

Proposed new investment and disclosure duties for UK pension scheme trustees

The government is consulting on draft regulations introducing new investment and disclosure duties for trustees of UK pension schemes.

New duties applicable to all schemes

Trustees will be required to update their statement of investment principles (“**SIP**”) to set out:

- how they take account of financially material considerations, including (but not limited to) environmental, social and governance considerations; and
- their policies on the stewardship of scheme investments, including on undertaking engagement activities in respect of those investments.

Trustees will also be required to prepare a “statement on members’ views” setting out the extent to which they will take account of the views that, in their opinion, members hold on the matters covered in the SIP.

New duties applicable to “relevant schemes”

A “relevant scheme” is broadly a scheme providing DC benefits other than additional voluntary contributions.

DC default arrangement SIP

As well as updating the scheme’s SIP to set out how they take account of financially material considerations, trustees of a relevant scheme must likewise update the SIP in relation to the scheme’s DC default arrangement. However, the default arrangement SIP does not need to set out the trustees’ policies on the stewardship of investments.

Annual report

Trustees of relevant schemes will be required to include an implementation statement in the investment report section of the scheme’s annual report detailing:

- how, and the extent to which, the scheme’s SIP has been followed in the scheme year;
- any review of, and any changes to, the SIP in the scheme year; or
- if no review has taken place, the date of the last review.

The investment report must also include:

- the policies in the scheme’s SIP on financially material considerations and stewardship of scheme investments, including engagement activities; and
- the latest statement on members’ views.

Disclosure

Trustees of relevant schemes will be required to:

- “make publicly available free of charge on a website” their scheme’s SIP, statement on members’ views, and implementation statement; and
- inform members of this via their annual benefit statements.

This builds on the requirement that was introduced in April 2018 for trustees of relevant schemes to make publicly available free of charge on a website certain information on charges and transaction costs and the scheme’s default arrangement contained in the scheme’s annual governance statement for scheme years ending on or after 6 April 2018. The government has since confirmed that, in order to comply with this requirement, the specified information/documents must be made available to the general public as a whole, rather than just to scheme members. As such, the website on which the information is made available must be accessible free of charge and without the use of a user name and/or password.

The government is also consulting on changes to its statutory guidance on reporting DC costs and charges to reflect the proposed new disclosure requirements.

Timetable for the changes

The consultation closes on 16 July 2018. The new requirements will come into force on 1 October 2019, except for the requirements in relation to the implementation statement which will come into force on 1 October 2020.

Implications for trustees

While some of the proposals could result in trustees just documenting what they already do (e.g. taking account of financial considerations when investing), trustees may need to consider how they will practically implement stewardship. This may require a review of investment documentation to assess how voting rights are exercised, and to what extent the trustees are able to influence investee entities.

In addition, the proposed new requirement to prepare a statement on members' views raises the question of how trustees should go about determining what their members' views are. The consultation does not indicate how trustees should do this, but does confirm that trustees will not be obliged to act on members' views.

These proposals are of course just at consultation stage, but it may be worthwhile for trustees to consider how they might comply with the proposals should they be implemented.

If you have any questions or comments in relation to the above, please contact Edward Jewitt or Duncan Watson, or your usual Mayer Brown contact.

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