

A quick guide to

The chair's statement

To be read alongside our DC code of practice no. 13,
Governance and administration of occupational trust-based
schemes providing money-purchase benefits

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The Pensions
Regulator

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About this quick guide

This guide should be read alongside 'Code number 13, Governance and administration of occupational trust-based schemes providing money purchase benefits', and its accompanying suite of how-to guides (particularly 'Value for members' and 'Communicating and reporting'). It sets out the legal requirements in relation to the chair's statement and our expectations as to how trustees should meet them.

This guide includes a checklist for trustees to use so they can be confident that they have addressed all areas sufficiently, including notes on what we expect. It also gives some examples of good practice for each requirement, as well as some common misunderstandings and omissions we've seen in the statements submitted to us so far.

There are a number of technical areas that must be covered in a chair's statement to comply with the law. We are aware that referring to all those specific provisions can affect the readability of the statement. Therefore, we have also prepared an example technical appendix that trustees can, if they wish, refer to numerically in their chair's statement rather than detailing all the specific provisions. This template can be used generally as a summary of the trustees' obligations, and we have included examples of how it might be used in specific sections of the statement in the checklist.

Penalties for poor statements

A poor statement is much more likely to be non-compliant and therefore result in the trustees or managers of the scheme being personally liable to pay a fine of between £500 and £2,000. We have no discretion over whether or not to issue a fine in these circumstances – you can read more about these **mandatory fines** on our website.

Basic principles

As trustee, you should ensure that the statement is written clearly enough for members to understand. This means finding a balance between having sufficient information to meet the requirements and providing a meaningful narrative without over-complicating matters. You must also 'have regard to' statutory guidance on reporting costs and charges when preparing your statement. This includes matters you must take into account when complying with the requirement to publish relevant parts of the chair's statement online.

Where an explanation is required, it should be meaningful and not simply state a conclusion. If there is a reason why the trustees have not been able to comply with a particular requirement, you should state where they have missed out information and why. The checklist in this guide should help you ensure you have addressed all areas sufficiently.

For chair's statements for scheme years that fall after 1 October 2021, it is acceptable to attach to the statement any information or documents that are required to be 'stated' or 'included' as part of it, (for example, the default arrangement Statement of Investment Principles (SIP) and the illustrative examples of the cumulative effect over time of the relevant costs and charges on the value of a member's benefits).

These should be contained in a clearly labelled 'Appendix' and referred to in the statement itself.

All statements should clearly show which scheme year they refer to and the date on which they were signed off by the chair. Although the published version does not need to have a physical signature, the original statement should have a physical signature and must be dated within seven months of the scheme year end.

Checklist: completing your chair's statement Please tick the relevant check box

Demonstrating how you have met the default arrangement investment strategy requirements

Have you attached a copy of the latest SIP for the default arrangement(s)?

Have you provided details about any review of the default strategy and performance of the default arrangement carried out during the scheme year?

Have you provided a full explanation regarding any changes made as a result of the review?

If no review was carried out during the scheme year, have you confirmed this fact and provided the date of the last review?

Do you have processes in place to publish relevant parts of this section on a website and have you complied with the requirements to notify members about this in the Annual Benefit Statement?

What we expect and examples of good practice

We would expect to see either:

- ▶ confirmation that no review was undertaken during the scheme year and the date of the last review, or
- ▶ confirmation that a review has been carried out during the scheme year and details of that review.

If the scheme does not have a default arrangement it would be helpful to make this clear and confirm that it is not being used as a qualifying scheme for automatic enrolment purposes. You can refer to the technical appendix to explain the default arrangement SIP requirements.

When providing details of any review you carried out in the scheme year, bear in mind that the regulations require that you review both the performance and the strategy of the default arrangement. At the very least, you should set out how you have assessed the extent to which performance is still consistent with the aims and objectives of the default arrangement SIP.

Demonstrating how you have met the default arrangement investment strategy requirements

What we expect and examples of good practice continued...

The detail of your review may include a brief description of the aims and objectives of the default arrangement and confirmation that either:

- ▶ your review has revealed that the strategy and returns are consistent with these aims and objectives, including the reasons you thought a change was not necessary, or
- ▶ your review has led to a revision of the default arrangement and you have provided the reasons for this revision and set out exactly what the changes were. For example, you may have switched to a more appropriate fund more in line with the aims and objectives of the default arrangement SIP.

NB: there is no exemption for schemes with fewer than 100 members. If you have a default arrangement, you must have a default arrangement SIP in place. However, it is unlikely that the requirement applies to any schemes where contributions ceased prior to 6 April 2015.

