Developing an investment policy that is in your company's, and the climate's, best interests – our practical steps

We recently acted for the successful claimants in the High Court case of Butler-Sloss v Charity Commission. The ground-breaking judgment approved the claimants' decision to align their charities' investments with the goals of the Paris Agreement to avoid the worst impacts of climate change, even where this involves financial risk by excluding a large part of the market.

The ruling reinterprets the fiduciary duty of boards in a way that's now fit for the 21st century, by allowing boards to shift the traditionally exclusive focus on financial risk and return to consider factors such as positive and negative impacts.

The decision could have a significant impact on the fight against climate change, not just for charities but corporate for-profit companies too.

Corporate companies now have a big opportunity to review and reflect on their current strategy and investment powers and consider how to maximise their positive environmental impact. ESG is an increasingly crucial factor for both clients and employees, and adopting a positive change has the potential to gain new clients for the business and crucially retain and attract new talent to the company.

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Practical steps you should be taking now

1. **Brief the board on the legal principles of the Butler-Sloss v Charity Commission case.** Highlight the need to consider the principles and take any necessary action as soon as possible.
2. **Review and reflect on your company's mission and investment powers. There are three key parts to include in your review:**
   a. Identify any potential conflicts between investments you hold and your company's mission and values
   b. Identify any relational or stakeholder interests that might be relevant here, or wider reputational risks
   c. Consider any relevant evidence for those potential conflicts between investments and your company's mission
3. **Develop your investment policy in the best interests of your company's purposes.**
4. **Allow for proper discussion at board level and exchanges of different points of view.** This is likely to raise complex issues which will need careful balancing. You should take time to carry out this exercise and it may help to seek advice from your investment manager and from other professional advisers on how to structure that process and how to consider the different options and issues that arise.
5. **Document what you have done! Record any changes made to the investment policy and store all supporting advice you have received.** Developing a new policy, or amending an existing one, is no quick process – document everything so that in a few years' time everything is still remembered and adhered to.

Get in touch

Should you have any questions or would like to find out how our market-leading dispute resolution and litigation team could help you, do not hesitate to get in touch.

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