

Investment Committee Meeting
22 June 2026, 11.00am to 1.00pm
Room 6.5, 18 Smith Square, London and
Microsoft Teams

Paper F: Fiduciary duty in the LGPS

Key points to note

The Scheme Advisory Board (SAB) has accepted an invitation to join the Department for Work and Pensions' (DWP) working group on fiduciary duty. The topic remains of significant importance within the scheme, and the committee is asked for thoughts on any further areas of focus or output.

Recommendation

That the committee notes the contents of this update and considers any areas of focus or output for as the Fit for the Future reforms are being implemented.

Background

In response to a [proposed amendment](#) to the Pension Schemes Bill from Liam Byrne MP to clarify the operation of the fiduciary duty, the Government agreed to issue guidance on this issue for trust-based schemes in the private sector.

The Department for Work and Pensions (DWP) has launched a new working group designed to develop this guidance. It has been tasked with developing “practical, principles-based guidance to give trustees of occupational pension schemes greater clarity and confidence on their investment duties”. The form that guidance will take is currently less clear, and it may ultimately be issued as technical rather than statutory guidance.

At the meeting of the Responsible Investment Advisory Group (RIAG) on 9 February 2026, it was agreed that the SAB should request representation on the DWP's working group on fiduciary duty. After representations were made to MHCLG, the Board is now represented on the working group. Pensions UK is also represented on the group.

The Board's most recent [legal advice from Nigel Giffin KC was issued in January 2025](#) and expands on a number of points from his initial advice in 2014. [A summary of the advice](#) can be found on the Board website.

The [Board's statement on lobbying](#) published in September 2024 also touched on the matter of fiduciary duty and how this interacts with environmental, social and

governance (ESG) considerations. That statement made clear that “...**the primary purpose must be to achieve the required returns in an appropriately risk-managed way to pay pensions when they become due...**”. The statement further clarifies that whilst there is a growing convergence of ESG considerations and financial considerations due to, for example, the widely acknowledged physical and financial material risks associated with climate change, decisions must not “**be driven directly by the political views of Pension Committee members or indeed Government ministers (except as where prescribed in law)**”.

It is expected that the Investment Strategy Statement (ISS) guidance to be issued by the Ministry for Housing, Local Government and Communities later this month will echo this principle.

Considerations

Interpretation of the fiduciary duty within the LGPS remains a significant and increasingly high-profile issue. There is growing risk of politicisation of investment decisions, driven in part by global conflicts and in part by political parties having divergent and arguably more partisan positions on LGPS investment policy. Pension funds and now investment pools are also experiencing increased campaigning and lobbying activity.

The January 2025 legal advice provides helpful clarification in this context. In particular, it reinforces that fiduciary duty remains grounded in the delivery of appropriate risk-adjusted returns, supported by robust and well-evidenced decision-making processes. It also confirms that, while member views may be taken into account, they must be considered within the framework of fiduciary duty and cannot override it.

The development of the DWP’s technical guidance therefore presents a timely opportunity to address some of the misconceptions that have emerged around the role of ESG considerations and how these may influence investment decisions and outcomes.

This item was discussed with the RIAG when it last met on 8 June 2026 and the key points arising from that discussion are as follows:

- Though the DWP’s guidance will not directly be applicable to the LGPS, it will be an authoritative statement of government’s view of the issue and so funds will need to have regard to it, once in existence
- There were questions asked around whether the guidance ought to apply directly to the LGPS (e.g. through an amendment to the Investment

Regulations or adoption in the coming statutory guidance)

- It will be important for the definition established within this guidance to not create widely divergent definitions of fiduciary duty across the pensions sector
- The guidance should establish general principles that extend across the sector to ensure that there is flexibility to apply in different contexts
- The LGPS's work in understanding and applying the fiduciary duty in our particular context is currently more advanced than with other occupational schemes and there is an opportunity to contribute learnings from LGPS to the DWP's working group
- Clarity on when the environmental, social and governance (ESG) risks have to be taken account because they are financially material could be useful; and this could be provided via the DWP guidance
- Guidance could also set out how ESG risks can crystallise as financial implications when improperly managed and how this can be safeguarded against
- The guidance would hopefully add to and not detract from the approach in the Law Commission and 2016 ISS guidance, which emphasised that there were two tests for when non-financial considerations could be applied by trustees

This committee is invited to consider whether it agrees with the above points and whether there are any additional specific areas or issues that the forthcoming guidance should seek to address.

The secretariat believe that the Board's position on fiduciary duty is well established, correct in its reasoning and at this stage there are no plans to seek further legal advice. Though the Board's guidance was published before the changes in investment policy contained in the Fit for the Future reforms were finalised, the assumed changes considered in the advice align with the actual changes confirmed by Government and as a result, the secretariat believe that the advice provided still stands.