



Local Pension Board

Date Monday 24 June 2024
Time 2.00 pm
Venue Committee Room 2, County Hall, Durham

Business

Part A

Items which are open to the Public and Press.

1. Apologies for Absence
2. Declarations of Interest (if any)
3. The Minutes of the Meeting held on 22 March 2024 (Pages 21 - 28)
4. Observations and Feedback from:
[Pension Fund Committee](#) held on 24 June 2024
5. Pension Administration Report (Pages 29 - 44)
6. Regulatory Update (Pages 45 - 84)
7. Pensions Regulator Single Code of Practice Update (Pages 85 - 90)
8. Internal Dispute Resolution Procedure (Pages 91 - 98)
9. Pension Fund Breach Monitoring 2023/24 (Pages 99 - 150)
10. Date of Next Meeting - 12 September 2024
11. Any Other Business

Helen Bradley
Director of Legal and Democratic Services

County Hall
Durham
14 June 2024

To: **The Members of the Local Pension Board**

Scheme Employer Representatives:

Councillors A Hoggood and D Stoker

Scheme Member Representatives:

L Oliver and W Pattison (Chair)

Contact: Martin Tindle

Tel: 03000 269 713

Pension Fund Committee



Abbreviations

List of commonly used abbreviations

AB	Alliance Bernstein, the Fund's Bonds manager
ACS	Authorised Contractual Scheme, the collective investment scheme used by BCPP for asset pooling
AUM	Assets Under Management
BCPP	Border to Coast Pensions Partnership, the Fund's asset pool
CBRE	Coldwell Banker Richard Ellis, the Fund's Real Estate manager
CEO	Chief Executive Officer
CIO	Chief Investment Officer
CIPFA	The Chartered Institute of Public Finance and Accountancy
CLG	Communities and Local Government (former name of MHCLG)
COO	Chief Operating Officer
COP	Conference of Parties, a UN conference on climate change
CPI	Consumer Price Index
CSR	Corporate Social Responsibility, a term under which companies report their social, environmental and ethical performance
DAA	Dynamic Asset Allocation
DGF	Diversified Growth Fund

EM	Emerging Markets
EMEA	Europe, Middle East & Africa
ESG	Environmental, Social, and Governance – factors in assessing an investment’s sustainability
FCA	Financial Conduct Authority
FRC	Financial Reporting Council
FSS	Funding Strategy Statement
FTA	FTSE Actuaries UK Gilts Index Series
FTSE	Financial Times Stock Exchange
GEM	Global Emerging Markets
GRESB	Global ESG Benchmark for Real Assets
HMT	Her Majesty’s Treasury
Infra	Infrastructure
IRR	Internal Rate of Return
ISS	Investment Strategy Statement
JC	Joint Committee
LGA	Local Government Association
LGPS	Local Government Pension Scheme
LAPFF	Local Authority Pension Fund Forum
LIBOR	London Inter Bank Offered Rate, a benchmark interest rate at which global banks lend to one another
LPB	Local Pension Board
MAC	Multi Asset Credit
MHCLG	Ministry of Housing, Communities and Local Government
MSCI	formerly Morgan Stanley Capital International, publisher of global indexes

NED	Non-Executive Director
NT	Northern Trust, the Fund's Custodian
OECD	Organisation for Economic Co-operation and Development
PF	Pension Fund
PFC	Pension Fund Committee
PLSA	Pensions and Lifetime Savings Association
PRI	The UN-supported Principles for RI
RI	Responsible Investment
RPI	Retail Price Index
S&P	Standard & Poor's, ratings agency and provider of equity indices
S151	An officer with responsibilities under s151 of the Local Government Act 1972
SAB	Scheme Advisory Board
SDG	the UN's Sustainable Development Goals
SILB	Sterling Index Linked Bonds
SONIA	Sterling Over Night Index Average, the overnight interest rate paid by banks
TCFD	Taskforce on Climate Related Financial Disclosures
TER	Total Expense Ratio
TPR	The Pensions Regulator

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Glossary of commonly used terms

A

Active Management

Appointing investment professionals to track the performance of the Fund's mandates, making buy, hold and sell decisions about the assets with a view to outperforming the market.

Active Member

A current employee who is contributing to the pension scheme.

Actuary

An independent professional who advises the Council in its capacity as Administering Authority on the financial position of the Fund.

Actuarial Valuation

The Fund's actuary carries out a valuation every three years and recommends an appropriate rate of contributions for each of the Fund's participating employers for the following three years. The valuation measures the Fund's assets and liabilities, with contribution rates set according to the Fund's deficit or surplus.

Additional Voluntary Contributions (AVCs)

An option available to active members to build up a pot of money which is then used to provide additional pension benefits. The money is invested separately with one of the Fund's external AVC providers.

Administering Authority

The LGPS is run by local Administering Authorities. An Administering Authority is responsible for maintaining and investing its own Fund for the LGPS.

Admission/Admitted Body

An organisation whose employees can become members of the Fund by virtue of an admission agreement made between the council in its capacity as Administering Authority and the organisation. It enables contractors who take on council services to offer staff transferred to the organisation continued membership of the LGPS.

Asset Allocation

The apportionment of the Fund's assets between different types of investment (or asset classes). The long-term strategic asset allocation of the Fund will reflect the Fund's investment objectives and is set out in the Investment Strategy Statement.

Authorised Contractual Scheme (ACS)

A collective investment scheme used by BCPP. An ACS is a form of investment fund that enables a number of investors to 'pool' their assets and invest in a professionally managed portfolio of investments, typically gilts, bonds, and quoted equities. Regulated by the Financial Conduct Authority, it is "tax transparent"; making it particularly useful for pooling pension assets.

B

Benchmark

A measure against which the investment policy or performance of an investment manager can be compared.

Border to Coast Pension Partnership (BCPP)

The Fund's chosen asset pool. BCPP has 11 Partner Funds who collectively have around £45bn of assets. The Partner Funds have appointed a Board of Directors, chaired by Chris Hitchen, which is responsible for ensuring that Border to Coast is run effectively and in line with the guiding principles set by the shareholders. The Chief Executive Officer, Rachel Elwell, is responsible for the day to day running of Border to Coast along with her team.

Border to Coast Joint Committee

As part of their oversight, BCPP Partner Funds formed a Joint Committee which consists of the Chairs of each of the Partner Fund Pension Committees together with other non-voting representatives.

C

CARE (Career Average Revalued Earnings)

From 1 April, 2014, the LGPS changed from a final salary scheme to a Career Average (CARE) scheme. The LGPS remains a defined benefit scheme but benefits built up from 2014 are now worked out using a member's pay each scheme year rather than the final salary at leaving.

Cash Equivalent Value (CEV)

This is the cash value of a member's pensions rights for the purposes of divorce or dissolution of a civil partnership.

Consumer Price Index (CPI)

A method of measuring the changes in the cost of living, similar to the Retail Price Index. Since April 2011 LGPS pensions are increased annually in line with movement in the Consumer Price Index during the 12 months to the previous September.

Commutation

A scheme member may give up part or all of the pension payable from retirement in exchange for an immediate lump sum.

Convertible Shares

Shares that include an option for holders to convert into a predetermined number of ordinary shares, usually after a set date.

Custodian

A financial institution that holds customers' securities for safekeeping to minimise the risk of theft or loss. Most custodians also offer account administration, transaction settlements, collection of dividends and interest payments, tax support and foreign exchange. Custody is currently provided to the Fund by Northern Trust.

D

Death Grant

A lump sum paid by the Fund to the dependents or nominated representatives of a member who dies.

Deferred Member/Pensioner

A scheme member who has left employment or otherwise ceased to be an active member of the scheme who retains an entitlement to a pension from the Fund.

Defined Benefit Scheme

A pension scheme like the LGPS where the benefits that will ultimately be paid to the employee are fixed in advance and not impacted by investment returns. It is the responsibility of the sponsoring organisation to ensure that sufficient assets are set aside to meet the future pension promise.

Denomination

The face value of a bank note, coin or postage stamp, as well as bonds and other fixed-income investments. Denomination can also be the base currency in a transaction or the currency a financial asset is quoted in.

Designating Body

Organisations that can designate employees for access to the LGPS. Employees of town and parish councils, voluntary schools, foundation schools, foundation special schools, among others, can be designated for membership of the scheme.

Discretion

The power given by the LGPS to enable a participating employer or Administering Authority to choose how they will apply the scheme in respect of several its provisions. For some of these discretions it is mandatory to pass resolutions to form a policy as to how the provision will apply. For the remaining discretionary provisions, a policy is advised.

Direct Property

Direct investment in property is buying all or part of a physical property. Property owners can receive rent directly from tenants and realise gains or losses from the sale of the property.

Diversified Growth Funds (DGF)

An alternative way of investing in shares, bonds, property and other asset classes; DGFs are funds that invest in a wide variety of asset classes in

order to deliver a real return over the medium to long-term. The Fund's DGF is managed by BlackRock.

E

Employer Contribution Rates

The percentage of an employee's salary participating employers pay as a contribution towards that employee's LGPS pension.

Employer Covenant

The covenant is an employer's legal obligation and financial ability to support their defined benefit (DB) obligation now and in the future.

Equities

Ordinary shares in UK and overseas companies traded on a stock exchange. Shareholders have an interest in the profits of the company and are entitled to vote at shareholders' meetings.

ESG

ESG is the consideration of environmental, social and governance factors alongside financial ones in the investment decision-making process. E, S, and G are the three key factors in assessing an investment's sustainability

F

Fiduciary Duty

Fiduciary duties exist to ensure that those who manage other people's money act in beneficiaries' interests rather than their own.

Financial Instruments

Tradable assets of any kind, which can be cash, evidence of an ownership interest in an entity or a contractual right to receive or deliver cash or another financial instrument.

Fixed Interest Securities

Investments, mainly in Government stocks, which guarantee a fixed rate of interest. The securities represent loans which are repayable at a future date that can be traded on a recognised stock exchange in the meantime.

Fund of Funds (FoF)

A fund that holds a portfolio of other investment funds.

G

Guaranteed Minimum Pension (GMP)

The LGPS guarantees to pay a pension that is at least as high as a member would have earned had they not been contracted out of the State Earning Related Pension Scheme (SERPS) at any time between 6 April 1978 and 5 April 1997. This is called the guaranteed minimum pension (GMP).

I

Index

A calculation of the average price of shares, bonds or other assets in a specified market to provide an indication of the average performance and general trends in the market.

Internal Rates of Return (IRR)

The internal rate of return (IRR) is a metric used to estimate the profitability of potential investments. Generally, the higher an IRR, the more desirable an investment is to undertake.

L

Local Government Pension Scheme (LGPS)

The LGPS is collectively the largest public sector pension scheme in the UK, which provides DB benefits to employees of local government employers and other organisations that have chosen to participate.

Local Pension Board (LBP)

Since April 2015, each Administering Authority is required to establish and operate a Local Pension Board. The Pension Board is responsible for assisting the Administering Authority in securing compliance with the LGPS regulations, overriding legislation and guidance from the Pensions Regulator. The Board is made up of equal representation from employer and scheme member representatives.

