

In Touch technical update

June 2019

DWP revises trustees' investment duties

- New legislation to implement EU directives is aimed at encouraging long-term shareholder engagement.
- SIP to set out trustees' policy on arrangements with asset managers, including incentives to make decisions based on medium and long-term performance and how evaluation and remuneration of asset management aligns with the trustees' investment policies.
- Schemes will need to disclose this information online and also produce an engagement policy implementation statement each year. Expanded requirements apply to both DC and DB schemes.

Without consultation, the DWP has published new regulations that amend trustees' investment duties, starting from October 2020. The legislation implements EU directives aimed at encouragement of long-term shareholder engagement. The changes also impact on the disclosure of investment policies for all schemes.

SIP content

Under the regulations, all trustees that are required to produce a Statement of Investment Principles (SIP) will need to expand this to set out their policy in relation to arrangements with any asset managers on the following matters (or to explain why any of the following are not set out):

- How the arrangement incentivises the asset manager to align its investment strategy with the trustees' investment policies (and these include the policies that are added from 1 October 2019 on 'non-financial matters' i.e. the views of members, such as ethical views, and views in relation to social and environmental impact, and policies on exercise of shareholder rights and engagement);
- How that arrangement incentivises the asset manager to make decisions based on medium and long-term performance and to engage with debt or equity issuers to improve performance in the medium to long-term;
- How the method (and time horizon) of the evaluation of the asset manager's performance and the remuneration for services are in line with the trustees' investment policies;
- How the trustees monitor portfolio turnover costs incurred by the asset manager and how they define and monitor targeted portfolio turnover or turnover range; and
- The duration of the arrangement with the asset manager.

In addition, the relevant matters to be considered when setting engagement policies are extended to include capital structure, and management of actual or potential conflicts of interest.

Annual report content

The required content of the annual report is extended, for schemes required to produce a SIP, to include a statement that must:

- Set out how and to what extent, the trustees' policy in relation to exercising shareholder rights including voting rights and undertaking engagement activities in respect of the investments has been followed during the year, in the opinion of the trustees; and
- Describe the voting behaviour by, or on behalf of, the trustees (including the most significant votes cast by the trustees or on their behalf) during the year and state any use of the services of a proxy voted during that year.

This is referred to in the explanatory notes as the engagement policy implementation statement.

Website disclosure

Relevant schemes (broadly schemes offering money purchase benefits other than just AVCs) that are required to produce a SIP are already required to publish their SIP and certain other information online from 1 October 2019 under existing legislation. This information will be extended to include the second part of the engagement policy implementation statement described above. Members will need to be

informed of the online availability of this additional information in their annual benefit statement.

Schemes that are required to produce a SIP but are not 'relevant schemes' will have to publish the following on a website, so that it can be found by scheme members and interested members of the public:

- The SIP.
- The engagement policy implementation statement.

This new requirement will therefore bring DB schemes (and DB schemes with money purchase AVCs) broadly into line with the requirement to disclose certain investment information on a website for 'relevant schemes', from 1 October 2019. However, the information to be disclosed is not identical.

Timescales

By 1 October 2020: schemes will be required to update their SIP to be compliant with the new requirements, and to publish their SIP online (if they are not required to do this already).

By 1 October 2021: schemes will be required to produce and publish their engagement policy implementation statement (or, for 'relevant schemes', extend the information already produced/published, as set out above).

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