

**Department for Work & Pensions**

**Consultation on clarifying and  
strengthening trustees' investment duties**

**Response from  
The Pensions Management Institute**

## **Response from the Pensions Management Institute to DWP's Consultation 'Consultation on clarifying and strengthening trustees' investment duties'**

### **Introduction**

PMI is the professional body which supports and develops those who work in the pensions industry. PMI offers a range of qualifications designed to meet the requirements of those who manage workplace pension schemes or who provide professional services to them. Our members (currently some 6,000) include trustees, pensions managers, lawyers, actuaries, consultants, administrators and others. Their experience is therefore wide ranging and has contributed to the thinking expressed in this response. Due to the wide range of professional disciplines represented, our members represent a cross-section of the pensions industry as a whole.

PMI is focused on supporting its members to enable them to perform their jobs to the highest professional standards, and thereby benefit members of retirement benefit arrangements for which they are responsible.

In preparing our response to this consultation, we sought the views of our members by running a survey. This ran from 25 June to 7 July, and despite the constraints imposed by time, received 157 responses. The respondents broke down as follows:

Actuary	1
Administrator	18
Employee Benefits Consultant	9
Independent Financial Adviser	2
Lawyer	6
Pensions Manager	24
Trustee	68
Other	29

In the paragraphs that follow, we have provided the PMI's response to each question and subsequently recorded the summary responses from our membership survey.

*Question 1: We propose that the draft Regulations come into force approximately 1 year after laying, with the exception of the implementation report, which would come into force approximately 2 years after laying.*

*a) Do you agree with our proposals?*

*b) Do you agree that the draft Regulations meet the policy intent?*

We agree that the proposed timescales appear reasonable and that the Regulations meet the policy intent.

*Question 2: We propose to require all trustees of all schemes which are obliged to produce a SIP to state their policy in relation to financially material considerations including, but not limited to, those resulting from environmental, social and governance considerations, including climate change.*

- a) Do you agree with the policy proposal?*
- b) Do the draft Regulations meet the policy intent?*

We asked:

*The Government proposes that by 1 October 2019, trustee boards must prepare a Statement of Investment Principles (SIP) which sets out their policy relating to Environmental, Social and Governance (ESG) concerns (including climate change)*

Responses were as follows:

Agree	119
Disagree	36

Comments included the following:

*It is reasonable for trustees to consider these matters as part of their wider investment duties. They should then take a decision; there is no reason why their decision should not be made public- the important thing is that trustees should decide and there should be no express or implied expectation of what their investment decisions should be.*

*Long overdue, Pensions are long term and significant owners of capital Therefore should lead on ESG for a sustainable future for all.*

*I think in principle that having a perspective on ESG will mean that trustee boards are acknowledging the investment risk of some of these issues in the medium term. However, I don't think that the detail of the SIP should be used to beat the trustees - pensions are not the place to be campaigning for veganism or against oil, otherwise investment will be done by responses to pressure groups rather than more logical reasons. So there is danger inherent in this course of action (unintended consequences) even though the intentions and outcomes will hopefully be good.*

We agree that the draft Regulations meet the policy intent.

*Question 3: When trustees prepare or revise a SIP, we propose that they should be required to prepare a statement, setting out how they will take account of scheme members' views.*

*a) Do you agree with the policy proposal?*

*b) Do the draft Regulations meet the policy intent?*

We asked:

*The Government proposes that from 1 October 2019 trustee boards be required to prepare a 'Statement of Members' Views' which sets out how they will take members' views into account.*

Responses were as follows:

Agree	54
Disagree	90
Don't know	12

We also asked:

*Do you think that the practical application of this requirement and general levels of inertia within scheme memberships leaves trustee boards exposed to the undue influence of minority member groups?*

Responses were as follows:

Yes	112
No	28
Don't know	16

Comments included the following:

*The members most likely to respond are those with particular issues that may not be representative of the membership as a whole.*

*This is misconceived and does not properly reflect the Law Commission conclusion. Investment duties in DB schemes are the responsibility of trustees and should not be delegated other than to managers in accordance with Pensions Act. Members receive benefits which are not dependent on investment returns, since the employer meets the balance of cost and other than in very limited circumstances (see case law referred to by Law Commission) the trustees should ensure that member promises are delivered by the combination of investment and funding policy. Trustees incidentally owe a fiduciary obligation to the employer. Different considerations apply to member choice in DC plans.*

*As an industry we have not succeeded in member engagement at a basic level (i.e. how much I have, how much will I have and how much more do I need to save). Therefore, the ones that will engage with these reports and with trustee boards will be the ones that have the time and energy on specific issues and who will then try to exert influence.*

*Inertia should not influence this but particularly in relation to final salary schemes this seems unreasonable, especially taking into account the proposed increased disclosures within the SIP.*

We agree that the draft Regulations meet the policy intent.

*Question 4: Do you agree with our proposal not to require trustees to state a policy in relation to social impact investment? If not, what change in legislation would you propose, and how would you address this risk of trustee confusion on this point?*

We agree that it is reasonable not to require trustees to state their policy on social impact investment.