M

Myners Principles

A set of principles based on Paul Myners' 2001 report, Institutional Investment in the United Kingdom. The Myners' principles for defined benefit schemes cover:

Effective decision-making

Clear objectives

Risk liabilities

Performance assessment

Responsible ownership

Transparency and reporting.

O

Ordinary Shares

An ordinary share represents equity ownership in a company and entitles the owner to vote at the general meetings of that company and receive dividends on those shares if a dividend is payable.

P

Partner Funds

The Fund's chosen asset pool, BCPP, has 11 Partner Funds - Bedfordshire, Cumbria, Durham, East Riding, Lincolnshire, North Yorkshire, South Yorkshire, Surrey, Teesside, Tyne & Wear, Warwickshire.

Pension Liberation Fraud

Members with deferred benefits may be approached by companies offering to release funds early from these benefits. The Pensions Regulator has advised pension funds to make members aware of the potential warning signs of pension liberation fraud.

Pensions Online

The Fund's online portal where scheme members may view their pensions records, complete retirement calculations, and update personal details.

Pensions Regulator

The Pensions Regulator (TPR) is the UK regulator of workplace pension schemes. TPR make sure that employers put their staff into a pension

scheme and pay money into it. TPR also make sure that workplace pension schemes are run properly so that people can save safely for their later years.

Pooled Funds

Funds which manage the investments of more than one investor on a collective basis. Each investor is allocated units which are revalued at regular intervals. Income from these investments is normally returned to the pooled fund and increases the value of the units.

Pooling in the LGPS

Central government requires local authorities to pool their pension assets, to achieve four principles:

1. Cost savings through economies of scale
2. Improved governance
3. Improved approach to responsible investment
4. Improved ability to invest in infrastructure

Proxy Voting

Proxy voting allows shareholders to exercise their right to vote without needing to attend AGMs. This can involve shareholders with voting rights delegating their votes to others who vote on their behalf.

Q

Quantitative Easing

Quantitative easing (QE) is when a central bank creates new money electronically to buy financial assets like Government bonds with the aim of directly increasing private sector spending in the economy and returning inflation to target.

R

Related Party Transactions

This is an arrangement between two parties joined by a special relationship before a deal, like a business transaction between a major shareholder and a corporation.

Responsible Investment (RI)

Responsible investment involves incorporating environmental, social and governance (ESG) considerations into investment decision-making while practising active ownership. RI can help deliver sustainable, long-term returns for investors.

Retail Price Index

A method of measuring the changes in the cost of living. It reflects the movement of prices covering goods and services over time. Until April 2011, the amount by which LGPS pensions were increased annually was based on movement in the Retail Price Index during the 12 months to the previous September. From April 2011, the Government changed the amount by which pensions increase from Retail Price Index to Consumer Price Index (CPI).

Return

The total gain from holding an investment over a given period, including income and increase or decrease in market value.

Rule of 85

Under previous LGPS regulations, when a member elected to retire before age 65, the Rule of 85 test was used to find out whether the member retired on full or reduced pension benefits. If the sum of the member's age and the number of whole years of their scheme membership was 85 or more, benefits were paid in full. If the total was less than 85, the benefits were reduced. The Rule of 85 was abolished on 1 October, 2006 - however, members contributing to the LGPS prior to this date will have some or all of their pension benefits protected under this rule.

S

Scheduled Body

An organisation that has the right to become a member of the LGPS under the scheme regulations. Such an organisation does not need to be admitted as its right to membership is automatic.

Spot Rate

The price quoted for immediate settlement on a commodity, security or currency. It is based on the value of an asset at the moment of the quote, which in turn is based on how much buyers are willing to pay and how much sellers are willing to accept depending on factors such as current market value and expected future market value.

State Pension Age (SPA)

The earliest age at which State Pension can be paid, which different to the earliest age LGPS may be claimed. Under the current law, the State Pension age is due to increase to 68.

Stock Lending

This is loaning a stock, derivative or other security to an investor or firm. It requires the borrower to put up collateral (cash, security or a letter of credit). When stock is loaned, the title and the ownership is transferred to the borrower and title is returned at the end of the loan period.

T

TCFD

The Taskforce on Climate Related Financial Disclosures was set up to develop voluntary, consistent, climate related financial risk disclosures to guide companies in providing information to investors, lenders, insurers and other stakeholders. It is expected that MHCLG will consult on mandatory TCFD disclosures in the LGPS by the end of 2021.

The Pension Advisory Service (TPAS)

The Pensions Advisory Service (TPAS) gives information and guidance to members of the public on state, company and personal pensions. It helps any member of the public who has a problem with their occupational or private pension arrangement. TPAS is an executive non-departmental public body, sponsored by the Department for Work and Pensions.

Transfer Value

A transfer value is a cash sum representing the value of a member's pension rights.

Transferred Service

Any pension that members have transferred into the LGPS from a previous pension arrangement that now counts towards their LGPS membership.

U

UK Stewardship Code

A code first published by the FRC in 2010 to enhance the quality of engagement between asset managers and companies in the UK. Its principal aim is to make asset managers more active and engaged in corporate governance matters in the interests of their beneficiaries. The Code was revised in 2020.

Unrealised gains/losses

The increase or decrease in the market value of investments held by the fund since the date of their purchase.

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DURHAM COUNTY COUNCIL

At a Meeting of **Local Pension Board** held in **Committee Room 2, County Hall, Durham** on **Friday 22 March 2024** at **4.00 pm**

Present:

W Pattison (Chair)

Members of the Committee:

Councillor A Hopgood

1 Apologies for Absence

Apologies for absence were received from Councillor D Stoker and L Oliver.

2 Declarations of Interest

There were no Declarations of Interest.

3 The Minutes of the meeting held on 7 December 2023

The minutes of the meeting held 7 December 2023 were agreed as a correct record and signed by the Chair.

4 Observations and Feedback from Pension Fund Committee

The Head of Pensions (LGPS), Paul Cooper noted no Members of the Board had attended Pension Fund Committee held 14 March 2024.

The Head of Pensions (LGPS) noted that the Committee had received a number of reports, including Internal Audit progress report and forward plan. He explained that a number of audits had been carried out, including on Transfer Values in and out of the Pension Fund, with all audits having given 'substantial assurance' rating. The Pensions Team Leader, Ashleigh Phillips noted that the transfers process could be complex, and evidence needed to be provided on the checks being undertaken.

Councillor A Hopgood asked if there were a large number of requests in terms of such transfers.

The Head of Pensions (LGPS) noted that volumes are included in the KPI reporting but the complexity is a greater issue than volume. The Pensions Team Leader explained that there were a number of options in terms of draw down, as well as a lot of 'interfund-fund' transfers. The Head of Pensions (LGPS) noted that as transferring into the LGPS carried less risk the main focus of protecting scheme members was in terms of transferring out to another scheme, with the Team ensuring all checks had been undertaken and that the member was given all the necessary advice.

The Head of Pensions (LGPS) noted that the Audit Plan for 2024/25 had been agreed by the Committee and that cybersecurity had been added to the list of audits to be carried out. The Chair noted her experience in respect of cybersecurity issues, working with the North-East Business Resilience Centre (NEBRC), who worked with Local Authorities, schools and SMEs. She noted work undertaken with Durham Constabulary which was of a relatively low cost in terms of the benefits that could be gained. The Head of Pensions (LGPS) noted that a further discussion would be very useful. Councillor A Hopgood, noted that the work the Chair referred to had been nominated for a national award. The Chair added that the work had been used as a case study and presented to over 100 Headteachers, with the finals of the Cyber Outstanding Security Performance Awards (OSPA) being held in April 2024. The Head of Pensions (LGPS) noted work with the Council's ICT Section as well as the Civil Contingencies Team.

It was explained that the Pension Fund Committee had received the regular regulatory and policy updates and noted as regards training for Members going forward, as previously discussed at the Board. He noted the Committee received the regular updates within Part B of the meeting, including in upcoming investment decisions and updates on markets.

RESOLVED:

That the verbal update be noted.

5 Training Policy and Governance Compliance Statement

The Board considered a report from the Corporate Director of Resources regarding the Pension Fund Training Policy and Governance Compliance (for copy see file of Minutes).

The Head of Pensions (LGPS) noted the report sought agreement for a Local Pension Board Training Plan, as part of a wider training approach to be adopted by the Fund, and to seek any comments on the Fund's Governance Compliance Statement.

He explained that appropriate training was increasingly important for members of LGPS governance bodies, with heightened expectations from both the Pensions Regulator, with a new code coming into effect, and DLUHC.

The Fund's Training Policy there was intended to codify the approach to training into a single, published, document to be reviewed annually. He noted that although training was mandatory for Local Pension Board members, but technically not so for Pension Fund Committee members, it was recognised that both sets of members adopting an aligned approach, would represent best practice.

Councillor A Hopgood asked if there could be substitute members at the Pension Fund Committee, the Head of Pensions (LGPS) noted they could, if they had received the requisite training in the current term. He added that there were always additional training sessions for Pension Fund Committee Members in advance of any investment decision. He added the proposed training programme would include regulatory toolkits and there would be an expectation that Members completed the training programme within the timeframes outlined.

The Head of Pensions noted good attendance by Pension Fund Committee members at the Annual BCPP Conference, highlighting the quality of the speakers at those events with Mark Carney, former Governor of the Bank of England being keynote speaker at their conference last year. It was noted that the BCPP conference this year had been brought forward to 18-19 July 2024. Councillor A Hopgood suggested if Board members were available, it would be beneficial to attend the BCCP conference.

The Head of Pensions (LGPS) noted that Board members could be invited to attend the asset class training, to provide assurance that Committee members were undertaking the necessary training. He noted there would be further updates at the annual meeting of the Committee, and reminded Board members they were welcome to attend. He added that there would be regulatory training, and sessions may be scheduled on specific topics, such as in the past on GMP. He added that some would be training would be facilitated online, with some support via drop-in sessions.

The Head of Pensions (LGPS) noted that within the Annual Report for 2024/25, it was proposed that training would be broken down by Member, to show which elements had been completed.

In respect of the composition of the Board, it was proposed to increase the membership to eight, with four being Scheme Member Representatives, to include union representation, as well as the current members, L Oliver and W Pattinson.

He added that there had been no take up from employers outside the County Council and it was therefore proposed for additional Employer Representatives would be sought from DCC Councillors, before contacting wider employers again, if required. He added that, should the Board support the proposals, then a report would be put to Full Council to agree the changes to the membership.

The Chair and Councillor A Hopgood supported the proposed changes.

RESOLVED:

- (a) That the report and comments from Board members on the Training Policy be noted,
- (b) That the Training Requirements set out in Table (1) of the Outline Training Policy, noting the further information provided in Table (2), be agreed;
- (c) That the Corporate Director of Resources be authorised to publish details of training activity and attendance at Board meetings,
- (d) That the Board's comments on the Governance Compliance Statement, to assist the Corporate Director of Resources to finalise the wording of the Statement having taken into account where appropriate both professional advice as well as comments received from employers, be noted and that a final version be published by 31 March 2020 be agreed;
- (e) That the intention of the Corporate Director of Resources to finalise the wording of, and publish and maintain a Pension Fund Training Policy for members of both the Committee and Local Pension Board, following appropriate consultation and feedback from the Committee, be noted;
- (f) That the intention for a review of the composition of the Board be supported.

