

UNISON response

We support all of the changes in this consultation. We feel these changes should be welcomed by all who support responsible investment.

This is because:

- It would make it normal for pension trustees to have investment policies that address all material risks, such as climate change.
- This should help trustees see ESG and climate change as just another set of mainstream investment risks.
- More clearly explain trustees' roles and duties in respect of financially material ESG factors (including climate change) and members' wider ethical concerns, thus removing confusion.
- Require trustees to have much broader stewardship policies than the narrow focus on voting in the current regulations.
- This should push engagement with investments up the agenda for trustees and make sure they think about how it is being done in practice.
- Require, via the reporting mechanism, trustees to think about how well they have implemented their policies. This should prevent the Statement of Investment Principles from being a static document that is not used in practice by trustees.
- Clarify that trustees can (if they want to) consider the non-financial interests of members, which means member's own views on how their money is invested.
- This should encourage trustees to bear in mind the impact of investment on members' lives.
- This will not change the core legal principle that trustees have discretion on how to invest. These changes are clarifying the law as it stands, not changing it.
- We encourage all UNISON members and trustees to respond to this consultation to welcome all elements of the proposals you think are positive, even if you then also go on to call for stronger or alternative changes.
- This will show support for proposals that other respondents may have challenged, making it more likely that the proposed changes will be made.

Points on the specific questions in the Consultation

Q1. We propose that the 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?

Yes, because:

- One year gives trustees enough time to review their Statement of Investment Principles to make it compliant with the new requirements.
- Although trustees may need to change their Statement of Investment Principles to meet the new regulations, the changes relate to points which trustees should already be considering as part of their existing fiduciary duties.
- Allowing two years for the report gives trustees time to oversee and report on how this new Statement of Investment Principles has been implemented in practice.
- b) Do you agree that the draft regulations meet the policy intent? Yes.

Q2: We propose to require all trustees of all schemes which produce a SIP to state their policy in relation to the consideration of financially material considerations including, but not limited to, those resulting from environmental, social and governance risks, including climate change.

a) Do you agree with the policy proposal?

Yes, because:

Many issues in responsible investment will have a financial impact on pension schemes' investments, e.g. climate change or the treatment of workers across a company's supply chain. But there has been confusion amongst some trustees and advisors about whether and how they should take these issues into account.

- The wording in the existing Investment Regulations is outdated and confusing, and it also conflicts with guidance from The Pensions Regulator which adds to the confusion.
- These changes should bring up standards across the board, protecting pension members.

b) Do the draft regulations meet the policy intent?

Yes. We agree with the broad definition of "financially material considerations" because:

- Pension trustees need to see ESG factors as mainstream considerations, to be assessed alongside other investment risks and considerations.
- Climate change needs to be highlighted as a key issue – unlike some other ESG risks; climate risk is a systemic risk that cannot be dealt with fully at an asset or sectoral level.
- Climate change needs to be considered at all stages of the investment process: trustees need to consider it in their investment strategy and not simply delegate it to fund managers.

Q3: When trustees prepare or revise a SIP, we propose that they should be required to prepare a statement, setting out how they take account of scheme members' views.

a) Do you agree with the policy proposal?

Yes, because:

We agree with the Government that it's "*good practice for trustees to inform the design of investment strategies with an understanding of scheme members' views*", and that it "*aids with assessing value for members, which trustees of DC schemes must do*".

- It will not change the core legal principle that trustees have ultimate discretion on how to invest. Members would not have any rights to dictate investment policy.
- This is an opportunity for trustees who want to raise low engagement levels – it could help build trust and increase engagement with pensions. The Government's review of auto-enrolment published in December 2017 found that engagement with members has an important role to play in improving outcomes.
- In DC pensions, the saver bears the investment risk and therefore has a direct interest in how their money is invested.

b) Do the draft regulations meet the policy intent?

Generally yes, because:

- It is helpful to clarify that non-financial factors include wider interests and social impact, as well as ethical views. This should address the misconception that ethical investment is only about negative screening (e.g. tobacco, armaments).
- But new regulation 2(2)(c) needs amending to "*the views which, in the reasonable opinion of the trustees, members of the scheme hold or are likely to hold*". Otherwise, trustees might worry that they haven't obtained enough evidence for their opinion to be regarded as "reasonable".

Q4. 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 support the reference to social impact in the definition of non-financial factors. This should give trustees comfort that they can consider the opportunities posed by social impact investing.
- However, we are not sure whether the minor changes proposed will actually see much change in trustees' practice in this area. If the Government is keen to create a

culture of social investment, we are not sure that this will be catalysed by the proposed changes.

Q5: 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?

Yes, because:

- Stewardship in its broadest sense (including monitoring and engagement, as well as voting) is a vital part of protecting and enhancing the value of pension investments.
- We believe that pension fund trustees should develop their own voting policy in consultation with scheme members and that they should instruct their asset managers to vote accordingly
- We do not believe that fund managers should be allowed to vote the shares of a pension fund discretionally
- There are simple actions which even smaller pension schemes can take towards stewardship, such as collaborating with other investors and ensuring asset managers have good stewardship practices.
- These changes should drive demand for forward-looking, robust stewardship activities from asset managers by pension funds.

b) Do the draft regulations meet the policy intent?

Yes.

Q6: 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,
- explaining and give reasons for any change, and
- including the latest statement on how they have taken account of the views which in their opinion scheme members hold in the annual report.

a) Do you agree with the policy proposal?

Yes, because:

- This will prevent relevant schemes from disclosing only vague, high-level statements on their approach to ESG factors.
- Trustees will have to make sure (a) they are producing clear investment policies; and they are scrutinising how these policies are being implemented.

b) Do the draft regulations meet the policy intent?

Yes.

Q7: 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?

Yes, because:

- Pension members should have access to information about how their scheme is investing and managing risks on their behalf.
- Transparency in this respect should help drive up standards. Publishing these documents online involves little cost or effort.

b) Do the draft regulations meet the policy intent?

Yes.

Q8: Do you have any comments on the business burdens and benefits, and wider nonmonetised impacts we have estimated in the draft impact assessment?

These changes require trustees to update and improve policies, add a statement on consideration of member views and explain how policies have been implemented.

Q9: Do you have any other comments on our policy proposals, or on the draft regulations which seek to achieve them?

No comments.

Q10: Does the revised statutory guidance accurately address the policy proposals?
Yes.

Q11: 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 suggest that the Government considers further cross-departmental/regulator work looking at how other parts of the investment chain are incentivised in relation to pension funds. In particular we believe that the Law Commission recommendations on fiduciary duty and fund investment efficiency need to be addressed by a statutory requirement for Trustees to report on administration, investment fees and transaction costs to their scheme members and include in the annual report the investment return performance net of all costs.