

In Touch technical update

September 2018

DWP confirms revised trustees' investment duties

- SIP to state how trustees take account of 'financially material considerations', 'non-financial matters' and policies on stewardship.
- Money Purchase schemes will need to disclose this information online and also produce an implementation report each year.
- Proposals for a separate "statement on members' views" dropped.

In recent years there has been growing interest in social investment for pension funds and in environmental, social and governance (ESG) considerations. Various consultations and reports have been released, including a report by the Law Commission which concluded that there are no legal or regulatory barriers to pension schemes making social investments. Final regulations have now been released following consultation; these aim to help dispel trustee confusion and to give institutional investors renewed confidence, if they so choose, to begin or increase the allocation of capital to investment opportunities such as unlisted firms, green finance and social impact investment.

Background

The regulations are intended to reassure trustees that they can (and should):

- Take account of 'financially material considerations', which include but are not limited to ESG considerations including climate change;
- Fulfil the responsibilities associated with holding the investments in members' best interests;
- Have an agreed approach on the extent, if at all, to which they will take account of members' views ('non-financial matters'); and
- Use the Statement of Investment Principles (SIP) as a real, effective and regularly-reviewed guide to investment strategy.

The DWP also confirms, for the avoidance of doubt, that trustees have primacy in investment decisions. Although trustees should not necessarily rule out taking account of members' views, they are never obliged to do so.

Specific details are set out below.

SIP content, preparation and disclosure

Under the regulations, by 1 October 2019, all schemes that are required to produce a SIP will need to expand this to set out:

- How they take account of financially material considerations, including climate change, over the appropriate time horizon for the scheme;
- How they take account (if at all) of 'non-financial matters'. This means the views of members, such as (but not limited to) ethical views, and views in relation to social and environmental impact and present and future quality of life of the members and beneficiaries; and
- Their policies in relation to the stewardship of investments, including engagement, monitoring and exercising voting rights associated with investments.

A proposal for a "statement on members' views" was removed from the final regulations.

The new items must also be included in the annual report, available on request to members.

Additional Money Purchase requirements

Additional requirements apply to 'relevant schemes' (broadly, subject to a few exemptions, schemes offering money purchase benefits other than just AVCs).

From 1 October 2020, where these schemes are required to produce a SIP, trustees will in addition be required to produce an implementation report for the year setting out how they acted on the principles set out in the SIP and explaining any changes made to the SIP and the reasons for the change. If no review of the SIP has taken place, the trustees must state the date of the last review.

From October 2019, relevant schemes will also need to prepare or update their default strategy, to cover the new items detailed above.

Such 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:

- SIP;
- Implementation report (once this is prepared).

Members will need to be informed of the online availability of this information in their annual benefit statement. This approach is similar to that recently adopted for disclosure of costs and charges for these schemes.

Timescales

1 October 2019: Schemes will be required to update their SIP. Relevant schemes will also be required to update their default strategy, and to publish this and their SIP.

1 October 2020: Relevant schemes will be required to produce and publish their implementation statement.

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