6 Regulatory Update

The Board considered a report from the Corporate Director of Resources which provided details on developments in matters that were both Local Government Pension Scheme (LGPS) specific, as well as providing an update on non-LGPS specific matters of interest (for copy see file of Minutes).

The Head of Pensions (LGPS) noted that the Minister had expressed a degree of frustration with progress in terms of pooling, with the deadline of 31 March 2025 being given for the completion of pooling. He noted the Board were already aware that this was not an issue for Durham, having worked with BCPP in terms of pooling well in advance of this date.

Councillor A Hopgood asked if a change in Government could lead to a change in direction. The Head of Pensions (LGPS) noted that the Opposition had indicated they would go 'further and faster' and that the expectation currently was that the 2025 deadline would be 'comply or explain' deadline, with an expectation that Funds would comply, with there being powers of intervention. He added the Minister had put the question, whether 87 Pension Funds across the LGPS was the correct number and the Minister had outlined a desire for greater LGPS allocations that support the Levelling Up missions; with targets of 10 percent in private equity.

The Head of Pensions (LGPS) added the Chancellor had mentioned such 'levelling up' support could be investment in Children's Homes. He noted that Durham had a five percent investment in terms of 'local investment' and were in a sense ahead of the curve in this regard. He noted there were further options in terms of BCPP's UK Opportunities Fund, with a significant investment from Durham.

Councillor A Hopgood noted that whilst local investment was to be commended, however, the primary role of the Fund was to ensure that pensioners were able to receive their pensions. The Head of Pensions (LGPS) agreed, outlining the Fund's responsibility to try and keep pension contributions as stable as possible. He noted that through BCPP's UK Opportunities Fund it was hoped that the Fund could achieve some secondary, positive, benefits in the UK; whilst prioritising investment returns.

In relation to the McCloud judgement, the Head of Pensions (LGPS) noted he had attended a meeting hosted at the West Yorkshire Pension Fund and took reassurance that Funds' progress was broadly linked to the availability of software solutions; with only two software providers in this particular area, and therefore the position would likely be for a similar for Funds in the sector until September/October 2024. He added that in the meantime, work was continuing on the data to implement the changes, with three experienced existing staff being allocated to this task. He noted their positions would be backfilled, with a large number of candidates having come forward for those posts. The Pensions Team Leader noted that the recruitment exercise had been extremely encouraging, with around 50 applicants, many with finance and pensions experience, adding it was often difficult to get candidates with either. Councillor A Hopgood noted that Council jobs being advertised more widely, through sites such as Indeed, as well as the usual North East Job Spot, was helping to reach more potential applicants. The Head of Pensions (LGPS) noted that there was no additional funding for the work generated by McCloud with the costs met by the Pension Fund.

In respect of the Pensions Dashboard, the Head of Pensions (LGPS) noted the links to the Government site, with work being undertaken in terms of a data improvement exercise in advance.

Councillor A Hopgood asked if Council Tax data could be used, or whether there could be GDPR implications. The Head of Pensions (LGPS) noted that it was possible to use the published electoral roll, however, he would consider further regards what information could be queried, adding that it was those outlier cases that usually took up the most time and effort to confirm.

The Head of Pensions (LGPS) noted the update in respect of Sharia Law, namely that the expert advice sought had been that the LGPS was compatible with Sharia Law and therefore it was hoped this would encourage more take up of the LGPS for Muslim colleagues in local government. Councillor A Hopgood asked if those Muslims that had not taken up the offer to join the LGPS had been given another option - the Head of Pensions (LGPS) noted they had not.

The Head of Pensions (LGPS) noted that guidance for Annual Reporting was expected soon in terms of KPI data, with a move to standardise indicators across the LGPS. It had been suggested that there would be a significant number of indicators. He noted that the requirement for the 2024/25 Annual Report was on a best endeavours basis only, being the first year of the requirement.

In relation to the Pensions Code of Practice (COP 14), the Head of Pensions (LGPS) explained that the Regulator had condensed all codes in the sector down to one document, which would include applicability for LGPS Pension Funds. He added that Officers were actively reviewing the new code, to see which elements did or did not apply to LGPS Funds, which would not apply and those which would be considered 'best practice'. He added that he would report back to the Board with a plan in respect of the new Code in due course, noting that the Pensions Team Leader was working on a gap analysis and looking at tools and monitoring.

RESOLVED:

That the report be noted.

7 Spring Budget 2024 - Verbal Update

The Head of Pensions (LGPS) noted no further updates, other than the Chancellor's statement on Children's Homes being potential 'local investment' opportunities. Councillor A Hopgood noted Government was considering legislation in terms of private providers and Children's Homes.

RESOLVED:

That the verbal update be noted.

8 Pension Administration Report

The Board considered a report from the Corporate Director of Resources regarding the Fund's pension administration and service provision to members, as well as providing an update on Key Performance information (for copy see file of Minutes).

The Head of Pensions (LGPS) reiterated the push to expand the KPI set, though noted there would be a continued focus on existing key areas. Councillor A Hopgood asked as regards how to prioritise, with some perhaps being looked at quarterly, some annually as an example. The Head of Pensions (LGPS) noted that approach could make sense, with colleagues developing performance reporting on death processes, and making appropriate process changes being top of the list. He added that quick wins would be taken in line with the 'best endeavours' intention, then the rest of the KPIs would be built out though 2024/25. Councillor A Hopgood noted that it may be that less important KPIs could be reported upon at points when the Team were not as busy with other work.

The Chair noted with more standardisation, the new KPIs would help in terms of benchmarking performance.

The Pensions Team Leader noted the position in relation to AVCs, explaining that at a Local Government AVC Forum last week it had been noted there was now very good performance monitoring. In respect of performance relating to Durham, she noted a reduction in the call abandonment rate, at around 10 percent, which continued on a downward trend. She added that the AVC provider, Prudential, had provided all data well in advance for the preparation of Benefit Statements. She explained that for Durham the number choosing to take up AVCs had expanded adding that Prudential were looking at a system/portal, similar to that in place with Standard Life, which would help link and match up AVCs. She noted Durham was approached as a pilot for this by Prudential, and there would be engagement with Prudential AVC employers to provide training and support.

The Head of Pensions (LGPS) thanked the Pensions Team Leader for her work in this area.

RESOLVED:

That the report be noted.

9 Communications Review

The Board considered a report from the Corporate Director of Resources regarding details of how different stakeholder groups receive communication from the Pension Fund and plans to develop the communication strategy (for copy see file of Minutes).

The Head of Pensions (LGPS) noted that the finalised Communications Strategy would be included in the Committee agenda in June, adding it would be useful to have Board representation at the next meeting of the Pension Fund Committee. Councillor A Hopgood noted she may be able to attend, and it would be helpful if the item was early on the agenda.

RESOLVED:

That the report be noted.

10 Local Pension Board Annual Report

The Board considered a report from the Corporate Director of Resources regarding the Local Pension Board Annual Report (for copy see file of Minutes).

The Head of Pensions (LGPS) noted the report would be drafted based upon the work of the Board over the last year, as set out within the report. He added that, subject to comments from the Board Chair, a finalised report would be presented to the Pension Fund Committee in June 2024.

RESOLVED:

That the report be noted.

11 Date of Next Meeting - 24 June 2024

The next meeting would be held on 24 June 2024 at 2.00pm.

Local Pension Board

24 June 2024

Pension Administration Report



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 This report briefs the Board on the Fund's pension administration and service provision to members, as well as providing an update on key performance information.

Executive summary

- 2 The Fund is focused on providing a quality service to its members, throughout their membership, ultimately ensuring timely payment of accurate pensions. The Fund continues to seek to develop its approach to communication, seeking to effectively utilise the Fund's Telephone and Online Services. To date, 22,438 scheme members have registered for the Fund's online portal.
- 3 In the final quarter of 2023/24, 188 retirement cases were processed with 96.28% of those retirees receiving a statement within 10 days of the team receiving the necessary information to do so. This report seeks to provide the Board an overview of key pension administration performance information.

Recommendation(s)

- 4 The Board is asked to note the report.

Background

- 5 This report provides an update to the Board on pensions administration performance, its key communications with members, and any issues impacting the service provided to scheme members.

Key Performance Indicators (KPIs)

- 6 Included in Appendix 1 are a number of Performance Indicators, with the aim of making the Board aware of administration performance in key areas. Reporting is included for the final quarter of 2023/24, as well as the respective numbers for 2023/24. The data covers services to members in respect of retirement, deferment (leaving scheme before pension payable), Helpline support, and Online services.
- 7 Additionally, as the Fund develops enhancements to its KPI reporting to the Local Pension Board, data is now included for both Transfers and Estimates. These KPIs reflect how quickly a scheme member receives details of their cash-equivalent transfer value and projection of estimated retirement benefits respectively. Revised guidance on the production of LGPS KPI data has recently been issued and is covered in more detail in the Regulatory update elsewhere on the Board's agenda.
- 8 In the final quarter of 2023/24, the administration team processed 188 retirement cases. Measured in line with the Disclosure requirement of providing scheme members a statement containing retirement information within one month of retirement, the Fund met this target in 77.13% of the 188 cases. The majority of failures were as a result of late information from Fund employers. In respect of performance within the administration team's control, the Fund provided a statement containing retirement benefit information within 10 days of receiving all required information in 98.28% of cases in the quarter.
- 9 In respect of deferment cases, in line with Disclosure requirements the Fund provided 306 early leavers information as to their rights and options available. Of the 306 deferment cases, 99.02% of these cases were within one month of the Fund being notified of an early leaver.
- 10 The Fund received 33 requests for transfer-out information during quarter four and of these requests, 100% of scheme members were provided information as to the transfer rights and options available to them within one month. In the quarter, 48 cash-equivalent transfer values were supplied to scheme members, of which 81.25% were within three months of the initial request.

- 11 In respect of Estimates, the Fund received 4,932 requests for a statement of estimate pension entitlement in the quarter. It should be noted that the vast majority of these requests are transacted through the Fund's online Portal. Of 4,932 requests in the quarter, 100% were provided within two months of the initial request.
- 12 During the second quarter, the pension administration team received 3,611 telephone calls to the Fund's Helpline. Of these calls, the team answered 98.90% of scheme members' calls first time. In respect of Online services for members, 22,438 members have registered for the Fund's Pensions Online portal to date, where 51,153 online calculations have been completed, 20,672 changes have been transacted and 4,038 secure messages have been sent.
- 13 There are no material breaches of law to report to the Local Pension Board, but a full summary of breach monitoring and minor breaches for the year ended 31 March 2024 is included on the Board's agenda.
- 14 A summary of Pension Administration Performance is included in Appendix 1.

