

Trustees' investment duties

➤ Matthew Swynnerton looks at the DWP's recent consultation on clarifying and strengthening trustees' investment duties

In response to recommendations made by the Law Commission in its June 2017 report on pension funds and social investment, the DWP recently consulted on proposals to amend legislation to clarify and strengthen trustees' investment duties which, if they become law, will require action by trustees.

Proposed changes for all schemes

The consultation proposes the following changes for all schemes that are required to produce a Statement of Investment Principles (SIP).

- By 1 October 2019 trustees will be required to update or prepare their SIP to set out how they take account of financially material considerations including, but not limited to, those arising from environmental, social and governance considerations, including climate change. This will replace existing wording in the legislation in relation to social, environmental or ethical considerations, which the consultation notes has proven to be confusing and misleading. This change will also apply in relation to the SIP for the default arrangement, which certain schemes providing money purchase benefits have to produce.

- By 1 October 2019 trustees will be required to update or prepare their SIP to set out their policies in relation to the stewardship of investments, including engagement with investee firms and the exercise of the voting rights associated with the investment.

- From 1 October 2019, when the trustees next prepare or update their SIP, they will be required to prepare a separate statement on members' views setting out the extent to which the views which, in the trustees' reasonable opinion, members hold (including views on non-financial matters) will be taken into account. However, the consultation states that trustees are never required to act on any particular concern, nor need they canvass member opinion, and confirms that the trustees retain control of investment decisions.

Additional requirements for schemes providing money purchase benefits

It is also proposed that some additional requirements will apply in the case of 'relevant schemes', which are schemes providing money purchase benefits, subject to some limited exceptions including where the only money purchase benefits are attributable to additional voluntary contributions.

- By 1 October 2019 trustees will be required to publish their SIP on a website and inform members of its availability via the annual benefit statement.

- From 1 October 2020 trustees will be required to produce an implementation report setting out how they acted on the principles set out in the SIP and how they acted on the statement on members' views, publish the report online and inform members of its availability via the annual benefit statement.

Earlier this year regulations were

introduced that require the trustees of relevant schemes to provide additional information on costs and charges in the chair's annual statement and to publish that information online. The DWP proposes to update its guidance about the publication of costs and charges information so that it also covers the publication of this investment information. The consultation also notes the DWP's intention that the investment information and the costs and charges information can be located in one place on the relevant website and that trustees will be able to include a single link in the annual benefit statement.

A note on timing

The DWP proposes to allow around a year between the regulations being laid and the changes coming into force. The timing above assumes that the draft regulations are laid in September or October 2018. However, the consultation notes that if the draft regulations are not laid until early 2019, the majority of provisions would instead come into force on 6 April 2020.

Next steps

Trustees should be aware that, subject to the consultation, there may soon be legislative changes that will require them to take action. Trustees may therefore want to start considering what action they might need to take if the proposed changes become law, including what amendments may be needed to their SIP, action required to prepare a statement on members' views and, for relevant DC schemes, action they will need to take in relation to publishing the SIP and preparing an implementation report.



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