Common mistakes

In relation to the SIP for the scheme's default arrangement:

- ▶ it has not been included at all, or
- ▶ only an extract has been included, or
- ▶ the trustees have merely confirmed that a copy is available on request.

In relation to the review of the scheme's default arrangement:

- ▶ a statement has been made that no review has taken place in this scheme year, but no date has been provided for when the latest review was carried out, or
- ▶ a statement has been made that a review has taken place, but no details have been provided regarding its outcome.

Demonstrating how you have met the requirement to state the return on investments (for scheme year ends that fall after 1 October 2021)

Have you set out the return on investments (net of charges and transaction costs) for each default arrangement?

Have you set out the return on investments (net of charges and transaction costs) for each non-default fund in which assets relating to members were invested during the scheme year?

Have you had regard to the statutory guidance in preparing this section of the statement?

Do you have processes in place to publish relevant parts of this section on a website?

Have you complied with the requirements to notify members about this in the Annual Benefit Statement?

What we expect and examples of good practice

The return on investments should be clearly set out in accordance with the statutory guidance.

We expect you to confirm in the statement that you have taken account of statutory guidance when preparing this section of the statement. If applicable, you should explain why you have deviated from the approach set out in that guidance.

Common mistakes

The way in which the return on investments has been set out does not follow statutory guidance and no reason for this difference has been provided.

Demonstrating how you have met the requirements for processing core financial transactions

Have you set out how you have ensured that core financial transactions have been processed promptly and accurately during the scheme year?

What we expect and examples of good practice

We expect you to provide some detail about the processes you had in place throughout the scheme year to ensure that core financial transactions are processed promptly and accurately. For example:

- ▶ Did you have an SLA in place with your administrator and broadly what does it cover?
- ▶ What processes did you have in place to monitor compliance with the SLA?
- ▶ If any issues occurred during the scheme year, how did you resolve them?
- ▶ What plan do you have in place to tackle any outstanding unresolved issues?

You should state whether you think core financial transactions were processed promptly and accurately during the scheme year. Core financial transactions include (but are not limited to):

- ▶ investment of contributions
- ▶ transfer of members' assets to and from the scheme
- ▶ switching between investments within the scheme
- ▶ payments out of the scheme to members/beneficiaries

You may want to refer to the technical appendix to be clear about core financial transactions. As an example, a good statement we have seen did the following:

- ▶ Confirmed that there is a service level agreement (SLA) in place with the scheme administrator which covers the accuracy and timeliness of all core financial transactions, and gave a brief summary of those requirements.
- ▶ Explained that the trustees received regular reports during the scheme year to help them monitor that the SLA was being met, and covered what they did to ensure no issues arose.

Demonstrating how you have met the requirements for processing core financial transactions

What we expect and examples of good practice continued...

- ▶ Stated that the processes adopted by the administrator to help meet the SLA included daily monitoring of bank accounts, a dedicated contribution processing team, and two individuals checking all investment and banking transactions.

Common mistakes

It is unclear exactly what, if any, action the trustees have taken to ensure that processes and controls are in place to monitor the accuracy and timeliness of core financial transactions because the statement only confirms that:

- ▶ deductions have been taken from salary and paid to the scheme on time
- ▶ the administrators have confirmed that core transaction requirements have been met but no explanation has been provided as to how this has been established, or
- ▶ the accuracy of core financial transactions has been checked but makes no mention of timeliness.

Demonstrating how you have met the requirements for calculating member borne charges and transaction costs in respect of all funds and explaining how they represent value for members

Have you clearly shown the level(s) of charges and transaction costs borne by members during the scheme year in respect of each of the default arrangements?

Have you clearly shown the levels of charges and transaction costs borne by members during the scheme year in respect of each of the non-default arrangements in which members were invested?

Have you indicated what (if any) transaction cost information you were unable to obtain and explained what steps are in place to obtain the remainder?

Have you provided illustrative examples of the cumulative effect over time of the relevant costs and charges on the value of a member's benefits for every default arrangement?

Have you provided illustrative examples (at scheme level) of the cumulative effect over time of the relevant costs and charges on the value of a member's benefits for the highest and lowest charging non-default fund in which members are invested?

Have you had regard to the statutory guidance in preparing these examples?

If your scheme has £100 million of assets or over, have you provided a full explanation and set out the results of your most recent assessment of the extent to which member borne costs and charges represent good value for members?