Scheme Employer Communications

- 15 The Fund held its Annual Meeting on 9 November 2023. The Annual Meeting provides an opportunity for the Fund to pass on relevant information and to enable participating employers to ask or raise any issues about the Fund. The Annual Meeting is designed to enhance the stewardship and reporting of the Fund's activities.
- 16 Recognising the key role played by the Fund's participating employers in delivering services to members, the Fund has previously commissioned training tailored for those employers. Three sessions were held in January 2023, covering:
 - (a) Understanding how the LGPS works
 - (b) Importance of Data – impact on members and employers
 - (c) Pensions terminology and historic issues
- 17 It is pleasing to note that 67 different representatives from the Fund's participating employers attended one or more of the sessions.
- 18 Ahead of the implementation of the 2022 Valuation, effective from 1 April 2023, all participating employers were provided with their indicative contribution rate for the following 3 years. The rates were ultimately certified by the Fund Actuary ahead of the deadline of 31 March 2023, and the Valuation Report was published on the Fund's

area of the council's website www.durham.gov.uk/lgps. As required, the Report was shared with the Scheme Advisory Board and DLUHC.

- 19 All employers were notified of the publication of the Valuation Report. At the same time, the Fund took the opportunity to provide an annual update to its participating employers, covering:
 - (a) Changes to pensions tax, as reported in previous Regulatory Updates to the Local Pension Board
 - (b) Revision to Employee Contribution Bands
 - (c) Updated Payroll and HR Guides to the LGPS
 - (d) Auto Enrolment Bands for 2023/24
 - (e) Approach to Annual Benefit Statement Communications
- 20 On 10 August 2023 the Scheme Advisory Board published a detailed report that pulls together data from all of the 2022 local fund valuation reports. This 2022 Scheme Valuation Report aims to provide a rich source of information about a range of vital issues for scheme members, employers and other stakeholders. A copy of both the scheme-wide report, and the Fund's 2022 Valuation Report was previously shared with the Board.
- 21 Officers are in the process of upgrading the Fund's online Employer Hub. It is anticipated that this will improve the service provided to participating employers and offer the same level of enhancement as the Fund's scheme member portal. By offering more efficient interactions between Fund and Employers, service levels to scheme members should also be enhanced.
- 22 Working in collaboration with the Fund's software supplier on its development, development of the Hub represents significant step forward as the Fund seeks to further digitise its processes and interactions with its employers. The new web-based portal will facilitate more streamlined and efficient workflows and reduce manual tasks with the aim of improving productivity. The Hub seeks to enhance the experience of employer participation in the Fund and provide easier access to important information and services.
- 23 Fund Officers have carried out extensive testing on the new Hub, undertaking testing on hundreds of individual test cases executed over several weeks. The Team evaluated all features and functionality of the module, from user interface elements to back-end processes, ensuring they met or exceeded the established practices. This rigorous testing phase served to identify and rectify potential

issues, ensuring a seamless and efficient user experience upon launch.

- 24 It is intended to roll out the new Hub to selected scheme employers in 2024 with a window to provide feedback. Following on from this live testing, all feedback will be reviewed and the Fund's Systems Team will implement any improvements identified by the test group. The final product will then be rolled out to all employers and training/assistance provided by the Systems Team.

Scheme Member Annual Communications

- 25 All Annual Benefit Statements for both Active and Deferred members of the Scheme were made available ahead of the statutory deadline of 31 August 2023. Unless a member has opted out of the service, the Statements were made available through the Fund's Pensions Online portal. A paper copy was provided to the small number of members who have opted out. A copy of the was previously shared with the Board.
- 26 In April 2024 the Fund wrote to all of its c21,000 pensioners to notify those members of the annual increase. The letters were made available through the Fund's Pensions Online portal, and like Annual Benefit Statements, paper copies were posted to those who have opted out of the online service. In addition to the rate of increase, important information for LGPS pensioners and topical relevant information was included.

AVCs

- 27 Members of the LGPS are able to increase their benefits through an Additional Voluntary Contribution (AVC) facility. As such, each Administering Authority is required to have arrangements with an AVC provider (often an insurance company or building society). Durham County Council Pension Fund offers its members two providers: Prudential and Standard Life.
- 28 The Fund regularly monitors performance of all AVC providers to ensure that member's AVC benefits are processed within agreed SLAs. Where concerns are raised either by a Scheme Member or a Scheme Employer, the Fund is able to escalate issues directly with an Account Manager at each provider. Overall the AVC providers are all currently working within their expected service SLAs and phone call abandonment rates are within industry standards.
- 29 During 2023 Prudential reintroduced their 'LG AVC Forum', on which the Fund is represented. The forum is led by Prudential's Head of Corporate Pensions. As part of their drive to improve their service, t

these sessions are held every 6 months. Prudential are also working closing with LGA and the LGPS Technical Group, and are keen to improve engagement with both LGPS Funds and LGPS employers and hope that by investing time in these areas it will improve customer experience and expectation.

- 30 LGPS Employers in the Fund now have the option to implement a Salary Sacrifice AVC (SSAVC) scheme via a service provided by AVC Wise. This scheme has been popular nationally amongst LGPS Employers; and the Pension Fund currently has five employers offering the scheme to their staff, including its largest employer Durham County Council. The SSAVC scheme has advantages to both Scheme Members and Employers, due to the NIC savings associated with paying an AVC via salary sacrifice. This provides members with a cheaper, more affordable way to save extra towards retirement, whilst reducing staff costs for Employers.
- 31 Officers have monitored the implementation of the AVC Wise scheme amongst the five Fund Employers, each of which has gone smoothly and has correlated with an increase in AVC take up amongst employees at those employers.
- 32 Officers will continue to monitor service levels and will feedback to the Board.

McCloud

- 33 After reforming public service pension schemes in 2014 and 2015, the Government introduced transitional protections for older members. However, in December 2018, the Court of Appeal ruled that younger members of the judicial and firefighters' pension schemes had been unlawfully discriminated against because the protections did not apply to them. This ruling is called the 'McCloud judgment'. As a result of the ruling, changes have been made to the LGPS to remove the age discrimination. These changes are known as the 'McCloud remedy', on which the Board has been briefed previously and whose main provisions are set out elsewhere on the agenda.
- 34 The Fund has been collecting and inputting missing service data for the period from 1 April 2014 from all scheme employers, with data received from the largest employers and the majority of smaller employers.
- 35 The Fund's software provider is developing a rectification solution which will enable both calculations going forward and the re-visiting of

historic calculations to apply the 'McCloud Remedy', with testing across scheme administrators currently ongoing.

Dashboard

- 36 The Board have previously been briefed on the upcoming Pensions Dashboard initiative. The Fund is committed to contributing to the success of the project, recognising its role in facilitating better retirement planning for individuals. A key aspect of the Fund's preparation is data cleansing and ongoing management of data quality.
- 37 As part of its commitment, the Fund is finalising a data improvement plan. Recognising that the efficiency of the Pension Dashboard Project relies on the quality of data across the industry, the Fund will seek to eliminate any inconsistencies or errors within the existing dataset.

Author(s)

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Pension Administration Performance 2023/24

Durham County Council Pension Fund Administration 2023/24



Pensions Online Portal

52,931 log ins



Pensions Helpline

13,846 Calls



Retirements 2023/24

850



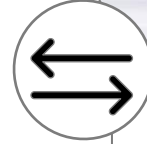
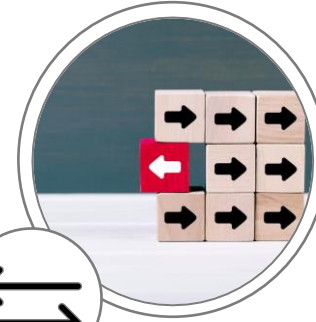
Pensions Team*

28.00 FTE



Online Calculations

51,153



Transfers calculated

123

How is the service performing against delivery of its priorities?

How is the fund delivering against its priorities in 2023/24?

- The key pensions administration priority for 2023/24 was completion of the Fund's **GMP Rectification** exercise. Individual GMP values can often misalign with the values held by HMRC with discrepancies occurring both in terms of membership periods for which GMP accrued, and the GMP value itself. Following the conclusion of the reconciliation exercise, the Fund has commenced implementation of its approach to GMP Rectification. This work was brought to a conclusion in October 2023, with the Fund communicating with affected pensioners ahead of October pensions payroll. Individual overpayments were exacerbated by the April 2023 pensions increase of 10.10%, however, around 550 pensions in payment were adjusted and despite this higher than usual rate of inflationary increase, 83% of pensions changed by no more than £10 per month. The total amount of arrears paid to underpaid pensioners was c£41k whilst the total amount of overpayments written-off by the Fund was c£171k. Both the value of arrears and value of write offs compare favourably with initial modelling. The Pensions Team have received a very low volume of telephone queries from impacted pensioners, and a single IDR appeal.
- The Fund has continued to strengthen its **governance** arrangements and, following consultation with both the Pension Fund Committee and Local Pension Board, formalised a Training Policy for members of the Fund's governance bodies. The Policy builds on the extensive training already undertaken by members of these bodies, bringing together activity into a unified approach. The Fund's approach to training will be reviewed during 2024/25 to inform an annual review of the Policy.
- In terms of LGPS **asset pooling**, the Fund continued its progress against its transition plan. During 2023/24 the Fund transitioned its emerging markets mandate into Border to Coast's innovative Emerging Markets Alpha Fund which will feature China specialists complementing EM ex-China managers. Additionally, the Fund committed £45m to 'UK Opportunities' which whilst primarily seeking returns, may well be impactful through the creation of jobs, housing and infrastructure amongst other benefits additional to return. This is a UK-wide strategy, with no guarantee of deployment into Border to Coast Partner Fund regions. The thematic UK Opportunities Fund will invest in the UK across (a) Real Estate – housing and commercial property (20-60%), (b) Infrastructure (20-60%), (c) Corporate Finance (10-30%), (d) Social Bonds (0-10%).

How is the service performing against delivery of its priorities?

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What are the key areas of performance in 2023/24?