*Question 5: We propose that trustees should be required to include their policy in relation to stewardship of the investments, (including monitoring, engagement and voting) in the SIP.*

*a. Do you agree with the policy proposal?*

*b. Do the draft Regulations meet the policy intent?*

We asked:

*The Government proposes that trustee boards should be required in their SIP to set out their policy relating to corporate governance.*

Responses were as follows:

Agree	121
Disagree	24
Don't know	11

Comments included the following:

*Corporate governance is an important role for shareholders, including the Trustees, as owners of shares*

*Again long overdue, bearing in mind the size of some pension schemes and their significance as owners of capital.*

*The publication of Corporate Governance policies at least means that the subject has been properly considered. The preparation for publication may expose areas that the Trustee needs to address. In addition the members are entitled to know how the Scheme Governance process works.*

*TPR is spending more time critically looking at governance within Trusts and therefore is iniquitous that trustee boards should not have considered this in enough depth not to have a policy in place.*

*It is reasonable for members to have a clear understanding of the oversight and governance attached to their scheme. The degree to which they would be interested in this is another matter entirely.....*

We agree that the draft Regulations meet the policy intent.



*Question 6: When trustees of relevant schemes produce their annual report, we propose that they should be required to: - prepare a statement setting out how they have implemented the policies in the SIP, and explaining and giving reasons for any change made to the SIP, and - include this implementation statement and the latest statement outlining how trustees will take account of members' views in the annual report.*

*a) Do you agree with the policy proposal?*

*b) Do the draft Regulations meet the policy intent?*

We asked:

*The Government proposes that from 1 October 2020, trustee boards be required to produce an annual implementation report which:*

- Sets out the measures taken to reflect their policy on ESG within the SIP; and*
- Sets out how they have reflected members' ESG concerns within their SIP*

*Do you agree with this proposal?*

Responses were as follows:

Yes in full	26
Yes In part – it should only set out the measures taken to reflect their policy on ESG	66
Yes in part – it should only set out how they have reflected members' ESG concerns within their SIP	5
No	50
Don't know	9

Comments included the following:

*Trust Law is based on a group of people managing assets provided by another party in the interests of the beneficiaries. Members concerns means that some of the beneficiaries are influencing the people managing on their behalf. But also, some of the beneficiaries have not been identified yet (e.g. spouses, dependents etc) - so they by definition do not have an opinion to be taken into account. They might be receiving benefits for longer than the current members (who incidentally could all transfer out next week). Pensions in trust are longer term investments, for the benefit of more than the current members and those members are not pension experts.*

*ESG can have an impact on investment returns. While it is not necessary to reflect member concerns, the reasons for not doing so should be explained*

*Where is the added value? More cost and expense for schemes with no benefits.*

We agree that the draft Regulations meet the policy intent.

*Question 7: We propose that trustees of relevant schemes should be required to publish the SIP, the implementation report and the statement setting out how they will take account of members' views online and inform members of this in the annual benefits statement.*

- a) Do you agree with the policy proposal?*  
*b) Do the draft Regulations meet the policy intent?*

We asked:

*The Government proposes that trustee boards be required to publish online*

- Their SIP*
- Their Implementation Report*
- Their statement setting out members' views have been reflected in their policy*

*Do you agree that trustee boards should be required to publish online*

- their SIP*
- their Implementation Report*
- Their statement setting out members' views have been reflected in their policy*

Responses were as follows:

SIP

Yes	93
No	47
Don't know	15

Implementation Report

Yes	71
No	69
Don't know	14

Their statement setting out members' views have been reflected in their policy

Yes	52
No	87
Don't know	16

Comments included the following:

*I don't agree with the member wishes statement first as a matter of principle ( see above) and secondly because of potential activist manipulation*

*It should be sufficient to refer to these policies and documents in the Trustees Annual Report and Accounts with a note to say that they are available for inspection on request*

*This publication ensures that the topics have been taken seriously and it is part of openness and transparency.*

*The minute the statement of members' views is published online then it is open to pressure groups. And I would like to say that this is a reluctant comment because my default position would be that pensions should be as transparent as possible - I just think that the evident issues around pressure groups can clearly be seen and that SIPs and pension investments are multi-dimensional problems rather than single pressure group issues.*

*Many DB schemes do not have an online presence. Again where is the added value. Once again more cost for the employers to absorb. Government should remember what pension schemes are designed to be for! More and more of my day job as a pensions managers provides no/little added value for members but just ticks boxes.*

We agree that the draft Regulations meet the policy intent.

*Question 8: Do you have any comments on the business burdens and benefits, and wider non-monetised impacts we have estimated in the draft impact assessment?*

No comment

*Question 9: Do you have any other comments on our policy proposals, or on the draft Regulations which seek to achieve them?*

No comment

*Question 10: Do you agree that the revised Statutory Guidance clearly explains what is expected of trustees in meeting their duty to publish the SIP, implementation statement, and statement of members' views?*

We agree that the revised Statutory Guidance explains clearly what is expected of trustees.

*Question 11: What evidence or views do you have of how well the other requirements in the SIP are working? What areas for further consideration and possible future change would you suggest?*

We do not have any particular views on this.