For scheme year ends falling after 31 December 2021, if your scheme has under £100 million of assets and has been operating for three or more years meaning that you are required to carry out a more detailed value for members assessment, have you fully explained whether the scheme is offering value for members in all three required areas (charges/transaction costs, investment returns and administration/governance)?

Do you have processes in place to publish relevant parts of this section on a website and have you complied with the requirements to notify members about this in the Annual Benefit Statement?

Demonstrating how you have met the requirements for calculating member borne charges and transaction costs in respect of all funds and explaining how they represent value for members continued...

What we expect and examples of good practice

Charges and transaction costs

- ▶ The charges and (where available) transaction costs borne by members in respect of each individual fund throughout the scheme year should be clearly set out, perhaps in a table so it is clear which relate to the default arrangement(s) and which relate to the non-default arrangement(s).
- ▶ We expect the trustees to confirm in the statement that they have taken account of statutory guidance when preparing this section of the statement and, if applicable, explain why they have deviated from the approach set out in that guidance.

Cumulative effects

- ▶ We expect the trustees to confirm in the statement that they have taken account of statutory guidance when preparing this section of the statement. If applicable, they should explain why they have deviated from the approach set out in that guidance.

Demonstrating how you have met the requirements for calculating member borne charges and transaction costs in respect of all funds and explaining how they represent value for members continued...

Explanation of value for members assessment

It is important that trustees provide enough information to demonstrate how they have considered value for members and explain exactly why they believe that the charges and transaction costs incurred by their members represent good value.

We understand that cheap doesn't necessarily mean better value but it should be clear from the trustees' explanation that their assessment took into consideration the quality of the services provided for that cost including, as a minimum, fund management and, for bundled schemes, administration and communications support.

For schemes with assets of £100 million or over, we would expect to see that either:

- ▶ the trustees have concluded that the scheme is offering value for members and have explained how they reached this conclusion, or
- ▶ the trustees have concluded that the scheme is not offering value for members, have set out why and what action they are taking to address this, eg improving value for members within the current scheme or exploring transition to an alternative arrangement.

For scheme year ends falling after 31 December 2021, most trustees of schemes with assets of less than £100 million that have been operating for at least three years are required to carry out a more detailed value for members assessment. We would expect to see that either:

- ▶ the trustees have concluded that the scheme is offering value for members on all three overall areas (costs and charges, investment returns and governance/administration) and have explained how they reached this conclusion, or
- ▶ the trustees have concluded that the scheme is not offering value for members and have either decided to transfer members' DC rights to an alternative arrangement or have set out the improvements they will be making to ensure the scheme does offer value.

Demonstrating how you have met the requirements for calculating member borne charges and transaction costs in respect of all funds and explaining how they represent value for members continued...

Common mistakes

Charges and transaction costs

- ▶ Only the charges for the default arrangement have been set out, and no explanation has been given as to why the charges for non-default arrangements have not been provided.
- ▶ Instead of setting out the charges for each individual fund within the scheme (including each default arrangement), the trustees have simply provided the range of charges across all funds.
- ▶ Annual management charges have been provided for each fund but there is no explanation of whether this is the only charge payable by members. There is also no mention of transaction costs or whether any steps have been made to obtain these.

Cumulative effects

- ▶ The statement does not contain illustrations of the cumulative effect of costs and charges over time on a member's benefits.
- ▶ The illustrations of the effect of costs and charges on a member's benefits does not follow statutory guidance and no reason for this difference has been provided.

Explanation of value for members assessment

- ▶ A statement has been made that the trustees believe that the scheme offers value for members but no explanation has been given as to how this has been assessed.

For useful tips on how to approach the assessment itself, please see our 'Value for members' guide.

Demonstrating how you have met the requirements around trustees' knowledge and understanding

Have you described how, throughout the scheme year the trustees have demonstrated:

- ▶ a working knowledge of the trust deed and rules?
- ▶ a working knowledge of the current SIP?
- ▶ a working knowledge of all documents setting out the trustees' current policies?
- ▶ that they have sufficient knowledge and understanding of the law relating to pensions and trusts?
- ▶ that they have sufficient knowledge and understanding of the relevant principles relating to the funding and investment of occupational schemes?
- ▶ that their combined knowledge and understanding, together with available advice, enables them to properly exercise their functions?

What we expect and examples of good practice

We expect you to confirm that there is an appropriate induction process in place, and set out how this was implemented for any new trustee(s) in the scheme year. We expect the statement to provide details of the training programme that was in place for existing trustees, including:

- ▶ the processes in place to ensure all trustees have appropriate knowledge and understanding
- ▶ a description of how these processes were applied over the scheme year, and
- ▶ the system in place to identify knowledge gaps.