- The Fund is required to issue **Annual Benefit Statements** to all active members by 31st August, and Pensions Savings Statements by 6th October. As in previous years, the Fund completed the necessary calculations and preparatory work to issue the required communications ahead of the statutory deadlines.
- Following the **pooling** of the Fund's Emerging Markets mandate, all listed elements of the Fund's strategic asset allocation are now pooled. The only assets intentionally held outside of the pool, aside from cash, will be small impact investments such as the Fund's allocation to North-East SMEs. Transition of the Fund's Real Estate assets will be a key focus during 2024/25. The most recent savings generated from pooling total £9.02m – this cumulative total is expected to continue to increase as the Fund's leverages the pool's economies of scale.
- The Fund strengthened its **AVC arrangements** by supporting the introduction of Share Cost Salary Sacrifice AVCs by a number of Fund employers, including Durham County Council. The arrangements benefit both scheme members and employers through National Insurance savings.
- Take up of the Fund's **Online Portal** has continued to prove popular with our members who logged in to their online pension accounts 52,931 times during 2023/24. The Portal was accessed by 9,142 unique users during 2023/24. These users have completed 51,153 self-service calculations since the Portal's inception – significantly enhancing the provision of information to the Fund's members.
- Performance against local **KPIs** has remained strong during 2023/24:
 - 850 retirements were processed, with 98% of those retirees receiving a statement of retirement information within 10 days of the Fund receiving the necessary information to do so
 - 1,376 deferments were processed, with the Fund issuing a statement to 96% of those leavers within a month of being notified
 - 123 transfers out were processed, with a CETV issued within 3 months for 93% of requests
 - 13,846 Helpline calls were taken with 99% of those calls answered first time

2023/24 Service Key Performance Indicators

A – Casework Processing

Key Performance Indicators		Total Cases	Performance Target	Performance 1/1/24 - 31/3/24	Performance 2023/24	Performance 2022/23	Performance 2021/22
A1	Retirements Disclosure - Within two months of retirement provide a statement containing retirement benefit information.	850	100%	77.13%	81.94%	82.61%	86.65%
A2	Retirements in Fund's Control - Within 10 days of receiving all required information provide a statement containing retirement benefit information.	850	100%	96.28%	98.23%	98.47%	98.99%
A3	Deferment Disclosure - Within one month of being notified of a leaver, provide that member information as to the rights and options available.	1,376	100%	99.02%	96.07%	95.91%	86.70%
A4	Transfers out Disclosure - Within one month of a request, provide that member information as to the transfer rights and options available.	108	100%	100%	100%	99.22%	-
A5	Transfers out Quotation - Within three months of a request, provide a quotation of the cash equivalent transfer value to which a member is entitled.	123	100%	81.25%	93.00%	99.22%	-
A6	Estimates - Within two months of a request, provide a statement* of estimated pension entitlement online or in writing.	14,733	100%	100%	100%	100%	-

*primarily made available through self-service, online

2023/24 Service Key Performance Indicators

B Communications

Key Performance Indicators		Total Calls	Performance Target	Performance 1/1/24 - 31/3/24	Performance 2023/24	Performance 2022/23	Performance 2021/22
B1	Pensions Helpline - Calls from Scheme Members answered first time	13,846	100%	98.9%	99.30%	99.40%	98.47%
Key Performance Indicators			Total Registrations to date	Total Online Calculations Completed	Total Self-Service Online Changes	Secure messages sent Through Portal	
B2	Online Portal Since Launch - Total Registrations & Activity through Pensions Online portal (https://pensionsonline.durham.gov.uk/)		22,438	51,153	20,672	4,038	
Key Performance Indicators			Total Log ins during 2023/24		Individual Members logging in during 2023/24		
B3	Online Portal in Year - Total logins through Pensions Online portal during year (https://pensionsonline.durham.gov.uk/)		52,931		9,142		
Key Performance Indicators			Performance Target	Performance 2023/24	Performance 2022/23	Performance 2021/22	
B4	Annual Benefit Statements – Statements made available online* by 31 st August for active members known to the Fund		100%	100%	100%	100%	

*paper copies made available to those opting out of online services

2023/24 Quarter 4 Performance Indicators

A – Casework Processing / B – Communications

Key Performance Indicators		Total Cases In Quarter	Performance Target	Performance Q4	Total Cases In Year	Performance 2023/24
A1	Retirements Disclosure - Within two months of retirement provide a statement containing retirement benefit information.	188	100%	77.13%	850	81.94%
A2	Retirements in Fund's Control - Within 10 days of receiving all required information provide a statement containing retirement benefit information.	188	100%	96.28%	850	98.23%
A3	Deferment Disclosure - Within one month of being notified of a leaver, provide that member information as to the rights and options available.	306	100%	99.02%	1,376	96.07%
A4	Transfers out Disclosure - Within one month of a request, provide that member information as to the transfer rights and options available.	33	100%	100%	108	100%
A5	Transfers out Quotation - Within three months of a request, provide a quotation of the cash equivalent transfer value to which a member is entitled.	48	100%	81.25%	123	93.00%
A6	Estimates - Within two months of a request, provide a statement* of estimated pension entitlement online or in writing.	4,932	100%	100%	14,733	100%

Page 48	Key Performance Indicators		Calls in Quarter	Performance Target	Performance in Quarter	Total Calls In Year	Performance 2023/24
	B1	Pensions Helpline - Calls from Scheme Members answered first time	3,611	100%	98.90%	13,846	99.30%

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Local Pension Board

24 June 2024

Regulatory Update



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 This report briefs the Board on developments in matters that are both Local Government Pension Scheme (LGPS) specific, as well as providing an update on non-LGPS specific matters which are of interest.

Executive summary

- 2 There are a number of developments that will potentially impact the requirements placed upon the Fund, both specific to the LGPS and more generally. This report seeks to keep the Board updated with those developments.

Recommendation(s)

- 3 The Board is asked to note the report.

Background

- 4 This report provides an update to the Board on important pensions administration and governance matters that are currently relevant. The report is split into 2 main sections:
 - (a) LGPS specific matters, and;
 - (b) Non-LGPS specific matters that are of interest to the Board.

LGPS Specific Matters

DLUHC Consultation – LGPS: Fair Deal – Strengthening Pension Protection

- 5 In January 2019, The Department for Levelling Up Housing and Communities (DLUHC), formerly MHCLG, launched a consultation that would strengthen the pensions protections that apply when an employee of an LGPS employer is compulsorily transferred to the employment of a service provider. If the proposed amendments are introduced, the option for staff to be granted access to a Government Actuary's Department (GAD) certified broadly comparable scheme will be removed.
- 6 DLUHC are currently considering the responses received, with a consultation response expected in due course. The Chair of the LGPS Scheme Advisory Board (SAB), has written to DLUHC to request an update on the Fair Deal policy. The Ministry was asked whether the policy was under active consideration and how the SAB could contribute to the process. On 17 October 2023, the SAB Chair wrote to DLUHC for an update with progress with the implementation of New Fair Deal in LGPS. Officers will continue to monitor the position.

DLUHC consultation – LGPS: Changes to the Local Valuation Cycle and the Management of Employer Risk

- 7 In May 2019 DLUHC consulted on a number of changes to the LGPS, encompassing the following areas:
 - amendments to the local fund valuations from the current 3-year (triennial) to a 4-year (quadrennial) cycle
 - a number of measures aimed at mitigating the risks of moving from a triennial to a quadrennial cycle
 - proposals for flexibility on exit payments

- proposals for further policy changes to exit credits
 - proposals for changes to the employers required to offer local government pension scheme membership
- 8 On 27 February DLUHC published a partial response to the consultation, covering proposals on exit credits only. DLUHC confirmed their intention to amend the Regulations providing greater discretion to Administering Authorities over the amount of any exit credit. The Local Government Pension Scheme (Amendment) Regulations 2020 were subsequently laid before parliament, coming into force on 20 March 2020 with backdated effect to 18 May 2018.
- 9 DLUHC has also published a partial response in respect of employer contributions and flexibility on exit payments. The Fund has finalised its policy approach to Employer Flexibilities following consultation with participating employers, which was considered and approved by the Committee.

Ongoing Consultation – Guaranteed Minimum Pensions (GMP)

- 10 In February 2017 the Treasury consulted on options for how the Guaranteed Minimum Pension (GMP) element of pensions paid to those members who will reach state pension age on or after 6th December 2018 should be indexed.
- 11 In January 2018 the Treasury published its response to this consultation, acknowledging that it is a complex area with more time required to identify a long-term solution. As a result, the existing interim solution was extended, covering those members of public service schemes reaching state pension age between 6th April 2016 and 5th December 2018 to those that reach state pension age on or before 5th April 2021.
- 12 On 23 March 2021 Her Majesty's Treasury (HMT) discounted conversion (of GMP into main scheme benefits) as their long-term policy solution and instead will make full GMP indexation the permanent solution for public service pension schemes. Currently members covered by the interim solution have their GMP pensions fully updated by their scheme in line with CPI. The new policy will extend this to members whose State Pension Age (SPA) is on or after 6 April 2021.
- 13 Additionally, the Fund has gone through a significant exercise to reconcile the GMP data it holds. Individual GMP values can often misalign with the values held by HMRC with discrepancies occurring both in terms of membership periods for which GMP accrued, and the GMP value itself. Following the conclusion of the reconciliation

exercise, the Fund has commenced implementation of its approach to GMP Rectification, with a separate report previously presented to the Board.

- 14 This work was brought to a conclusion in October 2023, with the Fund communicating with affected pensioners ahead of October pensions payroll. As previously highlighted to the Board and Committee in March 2023, individual overpayments would be exacerbated by the April 2023 pensions increase of 10.10%. However, around 550 pensions in payment were adjusted and despite this higher than usual rate of inflationary increase, 83% of pensions changed by no more than £10 per month.
- 15 The total amount of arrears paid to underpaid pensioners was c£41k whilst the total amount of overpayments written-off by the Fund was c£171k. Both the value of arrears and value of write offs compare favourably with initial modelling. The number of pensions in payment requiring rectification were lower than initially anticipated at the beginning of the project, and less than amounts experienced by similarly sized LGPS Funds who have completed their rectification. This is at least in part, due to accurate historic record keeping.

Levelling Up White Paper – LGPS Local Investment Plans

- 16 In February 2022 the government published its Levelling Up whitepaper which includes references to LGPS funds having plans for up to 5% of assets to be allocated to projects which support local areas. The whitepaper indicates government intention to “work with Local Government Pension Funds to publish plans for increasing local investment, including setting an ambition of up to 5% of assets invested in projects which support local areas”.
- 17 The Fund recently finalised an impact investment in the North-East which will support SME finance in the region, which is understood to meet the definitions set out in the whitepaper. Meanwhile, as part of their strategic plan, BCPP are progressing development of impact investing capabilities which will consider opportunities to support local investment decisions.
- 18 The LGPS Scheme Advisory Board have indicated that in the context of ‘local’ the whitepaper refers to UK rather than local to a particular LGPS fund. The Board have also advised that their understanding is that there will be no mandatory requirement beyond the requirement to have a plan. Further details will emerge over the period up to an expected consultation which is expected to also include statutory pooling guidance.

- 19 Separately, On 9 December 2022, the Chancellor of the Exchequer announced a set of reforms (which were previously shared with the Committee) intended to drive growth and competitiveness in the financial services sector. It is also expected that there will be a consultation on new guidance on Local Government Pension Scheme asset pooling.

DLUHC Consultation – LGPS: Next Steps on Investments

- 20 A detailed briefing was considered by both the Pension Fund Committee and Local Pension Board in September 2023, following the launch of DLHC’s consultation ‘LGPS: Next Steps on Investments’.
- 21 Since 2015, the Pension Fund has worked in collaboration with 10 local authority partners to pool its c£3.5bn assets through its chosen pooling company, Border to Coast Pension Partnership. As of summer 2023, the Fund has pooled all of the liquid assets in its investment strategy. The Fund has benefitted from the availability of a Private Markets programme through the pool, extensive Responsible Investment resource, and has generated cost savings which are reported annually in the Fund’s Annual Report and Accounts.
- 22 More widely however, progress on pooling has stalled across much of England and Wales. Despite a clear policy intention to deliver pooling, in the absence of guidance or regulation, many Administering Authorities have chosen to retain their assets outside of their respective pool.
- 23 In light of the lack of progress, DLUHC consulted on pooling consolidation, setting Administering Authorities a deadline of 2025 to pool liquid assets and introducing enhanced reporting requirements on pooling progress. The consultation proposed that a smaller number of larger pools would provide greater economies of scale, and that greater collaboration should be pursued. In a wide-ranging consultation, the government also proposed directing LGPS Funds in the way in which they invest. In particular, targets were proposed for allocations to investments which support UK Levelling Up and allocations to Private Markets more generally.
- 24 Following consultation with the Committee and Board, the Fund responded to the consultation and separately, worked with its pooling partners to formulate a collective response.
- 25 Subsequently, on 22 November, DLUHC responded to the consultation. The Fund is considering the consultation response individually, and collectively with its pooling Partners. The SAB is continuing to read and absorb the response, and a SAB update will

follow soon. On January 16 SAB representatives met the minister for local government, Simon Hoare MP, in person. Topics discussed included McCloud; the next steps on investments consultation; as well as government progress on the Good Governance recommendations and on the climate risk reporting consultation response.

