  - (4) A *firm* should have arrangements for sharing confidential and commercially sensitive information with the *IGC*.
  - (5) A *firm* should use best endeavours to obtain, and should provide the *IGC* with, information on the costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the assets of *relevant schemes*, including transaction costs. Information about costs and charges more broadly should also be provided, so that the *IGC* can properly assess the value for money of *relevant schemes* and the funds held within these.

## Appendix A – COBS 19.5 – continued

- (6) If a *firm* asks an *IGC* to take on responsibilities in addition to those in *COBS* 19.5.5R, the *firm* should provide additional resources and support to the *IGC* such that its ability to act within its terms of reference in *COBS* 19.5.5R is not compromised.
  - (7) A *firm* should provide secretarial and other administrative support to the *IGC*. The nature of the support, including how it is provided and by whom, should not conflict with the *IGC's* ability to act independently of the firm.
  - (8) A *firm* can make the terms of reference for the *IGC* and the annual report of the *IGC* publicly available by placing them on its website and by providing them on request to *relevant policyholders* and their employers.
  - (d) individuals acting as the representative of an independent corporate member are appointed to the *IGC* for a maximum duration of ten years;
  - (e) independent *IGC* members who are individuals, including those representing independent corporate members, are not eligible for reappointment to the *IGC* until five years have elapsed, after having served on the *firm's IGC* for the maximum duration of ten years;
  - (f) appointments to the *IGC* are managed to maintain continuity in terms of expertise and experience of the *IGC*.
- 19.5.10 G (1) The effect of *COBS* 19.5.9R(3)(b) is that *employees* of the *firm* who serve on an *IGC* should be subject to appropriate contractual terms so that, when acting in the capacity of an *IGC* member, they are free to act within the terms of reference of the *IGC* without conflict with other terms of their employment. In particular, when acting as an *IGC* member, an *employee* will be expected to act solely in the interests of *relevant policyholders* and should be able to do so without breaching any terms of his employment contract.

### Appointment of IGC members

- 19.5.9 R (1) A *firm* must take reasonable steps to ensure that the *IGC* has sufficient collective expertise and experience to be able to make judgements on the value for money of *relevant schemes*.
- (2) A *firm* must recruit independent *IGC* members through an open and transparent recruitment process.
- (3) A *firm* must appoint members to the *IGC* so that:
- (a) the *IGC* consists of at least five members, including an independent Chair and a majority of independent members;
  - (b) *IGC* members are bound by appropriate contracts which reflect the terms of reference in *COBS* 19.5.5R, and on such terms as to secure the independence of independent members;
  - (c) independent *IGC* members who are individuals are appointed for fixed terms of no longer than five years, with a cumulative maximum duration of ten years;
- (2) An individual may serve on more than one *IGC*.
- (3) A *firm* should replace any vacancies that arise within *IGCs* as soon as possible and, in any event, within six months.
- (4) A *firm* should involve the *IGC* Chair in the appointment and removal of other members, both independent members and *employees* of the *firm*.
- (5) A *firm* should consider indemnifying *IGC* members against any liabilities incurred while fulfilling their duties as *IGC* members.

## Appendix A – COBS 19.5 – continued

IGC members who are independent

- 19.5.11 R The *firm*, in appointing independent *IGC* members, must determine whether such a member is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, that member's judgement.
- 19.5.12 G (1) An *IGC* member is unlikely to be considered independent if any of the following circumstances exist:
- (a) the individual is an *employee* of the *firm* or of a company within the *firm's group* or paid by them for any role other than as an *IGC* member, including participating in the *firm's* share option or performance-related pay scheme;
  - (b) the individual has been an *employee* of the *firm* or of another company within the *firm's group* within the five years preceding his appointment to the *IGC*;
  - (c) the individual has, or had within the three years preceding his appointment, a material business relationship of any description with the *firm* or with another company within the *firm's group*, either directly or indirectly.
- (2) A *firm* may appoint a *body corporate* to an *IGC*, including as Chair. The corporate member should notify the *firm* of the individual who will act as the member's representative on the *IGC*. A *firm* should consider the circumstances of a corporate *IGC* member and any representative of the corporate member with the objective of ensuring that any potential conflicts of interest are managed effectively so that they do not affect the corporate *IGC* member's ability to represent the interests of *relevant policyholders*.
- (3) Should the *firm*, or another company within the *firm's group*, operate a mastertrust, there may be benefits in a trustee of such a mastertrust also being an *IGC* member. If such circumstances exist, an individual or a corporate trustee may be suitable to be an independent *IGC* member, notwithstanding the relationship with the firm.
- (4) A *firm* should review on a regular basis whether its independent *IGC* members continue to be independent and take appropriate action if it considers that they are not.

## Appendix B – Date of Last Revision and Approval

Revision	Approval
7 October 2014	Approved by PAC Board 21 October 2014
1st April 2015	Approved by Mark Baxter on behalf of the PAC Board

## Appendix C – Membership of the UK&E Independent Governance Committee (UK-IGC)

Member's Role	Members	Rationale for Membership
Independent Chair	Lawrence Churchill	Independent Member
Independent Member	Paul Barlow	Independent Member
Independent Member	Lesley Alexander	Independent Member
Independent Member	John Nestor	Independent Member
Member	Edward Bridge	Prudential Employee
Member	David Evans	Prudential Employee

### Attendees

David Higgins	Prudential Group Legal, Trustee of Prudential Staff Pension Scheme and Director of PCPTL
Bev Morris	Head of Regulatory Risk
Steven Roy	Corporate Pensions Manager
Sandy Trust	Head of Corporate Pension Unit Linked Funds
Jackie Fountain	Assistant Company Secretary

## Appendix D – Schedule of papers and other MI

To meet its responsibilities, the Committee expects to receive papers and MI on topics and issues within scope. [Papers and MI to be confirmed]

## Appendix E – Ad-hoc material items considered by the Independent Governance Committee

TBA





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