For example, the statement may say that the training programme is reviewed regularly to ensure it is up to date, and that knowledge gaps are identified by each trustee carrying out a self evaluation during the scheme year. If you have not managed to address all knowledge gaps identified during the scheme year, we expect you to set out your proposals for doing so. In order to be able to explain how the combined knowledge and understanding of the trustees and their advisers enables the trustees to properly run the scheme, trustees could confirm that an annual evaluation of the performance and effectiveness of the board as a whole has been measured against the objectives of the scheme's business plan (or similar document).

Demonstrating how you have met the requirements around trustees' knowledge and understanding

What we expect and examples of good practice continued...

We would also expect to see some detail about the method used to carry out this evaluation, for example via:

- ▶ peer review
- ▶ an external agency, or
- ▶ issuing a questionnaire to all trustees.

Common mistakes

- ▶ Although the statement confirms that all the trustees are compliant with the requirements, it offers no explanation as to how compliance has been achieved or what training was arranged during the scheme year.
- ▶ Although the statement confirms that in-house training is offered, no details have been provided about that training.
- ▶ The statement for a scheme that has a professional trustee only covers that trustee's general expertise and does not cover their scheme specific understanding or conversance with scheme documentation.
- ▶ The statement explains the trustees' conversance with the scheme's trust deed, rules and SIP but does not mention their knowledge and understanding of pension or trust law, or their knowledge of funding and investment principles.
- ▶ The statement does not explain what action has been taken to ensure the trustees' knowledge and understanding, combined with available advice, enables them to act properly.

If your scheme is a relevant multi-employer scheme (eg a master trust): demonstrating how you have met the requirements around non-affiliation and encouraging member feedback

Have you set out how, during the scheme year, the requirement for the majority of trustees (including the chair) to be non-affiliated has been met?

If a non-affiliated trustee was appointed during the scheme year, have you provided details as to how the requirement for that process to be open and transparent was met?

Have you provided details of the arrangements that were in place throughout the scheme year to encourage members, or their representatives, to make their views about the scheme known to the trustees?

What we expect and examples of good practice

We expect you to set out in the statement:

- ▶ which trustees (or trustee directors) were counted as non-affiliated during the scheme year
- ▶ how each non-affiliated trustee met the requirement set out in legislation, or
- ▶ why the requirement was not met, and the steps being taken to redress this.

You may wish to refer to the technical appendix to be clear as to what 'non-affiliated' means.

If a non-affiliated trustee was appointed during the scheme year, you should describe the recruitment process used. If one of the example processes set out in legislation was not followed, we would expect you to demonstrate how the process met the requirements for openness and transparency. If it did not meet the requirements, we would expect you to state this and explain why. You may wish to refer to the technical appendix to ensure you have covered all the requirements here. If a non-affiliated trustee was not appointed during the scheme year, it would be helpful to make this clear in the statement.

When providing details of the arrangements that were in place throughout the scheme year to encourage members to share their views, we expect to see evidence that the trustees have considered the size, nature and demographic of their scheme membership when deciding what channels to put in place for this purpose.

If your scheme is a relevant multi-employer scheme (eg a master trust): demonstrating how you have met the requirements around non-affiliation and encouraging member feedback

What we expect and examples of good practice continued...

We expect the statement to set out how the trustees communicate this to the membership, as well as the way in which members are expected to respond. For example, there may be a statement on the scheme website and included in the annual statement which provides a dedicated email address for members to make their views known. If no arrangements are in place in the scheme year, we expect the statement to say this and explain the steps being taken to put such arrangements in place for the future.

Common mistakes

- ▶ Although the statement confirms that the majority of trustees were non-affiliated in the scheme year, it does not explain how the requirement has been met.
- ▶ The statement does not explicitly state that the chair is non-affiliated, or the statement refers to trustees being 'independent' rather than 'non-affiliated' and does not explain how the other requirements for non-affiliation have been met.
- ▶ No mention has been made as to whether or not a non-affiliated trustee was appointed during the scheme year. It is therefore unclear as to whether a recruitment process took place which did not meet the requirement or that the need to recruit a non-affiliated trustee simply did not arise during the scheme year.
- ▶ Although the statement confirms that arrangements are in place to encourage members to express their views, no detail of these arrangements has been provided and it is unclear as to whether these arrangements were in place throughout the scheme year.

How to contact us

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www.trusteetoolkit.com

Free online learning for trustees

www.pensionseducationportal.com

Free online learning for those running public service schemes

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