- 26 The Minister later went on record at the LGA conference in February expressing that he was giving “serious thoughts to the prudence of retaining 87 LGPS funds”; and subsequently in discussion with the All-Party Parliamentary Group (APPG) for Local Authority Pension Funds on 22 February, the Minister outlined the intention to explore the pros and cons of 87 Administering Authorities in England and Wales, recognising that it “may well be that 87 is the right number”. The APPG discussion is available online at the following link <https://www.youtube.com/watch?v=p8fPHqVUYN8>.
- 27 On 15 May, the Minister wrote to all Administering Authorities in England asking that they respond by July 19 setting out their responses to a number of questions. The questions relate to the completion of pension asset pooling by the March 2025 deadline, as well as to how funds ensure that they are run efficiently, with appropriate governance structures in place.
- 28 Funds are specifically asked whether they could achieve long-term savings and efficiencies if they were to become part of a larger fund through merger or creation of a larger pensions authority. The council will respond in its capacity as Administering Authority of the Pension Fund. A copy of the letter is included in Appendix 3.
- 29 Subsequently, Officers of the Fund were invited in person to a roundtable with the Minister, to discuss related matters.
- 30 Once party manifestos are published, Officers will check whether any party outlines policy implications for the LGPS.

Mandatory TCFD Reporting

- 31 The Board have previously been informed that, using powers granted under the Pension Schemes Bill, the Department for Works and Pensions (DWP) consulted on draft regulations requiring occupational pension schemes to meet climate governance requirements, publish a Taskforce on Climate-related Financial Disclosures (TCFD) report and include a link to the report in their annual report and accounts.
- 32 Whilst the regulations will not apply to the LGPS it was always expected that DLUHC would bring forward similar proposals requiring TCFD disclosures in the LGPS.

- 33 The Fund's pooling partner, Border to Coast Pensions Partnership (BCPP) are supporters of the Task Force on Climate-related Financial Disclosures (TCFD) and have just published their second TCFD report aligned with the recommendations. This covers the approach to climate change across the four thematic areas of Governance, Strategy, Risk Management, and Metrics and Targets. The report demonstrates the improvements and developments made across the four key areas. The report can be found online at the following link <https://www.bordertocoast.org.uk/sustainability/>.
- 34 BCPP will support Partner Funds ahead of any mandatory reporting requirements through the Officers Operation Group RI workshops, delivering training, and by providing reporting. BCPP have held discussions to understand all Partner Funds' requirements on carbon reporting on assets, including those that are currently not held in the pool.
- 35 A BCPP procurement for carbon data, including forward-looking metrics (scenario analysis), will take into account the reporting requirements of Partner Funds for equity and fixed income portfolios. Obtaining carbon data for Private Markets is more challenging and BCPP are looking into solutions for these portfolios held in the pool. Additionally, Officers are working with the Fund actuary to consider how to reflect climate scenario analysis in 2022 valuation reporting.
- 36 On 1 September DLUHC launched its consultation regarding governance and reporting of climate change risks. The consultation seeks views on proposals to require LGPS administering authorities in England and Wales to assess, manage and report on climate-related risks, in line with the recommendations of the Taskforce on Climate-related Financial Disclosures (TCFD).
- 37 The consultation proposes that LGPS administering authorities would calculate the 'carbon footprint' of their assets and assess how the value of each fund's assets or liabilities would be affected by different temperature rise scenarios, including the ambition to limit the global average temperature rise to below 2 degrees set out in the Paris Agreement. The consultation (previously shared with the Committee) closed on 24 November 2022. As discussed with the Committee previously, Officers prepared a response in consultation with the Chair and Vice Chair of the Committee. A copy of the response is has previously been shared with the Committee and Board.
- 38 An overview of TCFD was included in training for members previously, as well as a dedicated training session with the Fund's Actuary focused on scenario analysis. Further training will be provided to the Committee on the details of the TCFD expectations,

as well as the availability of data through BCPP. It is currently expected that the first LGPS TCFD reporting will become due in late 2025.

Cost Control Mechanism & Review

- 39 The Board has been informed previously of the Cost Control Mechanism in the LGPS and other public sector schemes which sets both a cost 'ceiling' and 'floor' in respect of the ongoing affordability of public sector pensions. This creates a "cost corridor" designed to keep schemes within 2% of target costs.
- 40 Before the impact of McCloud, provisional cost management assessments indicated floor breaches in most public sector schemes, that may have resulted in an improvement to benefits or reduction in member contributions. At the request of HMT, GAD carried out a review of the Cost Control Mechanism across the public sector.
- 41 Members were informed previously that it had not previously been possible to assess the value of the public service pensions arrangements with any certainty due to the anticipated implications of the Court of Appeal judgements in McCloud and Sargeant.
- 42 The Fund's own position on McCloud has also been discussed previously, with the Actuary outlining in detail how the issue was to be reflected in the 2019 Valuation. The approach taken added an additional 0.9% to the employer contribution rate for all employers at the 2019 valuation.
- 43 In July 2021 however, it was confirmed that the impact of McCloud would be classed as "member costs" for the purpose of the 2016 cost control review, with the pause on the review lifted. This was confirmed by HMT Directions in October 2021. Subsequently, SAB found that the LGPS showed only a slight reduction in costs. Despite this slight reduction, SAB confirmed that they are no longer recommending any LGPS benefit structure changes. SAB has however reaffirmed its commitment to revisiting both Tier 3 ill health and contribution rates for the lowest paid members.
- 44 Whilst it appears that the 2016 Cost Review is coming to a conclusion, it should be noted that the Fire Brigade Union has been granted permission to appeal against the High Court's judgement to allow the inclusion of the McCloud remedy as a "member cost". Whilst the High Court previously dismissed the case, the Court of Appeal granted permission to appeal the ruling.
- 45 The full judgment in the Fire Brigades Union and British Medical Association vs HM Treasury Cost Control Mechanism appeal has

now been published. The Court of Appeal agreed with the earlier ruling from the High Court (published in March 2023) which ruled in favour of HM Treasury on all grounds. The Court of Appeal's judgment can be read online at <https://www.bailii.org/ew/cases/EWCA/Civ/2024/355.html>.

- 46 When the Cost Cap Mechanism was first introduced in 2016 across the public sector it was anticipated that the mechanism would be triggered only by “extraordinary” event. As noted above however, the initial assessment of public sector schemes showed cost floor breaches leading to HMT's request for a review of the mechanism.
- 47 The Government Actuary's Department has completed the valuation of the Local Government Pension Scheme (England and Wales) as at 31 March 2020. This was the first scheme valuation undertaken since revisions were made to the cost control mechanism, which the Government consulted on in 2021. The methodology by which this is undertaken was revised last year, which widened the cost corridor (the amount by which the scheme costs could vary from the target cost before action was taken to address it) from 2% to 3%. The process was also revised to include consideration of the wider economic situation through a new “economic check” that was introduced alongside the previously established core cost control mechanism.
- 48 The valuation has found that the core ‘cost cap cost’ of the scheme lies outside the 3% cost control mechanism corridor (3.2% below target cost). The new ‘economic cost cap cost’ of the scheme also lies outside the 3% corridor, but in the other direction (7.3% above target cost).
- 49 As a result, the mechanism, as a whole, is not breached and there is no proposal to make any changes to scheme benefits. The Scheme Advisory Board will shortly be publishing the final report of the scheme cost assessment that it is required to undertake under Regulation 116 of the LGPS Regulations 2013. However, the Board has already seen the initial results and agreed that it is not minded recommending to the Secretary of State any changes to scheme benefits through that process.

McCloud

- 50 The Board has been kept up to date with the impact and issues surrounding the McCloud judgement itself. To recap briefly, when the Government reformed public service pension schemes in 2014 and 2015 they introduced protections for older members. In December 2018, the Court of Appeal ruled that younger members of the Judges'

and Firefighters' Pension schemes have been discriminated against because the protections do not apply to them. The Government has confirmed that there will be changes to all main public sector schemes, including the LGPS, to remove this age discrimination.

- 51 In July 2021, the Public Service Pensions and Judicial Offices Bill was laid before Parliament. This Bill seeks to amend the Public Service Pensions Act 2013 by making provision to rectify the unlawful discrimination by the 2014 Scheme. Now made law, the Bill established the overarching framework for the retrospective changes required for the McCloud. Additionally, however, LGPS Amendment Regulations are required to make the necessary changes to the Scheme Regulations.
- 52 The estimated cost across the whole of the LGPS is £1.8bn. As noted above, the Fund made an estimated provision for the impact at local level at the last Valuation. In terms of scheme member impact, HMRC have recently announced a range of measures intended to protect members from annual and lifetime allowance impacts.
- 53 Following its 2020 consultation, on 30 May 2023 DLUHC launched a consultation seeking views on issues relating to the McCloud remedy, and the draft scheme regulations which would implement the remedy. A summary has previously been shared with the Board and Committee.
- 54 Officers of the Fund are actively working with Participating Employers to ensure all of the necessary data is collected to be able to properly implement the anticipated remedy. Additionally, Officers continue to work with the Fund's software suppliers to ensure solutions are as effective as possible. Note that, DLUHC are also working directly with the LGPS software suppliers to discuss the implementation of the McCloud remedy. The LGA's Communications Working Group meanwhile is working on member communications, and the Fund's software supplier have established a McCloud Project Board – the Durham Fund is represented on both groups. Resources are expected to be published by the LGA on 1 October.
- 55 Additionally, as part of the McCloud remedy for the Teachers' Pensions Scheme (TPS), Chapter 1 Part 1 of the Public Service Pensions and Judicial Offices Act 2022 means that some teachers may be retrospectively eligible for the LGPS for the period from 1 April 2015 to 31 March 2022. This exercise will be administratively challenging for both the TPS and individual LGPS Funds. The LGA is currently working with DfE to identify how to identify affected members.

- 56 Officers of the Fund continue to work in readiness for resolution of the issues McCloud presents. Whilst software solutions are in place to ensure that the 'underpin' is correctly provided for some categories of members, manual intervention will be required for others. The Fund continues to work with its software supplier in consideration of future Annual Benefit Statements, with the Pensions Regulator outlining that whilst accurate Benefit Statements are still expected to be issued accurately and on time and that failure to do so would be a reportable breach, a risk-based approach will be taken in response to any such breach. DLUHC expect to issue guidance outlining that 2024 LGPS Statements do not need to reflect the remedy.
- 57 The Fund continues to work closely with its software supplier with imminent updates to support the upload of data from employers, as well as delivery of a module to allow for the calculating of service for missing data. A dedicated McCloud project team is now in place. Once all data has been successfully uploaded, the McCloud remedy will be applied to all 'new' leavers. A module is expected to become available from our software supplier in October 2024, to allow a bulk recalculation of all historical cases. Detailed reporting will be provided to the Local Pensions Board.

