

Consultation document on:

- **Guidance on governance and reporting of climate-related risks and opportunities**
- **A new appendix to TPR's monetary penalties policy**

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Scope of the consultation exercise

From 1 October 2021, trustees of certain schemes¹ face new requirements intended to improve the quality of governance and reporting as they address climate-related risks and opportunities. This consultation covers two documents that will help those interested in understanding our approach to meet the proposed requirements:

- **Guidance on governance and reporting of climate-related risks and opportunities**

This guidance describes what you need to do and report on in your annual climate change report (also known as a 'TCFD report') to comply with the new legislation.

- **New appendix ('Breaches of the climate change governance and reporting regulations') to TPR's monetary penalties policy**

The appendix outlines our approach to imposing penalties for breaches of the proposed Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021.

We welcome views on these two documents. In addition to seeking general views, we have provided questions on areas where we are particularly interested in feedback. We will consider all comments before publishing the final guidance and appendix later in the year.

Who this consultation is for

This consultation is for anyone seeking to understand our approach to regulating compliance with the proposed new requirements on governance and reporting of climate-related risks and opportunities.

¹ See part 2, **The Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021** ([publishing.service.gov.uk](https://www.legislation.gov.uk/uksi/2021/1000/pdfs/uksi20211000_en.pdf))

Responding to the consultation

We have provided forms for responses to questions which you can complete electronically and submit to us.

Please note: We have asked questions about specific sections of the guidance. **We are not expecting you to answer every question** in order to submit a response.

It is our strong preference that respondents use the forms which can be found at: **www.tpr.gov.uk/en/document-library/consultations/climate-change-guidance**. We can accept responses in other formats, but you should retain the same structure as the forms.

You can send your response:

- by email to: **climatechangeconsultation@tpr.gov.uk**
- by post to: **Mel Jarman**, Regulatory Policy, The Pensions Regulator, Napier House, Trafalgar Place, Brighton, BN1 4DW

We may need to share any comments you send us within our own organisation or with other government bodies, including the Department for Work and Pensions (DWP). We may publish comments as part of our response to the consultation.

If you want your comments to remain anonymous, please state this explicitly in your response. If you want your response to be confidential, please let us know and we will take the necessary steps to meet your request.

However, please be aware that, if we receive a formal request under the Freedom of Information Act, we may have to make your response available. When responding, please advise whether you are responding as an individual or on behalf of an organisation (and, if the latter, which organisation).

Closing date

This consultation document was published on **5 July 2021**. The closing date for responses is **31 August 2021**.

Government consultation principles

This consultation paper follows the government's consultation principles at: <https://www.gov.uk/government/publications/consultation-principles-guidance>.

The key principles state that consultations should:

- be clear and concise
- have a purpose
- be informative
- be only part of a process of engagement
- last for a proportionate amount of time
- be targeted
- take account of the groups being consulted
- be agreed before publication
- facilitate scrutiny
- be responded to in a timely fashion, and
- not be launched during local or national election periods

Equalities

As part of our regulatory work and business functions, The Pensions Regulator (TPR) is subject to the Public Sector Equality Duty (PSED). The PSED ensures that public bodies have due regard to the needs of all individuals in their day-to-day work – in shaping policy, in delivering services, and in relation to their own employees.

The legislation relates to specific 'protected characteristics' set out in the Equality Act 2010: disability, gender reassignment, pregnancy and maternity, age, race, religion or belief, sex, and sexual orientation matters.

Question about equalities

We would be interested to understand if there are any aspects of our approach that users think would discriminate against, disadvantage or present an additional or exceptional challenge to anyone with a protected characteristic.

Consultation context

The government has proposed new requirements aimed at improving both the quality of governance and the level of action by trustees in identifying, assessing and managing climate-related risks and opportunities.

Trustees subject to these requirements must report on their activity in an annual climate change report. The reporting requirements are based on the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD).²

The TCFD recommendations allow for consistent climate-related financial disclosures that are useful for understanding the risks and opportunities from climate change. TCFD-aligned disclosures are due to be mandatory across the UK economy by 2025, and the Treasury has published an interim report and roadmap³ towards this ambition. This includes plans for asset managers, which will be helpful for trustees' work on disclosures.

In drafting the new requirements, the Department for Work and Pensions (DWP) has adapted the TCFD recommendations to make them relevant to trustee decision-making structures. For example, a TCFD recommendation under the heading of 'governance' translates into a requirement for trustees to have oversight of climate-related risks and opportunities.