DLUHC Consultation on Change to the LGPS Revaluation Date

- 58 Following a short consultation, DLUHC has implemented changes to the in-scheme revaluation date from 1 to 6 April, with effect from 1 April 2023. The change has the effect of removing the impact of high inflation (10.10% for 2023 revaluation) on the Annual Allowance and will reduce the number of members incurring a consequent tax charge. The Fund is working with its software supplier to ensure processes are in place to reflect the change in Annual Statements and Pension Savings Statements.

LGPS Scheme Advisory Board (SAB)

SAB Review – Academies

- 59 In 2017 SAB instigated a review of the participation of existing academies and commissioned Price Waterhouse Coopers to investigate issues of academy participation in the LGPS and prepare a report for the Board. The report made no recommendations but set out three broad types of approach or mechanisms to try and resolve these issues. These are:
- non-regulatory measures within the LGPS
 - regulatory measures within the scheme, and
 - measures outside of the LGPS, including through primary legislation.

- 60 The SAB review had been split between a funding working group and an administration working group. Work on the administration working group was put on hold due to competing work pressures and the project is no longer part of SAB's current projects. In the meantime, SAB has produced guidance for converting Academies intended to provide information and common nomenclature for common actuarial approaches adopted by LGPS funds on a local authority (LA) school's conversion to academy status. The Fund will consider how best to utilise the guide to support converting schools.
- 61 Separately, the DfE guarantee for Academy participation in the LGPS has been increased to £20m. A copy of the Secretary of State's statement has previously been shared with the Committee.

SAB Annual Report

- 62 On 12 June, the Scheme Advisory Board published its LGPS Scheme Annual Report. The aim of the Scheme Annual Report is to provide a single source of information about the status of the Local Government Pension Scheme for its members, employers, and other stakeholders. The report aggregates information supplied in the 86 fund annual reports, as of 31 March 2023, for the reporting year 2022/23 and can be found online at <https://lgpsboard.org/index.php/foreword-2023>.

SAB Review – Tier 3 Employers

- 63 In addition to the review of Academy participation, above, SAB also commissioned work in respect of 'Tier 3' employers participating in the LGPS. Broadly, Tier 3 employers are those employers which:
- (i) have no tax raising powers,
 - (ii) are not backed by an employer with tax raising powers;
 - (iii) are not an academy.
- 64 Examples of Tier 3 employers include universities, further education colleges, housing associations and charities.
- 65 SAB had established a small working group to review concerns expressed by Tier 3 employers and the ways in which they may be resolved. The working group had been tasked with reporting back to the SAB with a set of recommendations for further consideration.
- 66 Whilst the third Tier Employer review is no longer part of SAB's current projects, an Office for National Statistics (ONS) review of the

Further Education sector may change the classification of Colleges within the LGPS.

- 67 It is proposed that Colleges are reclassified as 'public sector', with the possibility of tighter restrictions on debt / borrowing. Additionally, the Department for Education (DfE) is considering putting in place a guarantee, similar to the one already provided for academies which would provide greater protection to LGPS Funds.
- 68 The DfE is collating relevant data directly from LGPS actuaries to better understand Colleges' funding requirements and consider the merits of providing the additional covenant assurances. Officers will continue to monitor the position, to ensure that the correct level of prudence is taken in finalising rates for Colleges in the Fund's triennial valuation. The Fund will initially maintain the rates for Colleges in line with the 2019 valuation, but will reconsider the position after the outcome of the College reclassification.

SAB Review – Good Governance in the LGPS

- 69 SAB is currently examining the effectiveness of current LGPS governance models with a focus on standards, consistency, representation, conflict management, clarity of roles and cost. SAB's work will likely result in new statutory guidance on Governance Compliance, with consideration in particular likely to be given to:
- (a) changes to the scheme's regulatory provisions on Governance Compliance Statements,
 - (b) revised statutory guidance on Governance Compliance Statements,
 - (c) independent assessment of Governance Compliance Statements, and;
 - (d) establishing a set of Key Performance Indicators (KPIs)
- 70 SAB have completed their report on Good Governance and submitted an Action Plan to DLUHC to take the recommendations of the project forward. It is expected that the next stage is for DLUHC to take the recommendations forward for implementation through legislation and / or Statutory Guidance.
- 71 A further update to both the Committee and Local Pension Board will be provided at such time as there is progress on the implementation of the Good Governance recommendations.

SAB Review – Responsible Investment Guidance

- 72 In November 2019, SAB drafted guidance for Responsible Investment in the LGPS, to clarify the parameters within which investment decisions can be made with regard to the integration of ESG factors. Following feedback, SAB has decided to take stock until more is known about the government’s position on the proposed climate change provisions in the Pension Schemes Bill and the implications of the Supreme Court’s judgement involving the Palestine Solidarity Campaign. Committee will be updated as the matter progresses.
- 73 Notwithstanding this decision, SAB have progressed with further work in respect of Responsible Investment (RI), including the production of an RI A-Z Guide. It is intended that the A-Z Guide will provide LGPS stakeholders a “one stop shop for information, links and case studies in this fast growing and complex arena”. The guide will evolve over time, as new entries are added. The A-Z Guide can be found online at the following link <https://ri.lgpsboard.org/items>.
- 74 The Board has also established an RI Advisory Group (RIAG). The main role of the group will be to advise SAB on all matters relating to RI. It will also be responsible for assisting the Board in maintaining the online A-Z Guide. The Group will also assist SAB in developing recommendations to DLUHC on how the Taskforce on Climate-Related Financial Disclosures (TCFD) reporting should be applied to the LGPS.

SAB Correspondence – LGPS Audit

- 75 In August 2022 the SAB Chair, Cllr Roger Phillips, wrote to DLUHC proposing a separation of pension fund accounts from main local authority accounts, due to each having the potential to delay the other. On 15 February the Minister for Local Government, Lee Rowley MP, responded to the SAB welcoming the Board’s advice and recommendation to consider the separation of main authority accounts and the pension fund accounts. A copy of the correspondence was previously shared with the Board. The Minister has asked his officials to consider the scope for developing this further. The Board will be kept informed as the matter progresses.
- 76 The SAB issued a short response to the DLUHC consultation on "Addressing the local audit backlog in England". The consultation was discussed at the Compliance and Reporting Committee when it met on 12th February. The CRC Committee agreed that the Board should express concern that if there were wide-spread disclaiming of LGPS administering authority accounts in order to meet the new deadlines,

then there would be knock-on consequences for the 18,000 scheme employers that rely on information from the pension fund audit in order to complete their own audits.

- 77 Essentially, the scheme employer auditor will need to do further work to gain assurance on the information provided to it by the LGPS actuary on its assets and liabilities under the scheme, which will may be material, depending on a range of factors. The Board's response also took the opportunity to re-emphasise the representations it made in its earlier letter asking that pension fund audit should be separated out from the host authority audit.

SAB – Preparing the Annual Report

- 78 The SAB Compliance and Reporting Committee (CRC) has convened a working group to review the 2019 CIPFA 'Preparing the Annual Report' guidance and has identified several areas within the current guidance which now require updating and clarification. A priority has been to streamline the guidance and reduce duplication wherever possible with other reporting obligations – SAB reported that this direction was supported by DLUHC.
- 79 The updated guidance has now been published. The guidance is the first publication which has been reviewed and jointly approved by the SAB's Compliance and Reporting Committee (CRC), the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Department for Levelling Up, Housing and Communities (DLUHC). It replaces the 2019 guidance produced by the CIPFA Pensions Panel, which was disbanded in 2021.
- 80 The new guidance applies to 2023/24 annual reports which are due for publication by 1 December 2024, and later years. The guidance sets out that funds should use their best endeavours to comply fully with the requirements for 2023/24 but exercise judgement where, because of changes to the previous content, to do so would require disproportionate effort or cost. The new reporting requirements are set out in Appendix 1. Monitoring of compliance will form part of the Board's workplan going forward.
- 81 Following completion of the Annual Report guidance, the CRC has agreed its next priority will be to revise the Funding Strategy Statement (FSS) guidance. This was last updated in 2016 and the aim is to create content in relation to:
- setting up of academies on conversion
 - use of employer flexibilities and deferred debt arrangements

- employer representations around asset strategies and partial terminations
- treatment of exit debts and credits
- consultation with employers.

SAB – Sharia Compliance

- 82 Committee members have previously been briefed on the issue of LGPS members opting out of the scheme on the basis of their (principally Islamic) religious belief, and whether this might constitute unlawful discrimination on behalf of the scheme. The SAB had received legal advice suggesting that it should instruct an expert in Islamic finance to provide evidence on Sharia Compliance in the LGPS. Consequently, the Board commissioned an expert in the field of Sharia finance seeking advice on whether the LGPS is Sharia compliant, and the range of views that Muslim members and potential members might have on that question. The Board commissioned Mufti Faraz Adam of Amanah Advisors to produce a report.
- 83 This report has now been received by SAB and examines the issue primarily from the starting point that a statutory defined benefit pension scheme, like the LGPS, is an extension of the employer/employee contract. The report concludes that as a part of the contractual arrangement between employer and employees, Muslim employees can continue to contribute to, and benefit from, the excellent benefits offered by the LGPS.
- 84 The SAB hopes that the report will offer comfort to Muslim members of the LGPS in the knowledge that they can continue to participate in the scheme. Indeed, SAB hopes that the report may encourage some who had opted out of the LGPS to opt back in and ensure that they benefit from the employer contribution to their pension, as well as the valuable benefits that the LGPS offers. A copy of the report was previously shared with the Board.

SAB - Gender Pay Gap

- 85 The Scheme Advisory Board has written to Treasury, suggesting that a consistent and active approach to the gender pensions gap is taken across public sector pension schemes. The Board set out that a gender pensions gap analysis, like that commissioned by the Board, would give a dynamic picture of how scheme members' salaries change over time and illustrates the different trajectory of men and women's careers. A copy of SAB's letter is included in Appendix 2.

Non- LGPS Specific Matters

Public Sector Exit Payments Caps

- 86 The Small Business, Enterprise and Employment Act 2015 introduced the concept of a 'public sector exit payments cap'. The legislation provides that exit payments to be paid to a person are not to exceed £95,000. The 2015 Act provided the overarching principles of how the exit cap was to operate, but the detail was to be prescribed in regulations that were expected to soon follow.
- 87 After a period of delay the Treasury launched a new consultation on this matter in April 2019. Included in the consultation were draft regulations called 'The Restriction of Public Sector Exit Payment Regulations 2019' which provided detail on how the exit cap should operate from an employer's perspective.
- 88 Under the Regulations, the cap was to remain at £95,000 and include:
- redundancy payment(s);
 - any payment to offset an actuarial reduction to a pension arising by virtue of early retirement (known as 'strain on the fund' or 'early release' cost);
 - any payment made pursuant to an award of compensation under the ACAS arbitration scheme or a settlement or conciliation agreement;
 - any severance payment or ex gratia payment;
 - any payment in the form of shares or share options;
 - any payment on voluntary exit;
 - any payment in lieu of notice due under a contract of employment;
 - any payment made to extinguish any liability under a fixed term contract;
 - any other payment made, whether under a contract of employment or otherwise, in consequence of termination of employment or loss of office.
- 89 Most significantly for the LGPS, was the inclusion of the 'strain on the fund' costs being included towards the cap. These costs of allowing unreduced access to pension benefits for members over 55 can

exceed £95,000 for scheme members with long periods of membership.