The DWP has published guidance on the new requirements, which is statutory unless otherwise stated. Trustees must have regard to that guidance in complying with most of the new requirements.

However, a number of our stakeholders and respondents to the DWP's consultation on the policy behind the new requirements have expressed interest in hearing directly from us on our regulatory approach to the new duties. The draft guidance in this consultation aims to meet that need.

Regulations proposed by the DWP also give us new powers where there are failures to comply with the new requirements, including the power to impose penalties. The draft appendix in this consultation sets out our proposed approach to issuing penalties for breaches of these requirements.

Please note that both consultation documents cover our approach to the new requirements. Any questions or concerns on the underlying policy and regulations should be directed to the DWP.

² <https://www.fsb-tcfd.org>

³ <https://www.gov.uk/government/publications/uk-joint-regulator-and-government-tcfd-taskforce-interim-report-and-roadmap>

Consultation document on:

- **Guidance on governance and reporting of climate-related risks and opportunities**
- **A new appendix to TPR's monetary penalties policy**

Please fill in your responses to the questions below, save this whole consultation form to your computer and return the completed attachment by **31 August 2021** to: climatechangeconsultation@tpr.gov.uk.

When responding, please confirm if you are responding as an individual or on behalf of an organisation and, if on behalf of an organisation, whether only the views of the organisation are expressed in the response. You do not need to answer every question in order to submit a response.

Your details

Your name:	Vassos Vassou
Organisation (if applicable):	Association of Professional Pensions Trustees (APPT)
Responding as an individual or on behalf of an organisation:	Organisation
If on behalf of an organisation, are only the views of the organisation expressed in this response?:	Yes
Job title (if applicable):	
Postal address:	10 St James Road Wokingham RG40 4RT
Telephone:	020 3102 6763
Email:	secretariat@appt.org.uk

Your details continued...

Please select the category that best describes you or your organisation.
If you have multiple roles, please select all that apply.

- | | | |
|---|---|---|
| ☐ Adviser (Actuarial) | ☐ Adviser (Covenant) | ☐ Adviser (Investment) |
| ☐ Adviser (Legal) | ☐ Adviser (Other) | ☐ Administrator |
| ☐ Investment manager | ☒ Professional body | ☐ Provider |
| ☐ Scheme sponsoring employer | | ☐ Trustee |
| ☐ Other (Please describe in the box below) | | |

Confidentiality (Please complete as applicable)

Please confirm whether you would like us to list your name on our list of respondents to this consultation:

- ☒ Yes, I wish my name to be included on the list of respondents
- ☐ No, I do not wish my name to be included on the list of respondents

and/or:

Please confirm whether you would like us to list your organisation on our list of respondents to this consultation:

- ☒ Yes, I wish my organisation to be included on the list of respondents
- ☐ No, I do not wish my organisation to be included on the list of respondents

As this is a public consultation, we may need to share the feedback you send us within our own organisation or with other government bodies or in response to a request under the Freedom of Information Act 2000. In the interests of transparency and effective scrutiny, we may also publish this feedback as part of our response to the consultation. If you wish your response, in whole or in part, to remain confidential, please tick the box below and give your reasons and we will consider whether we can reasonably meet your request:

- ☐ Yes, I wish my response to remain confidential

If 'Yes', please specify which part of your response you wish to remain confidential and why:

Consultation questions for: Guidance on governance and reporting of climate-related risks and opportunities

Background

B1. Is this section of the guidance clear when read alongside the DWP's guidance

☒

Yes

☐

No

Please give your reasons below:

Background continued...

B2. Are there any areas on which you would welcome further clarification?



Yes



No

Please give your reasons below:

We anticipate data requirements, notably in the early years, to make this process difficult for the trustees. This will, of course, evolve as the industry becomes more familiar with this reporting and its requirements. Before data is as widely available as we'd hope, can you provide more guidance or examples around minimum standards of where TPR draws the line between materiality of data vs additional costs of obtaining it.

Trustee knowledge and understanding will need to evolve and develop alongside these new requirements so that they implemented in the correct way and Trustees do not simply defer to their advisers. We would welcome some further information from TPR on how this trustee knowledge and understanding will be developed (e.g. trustee toolkit) and compliance from Trustees to embed this throughout Trustee Boards.

Climate risk management should be a module for the tPR toolkit in the same way pensions scams are.

Governance

G1. Is this section of the guidance clear when read alongside the DWP's guidance?



Yes



No

Please give your reasons below:

Governance continued...

G2: Is the example on establishing oversight helpful?



Yes



No

Please give your reasons below:

Governance continued...

G3: Is the example on climate competency of service providers and advisers helpful?



Yes



No

Please give your reasons below:

In practice the quality of the advice on climate change will play a large part in how well these changes are implemented and whether it becomes a 'tick box' administrative exercise just completed by advisors with very little input or engagement from trustees. Assessing the investment advisors capability and setting climate related goals to their objectives (in the same way progress towards scheme funding is included) is really important.

Governance continued...

G4: Are there any other case studies or examples you would find helpful in this section?



Yes



No

Please give your reasons below:

Incorporating ESG into covenant considerations will be important in carrying out scenario analysis that fairly reflects actions the trustees would be taking under different climate related scenarios. Therefore, more guidance and examples around this would be advantageous.

Strategy and scenario analysis

S1: Is this section of the guidance clear when read alongside the DWP's guidance?



Yes



No

Please give your reasons below:

Strategy and scenario analysis continued...

S2: Is the example of different time periods for schemes with different characteristics helpful?



Yes



No

Please give your reasons below:

Although indirectly related to this section, it would be useful if there was flexibility offered for those schemes for which full compliance is not appropriate - for example, schemes about to enter the PPF or about to conclude a full buy-out.

Strategy and scenario analysis continued...

S3: Are there any other case studies or examples you would find helpful in this section?



Yes



No

Please give your reasons below:

Incorporating ESG into covenant considerations will be important in carrying out scenario analysis that fairly reflects actions the trustees would be taking under different climate related scenarios. Therefore, more guidance and examples around this would be advantageous.

Many schemes may opt to provide qualitative analysis. Such analysis should be data driven and fact-based - examples of such analysis would be useful.

There are various complexities involved with modelling, such as the treatment of gilts. Any guidance on this area would be useful.

Risk management

R1: Is this section of the guidance clear when read alongside the DWP's guidance?

☒

Yes

☐

No

Please give your reasons below:

Risk management continued...

R2: Is the template dashboard helpful?



Yes



No

Please give your reasons below:

It's helpful, and links in the requirements from areas beyond risk management. However, we would note: Projecting data coverage for future years seems very much out of Trustees hands. Would it more be illustrative to indicate where data gaps are and, simply, if the Trustees are engaging to address that problem?

Risk management continued...

R3: Is the example on processes to identify and assess climate-related risks helpful?



Yes



No

Please give your reasons below:

Risk management continued...

R4: Are there any other case studies or examples you would find helpful in this section?

☐

Yes

☒

No

Please give your reasons below:

Metrics

M1: Is this section of the guidance clear when read alongside the DWP's guidance?

☒

Yes

☐

No

Please give your reasons below:

Metrics continued...

M2: Is Example 1 on the selection of metrics helpful?



Yes



No

Please give your reasons below:

Metrics continued...

M3: Is Example 2 on the selection of metrics helpful?



Yes



No

Please give your reasons below:

Metrics continued...

M4: Is the example on using a metric in risk management helpful?



Yes



No

Please give your reasons below:

Metrics continued...

M5: Are there any other case studies or examples you would find helpful in this section?



Yes



No

Please give your reasons below:

It would be helpful if the guidance was clear that metrics do not have to be just carbon emissions. Those metrics could, for example, be related to engagement with investee companies. It would be helpful to have an example along those lines.

The DWP guidance itself stopped short of mandating any action. The case study on targeting a reduction in WACI is useful, particularly the actions described as a result of adopting the target. There is a concern that the focus remains on reductions in carbon intensity in scheme portfolios which can be easily achieved via exclusions rather than a focus on acting as long term custodians of capital seeking to drive change in the wider economy.

Targets

T1: Is this section of the guidance clear when read alongside the DWP's guidance?

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Yes

☒

No

Please give your reasons below:

To reduce carbon intensity of Scheme assets, we anticipate larger asset allocation moves in discrete periods, rather than year on year material changes (which would be better associated with asset managers actions). However, DWP requires annual reviews of targets. I think TPR could provide more detail on what you're expecting from these reviews.

Is there any guidance for Scheme's where they have already started implementing climate related policies? Notably considering setting a base year for targets and reporting progression to this. Can this be a base year prior to the guidance being issued?

Targets continued...

T2: Is the example on monitoring against targets helpful?



Yes



No

Please give your reasons below:

Targets continued...

T3: Are there any other case studies or examples you would find helpful in this section?

☐

Yes

☒

No

Please give your reasons below:

Publishing your report and notifying members

P1: Is this section of the guidance clear when read alongside the DWP's guidance?



Yes



No

Please give your reasons below:

The guidance is clear. Example reports would be useful.

The reporting required could end up being long and detailed. While it will provide useful information to informed parties it may not do that much to improve transparency for members. A summary report with the climate policy, target and progress vs target could be mandatory rather than advisory.

Publishing your report and notifying members continued...

P2: Are there any areas on which you would welcome further clarification?

☐

Yes

☒

No

Please give your reasons below:

General questions

Q1: When read alongside the DWP's guidance, is our guidance clear on what you need to do and report on in order to comply with the new legislation? If not, how could we make it clearer?

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Yes

☐

No

Please give your reasons below:

It is clear, although any further guidance as outlined in our response would be appreciated.

General questions continued...

Q2: Do you have any other feedback on the guidance?



Yes



No

Please give your reasons below:

We have an addition comment that may be slightly beyond the scope of this guidance, but we think is important for the industry: It'd be helpful to understand the expectations for smaller schemes, sub £1bn, as the likely climate reporting will be extended over time.

We think it'd be helpful for DWP/TPR to help with a unifying expectation for smaller schemes. One that enables climate considerations but is also not too cumbersome reflecting the size of these schemes. For example, considering:

- the materiality of those assets, from a climate change perspective.
- the levels of de-risking being implemented (typically, moving away from high carbon intensive assets)
- the costs of implementation, spread across lower asset levels.

1) With Profit Pooled Funds – It can be very difficult for trustees to get information from insurers with regards with profit funds. Additional guidance from TPR to help trustees tackle this issue would be helpful.

2) Insurers – aligned to 1 but more generally as insurers are unbelievably slow to provide information are there any agreements between TPR and the PRA that insurers will be required to provide the information to pension schemes in reasonable timescales. If not, then it would be helpful to trustees for such agreements to be pursued.

As ever, thanks to the team at TPR for working to provide further guidance to assist Trustees in fulfilling their duties.

Consultation questions for: New appendix ('Breaches of the climate change governance and reporting regulations') to TPR's monetary penalties policy⁴

1. The amount of the monetary penalty will be considered on a case by case basis. Is the outline of likely band levels clear?

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Yes

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No

Please give your reasons below:

It would make sense to express these monetary penalties as bands. (Some are currently shown as a fixed fine amount and some as bands.)

Note: Small typo with a semi colon in front of the 2 in the 2nd band level.

⁴ [monetary-penalties-policy.ashx](#) (thepensionsregulator.gov.uk)

2. Do you think the examples given for the different band levels are appropriate?

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Yes

☒

No

Please give your reasons below:

Further examples for Band 3 would be helpful.

Again, we would reiterated that Trustees will be making decisions on materiality vs reasonable cost, in an area that is both new and developing. For Strategy / scenarios analysed - more examples around minimum expectations would be well recieved.

3. Does the calculation of the amount of the mandatory penalty beyond the minimum threshold sound reasonable?



Yes



No

Please give your reasons below:

4. Is the appendix clear on our approach to discretionary penalties for breaches of the Occupational Pension Schemes (Climate Change Governance and Reporting) Regulations 2021? If not, how could we make it clearer?



Yes



No

Please give your reasons below:

5. Do you have any other feedback on the appendix?

☐

Yes

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No

Please give your reasons below:

Professional trustees are singled out for higher fines, but in some cases the professional trustee is part of a wider group of trustees and may not have influence, for example over governance structures and/or agenda.

This framework doesn't seem to fit with a system where reporting is done on an 'as far as you are able' basis. We know that data availability will mean reporting is patchy in the first few years. It seems more appropriate to limit fines to those who are not actively considering climate change and have not adapted their governance framework rather than those who aren't complying with the 'tick box' elements.

How to contact us

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Trafalgar Place
Brighton
BN1 4DW

<https://www.thepensionsregulator.gov.uk/>

<https://trusteetoolkit.thepensionsregulator.gov.uk/>

Free online learning for trustees

<https://education.thepensionsregulator.gov.uk/>

Pensions education portal



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and **A new appendix to TPR's monetary penalties policy**

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