- 90 Separately to the Exit Payment Regulations, DLUHC consulted on further reforms to the LGPS Regulations that would accommodate the Exit Cap within the Scheme. As DLUHC's proposed changes were not implemented concurrently with the Exit Payment Regulations, there was legal uncertainty for both LGPS Administering Authorities and participating employers due to the conflicting legislation.
- 91 On 12 February however the Exit Cap was unexpectedly disapplied, after the Treasury issued the 'Exit Payment Cap Directions 2021'. The Treasury will bring forward at pace revised proposals in respect of public sector exits. The Board will be updated as further details emerge.

UK Stewardship Code 2020

- 92 The UK Stewardship Code aims to enhance the quality of engagement between investors and companies to help improve long-term risk-adjusted returns to shareholders. The Fund has previously signed up the Code, and BCPP also publish a UK Stewardship Code compliance statement.
- 93 Due to the significant changes in the Investment Market since the introduction of the first Code, The UK Stewardship Code 2020 is now being introduced. This new Code expands on the previous requirements and comprises a set of 12 Principles which require reporting and disclosure on an 'apply and explain' basis.
- 94 The LGPS (Management and Investment of Funds) 2016 Regulations state that the responsibility for stewardship, which includes shareholder voting, remains with the Partner Funds. Stewardship, day-to-day administration and implementation have been delegated to Border to Coast by the Partner Funds, on assets managed by Border to Coast, with appropriate monitoring and challenge to ensure this continues to be in line with Partner Fund requirements. To leverage scale and for operational purposes, Border to Coast has, in conjunction with Partner Funds, developed a Responsible Investment Policy and accompanying Corporate Governance & Voting Guidelines to ensure clarity of approach on behalf of Partner Funds.
- 95 Together with peers at BCPP Partner Funds, Officers are working to consider the new Code and how to ensure compliance. A more detailed report will be provided to the Committee in due course, and the Board kept informed.

Increasing the UK Minimum Pension Age

- 96 The Board have previously been informed of the intention to raise the Normal Minimum Pension Age (NMPA) in the UK and members will recall that a consultation entitled 'Increasing the normal minimum pension age: consultation on implementation' was launched on 11th February and ran until 22nd April 2021.
- 97 The consultation proposed that, due to increases in longevity and changing expectations of how long individuals will remain in work and in retirement, the minimum pension age would increase from 55 to 57 in 2028. When the policy was first announced, it was intended that the NMPA would be 10 years earlier than the State Pension Age. The minimum age a scheme member can currently retire voluntarily in the LGPS is 55.
- 98 The Finance Act gained Royal Assent on 24 February, which will increase the minimum retirement age in the UK from 55 to 57 from April 2028. The Act provides for protected pension ages for members who meet entitlement conditions. The government will need to change the LGPS rules to align with the NMPA at some point on or before 6 April 2028. It will also need to consider whether LGPS members who qualify for protection will be allowed to receive payment before 57.
- 99 The LGA have advised that the change is not material, such that scheme members must be immediately informed of the change. Nonetheless, the Fund informed its active and deferred members of the proposed change within Annual Benefit Statements.

TPR Code of Practice

- 100 The Pensions Regulator (TPR) has consulted on a single Code of Practice to cover all regulated schemes. Previously, the Regulator had a specific Code for Public Service Pensions (Code of Practice 14). Whilst the new Code does not extend TPR's powers in the LGPS beyond its existing remit on governance and administration, there had been some concerns over how the provisions of the Code fit with the LGPS. SAB subsequently responded on behalf of the LGPS.
- 101 The Regulator carried out a full review of the comments received through the consultation, and subsequently published its General Code of Practice ('the Code') which has been laid in Parliament and which is expected to come into force on 27th March 2024. It replaces Code of Practice 14 for Public Sector Pension Schemes and brings together 10 previous TPR Codes into one single Code.

- 102 The Regulator's research on governance and administration shows that the LGPS already has high standards of governance in place, but the Code provides an opportunity for Funds to review current practices, but also presents challenges during what is an already busy time within the LGPS. Clarity is required on which parts of the Code specifically apply to the LGPS and what these mean for funds and how they should be applied in practice. The SAB is working to support funds in understanding any new requirements in the Code and where needed, will produce new or update existing guidance to assist funds with their responsibilities.
- 103 Officers will continue to consult with the Local Pension Board, whose work plan will be informed by the General Code of Practice. A copy of the Code has previously been shared with the Board; and a detailed overview of the Code and its applicability to the LGPS features later in the Board's agenda.

Boycotts, Divestment and Sanctions

- 104 The legislative programme was laid out in May 2021, included a Boycotts, Divestment and Sanctions (BDS) Bill - the purpose of which was to be to stop public bodies from taking a different approach to UK Government sanctions and foreign relations covering purchasing, procurement, and investment decisions.
- 105 In advance of the BDS Bill an amendment to the Public Services Pensions Bill passed, which proposed conferring powers to the Secretary of State to make guidance in respect of BDS. The clause would enable the Secretary of State to issue guidance to LGPS administering authorities that they may not make investment decisions that conflict with the UK's foreign and defence policy. The Public Services Pensions Bill gained royal assent, but this does not place any immediate duty on Funds.
- 106 It was intended however to implement the commitment to prevent public bodies pursuing boycotts, divestments and sanctions campaigns (BDS) against foreign countries or territories, unless in line with the UK's official foreign policy, through the Foreign Affairs (Economic Activity of Public Bodies) Bill. For the position to change for the LGPS, a full 12 week consultation would be required. SAB Guidance on the matter was previously shared with the Board and Committee.
- 107 It is understood that the dissolution of Parliament means that the Bill falls, as it has not proceeded through all stages and therefore cannot be given Royal Assent prior to dissolution. Once party manifestos are

published, Officers will check whether any party commits to bringing the Bill back to Parliament in future.

Pension Scams and new Restrictions on Transfers

- 108 From 30 November 2021 new regulations ('the Occupational and Personal Pension Schemes Conditions for Transfers Regulations 2021') place greater restrictions on transferring out of the Pension Fund. The new Regulations require the Fund to carry out greater due diligence to protect scheme members from falling foul of Pension Scams.
- 109 The Fund will be required to notify members seeking to transfer out, that the transfer can only proceed if there are no due diligence red flags, or, if the transfer is to a public service scheme, master trust or collective money purchase scheme.
- 110 The Fund already provides warnings to its scheme members of the risks of pension scams through the Pensions Regulator's 'Scams warning' – a copy of which has previously been provided to the Local Pension Board. The Fund has also worked with the Regulator to provide a bespoke warning through the Online Portal. In light of the new Regulations however, Officers have amended the Fund's transfer process to reflect the new requirements. Scheme Members were again warned against scams in 2022 Annual Benefit Statements.
- 111 Following a major data breach at third-party pensions administrator, Capita, the Pensions Regulator has reminded pension funds of the importance of warning members about scams. A reminder will be provided to all active and deferred scheme members in their Annual Benefit Statements. The Committee have previously been informed of the Pensions Regulator's statement on the Capita Breach.
- 112 On 10 August 2023, the Money and Pensions Service (MaPS) published its evidence review into pension scams in the U K. The key findings are:
- there remain significant challenges to estimate the scale of the problem
 - the types of scams and tactics are very similar to investment scams
 - the financial and emotional cost to individuals is high, going beyond financial loss and impacting on health and relationships
 - scams can happen to anyone

- once an individual has been targeted, there is a high risk of retargeting
- government bodies, administrators and other organisations have at their disposal a range of touchpoints to provide strong protection against scams.

Stronger Nudge

- 113 The government has introduced legislation to ensure that individuals are made aware of ‘Pension Wise’ guidance as part of the process for taking or transferring Defined Contribution (DC) pension savings. Whilst the LGPS is not a DC Scheme, the legislation is applicable to the Scheme’s AVC provision.
- 114 The ‘Stronger Nudge’ requirement is introduced by the Occupational and Personal Pension Schemes (Disclosure of Information) (Requirements to Refer Members to Guidance etc) (Amendment) Regulations 2022 (SI 2022/30). These ‘Nudge’ Regulations require the Fund to refer scheme members who are seeking to take or transfer their AVCs to the Pension Wise service.
- 115 The requirement applies to all applications received on or after 1 June 2022 in respect of retirees taking payment of their AVCs, and those aged over 50 seeking to transfer their AVCs to another DC Scheme. The Fund has amended its processes and paperwork to ensure compliance with the Nudge Regulations. The Fund will offer to book a Pension Wise appointment at a date and time suitable for the scheme member where required. It should be noted that scheme members retain the right to opt out of receiving Pension Wise guidance. Further detail of the Fund’s compliance has been provided to the Local Pension Board.

Dashboard

- 116 Pensions dashboards are digital services — apps, websites or other tools — which savers will be able to use to see their pension information in one place. It is the government’s intention to create a national Pensions Dashboard that will enable savers to see all their pensions information in one place online, including on their State Pension. It is hoped that through the Dashboard savers will be able to make better informed decisions about their retirement, as well as find lost and forgotten pots.
- 117 Like all large pension schemes, the LGPS will be required to connect and supply data to the government’s national Pensions Dashboard. It was expected that pensions schemes would start to connect to the Dashboard from August 2023, with the LGPS expected to connect in

Autumn 2024. However, the Pensions Minister, Laura Trott MP, made a statement on 2 March announcing the intention to amend the staging timetable to allow more time for the technological system enabling dashboards to be delivered. As a result all schemes' deadlines will be changing.

- 118 Subsequently, DWP confirmed that The Pensions Dashboards Programme (PDP) is currently in reset, as part of refreshing its delivery plan for a new connection deadline of 31 October 2026. The process aims to allow DWP the opportunity to review the programme and reset the plan. It also provides the time to ensure required resources are in place to complete the delivery of the technical solution and documentation to support connection. The Board will be kept informed.

Changes to Pension Taxation

- 119 In the Spring Budget 2023, the Chancellor announced changes to pension taxation. The Annual Allowance (which is the maximum amount of pensions savings an individual can make each year before incurring a tax charge) was increased from £40,000 to £60,000 from 6 April 2023. Changes have also been made to the Lifetime Allowance, the charge for which will be reduced to zero from 6 April 2023, before being fully abolishing entirely in a future Finance Bill.
- 120 Officers will ensure that scheme members are appropriately advised of the implications through Annual Statements, and Pensions Savings Statements. All participating employers were made aware of the changes, enabling them to alert their employees who are most likely to be affected.

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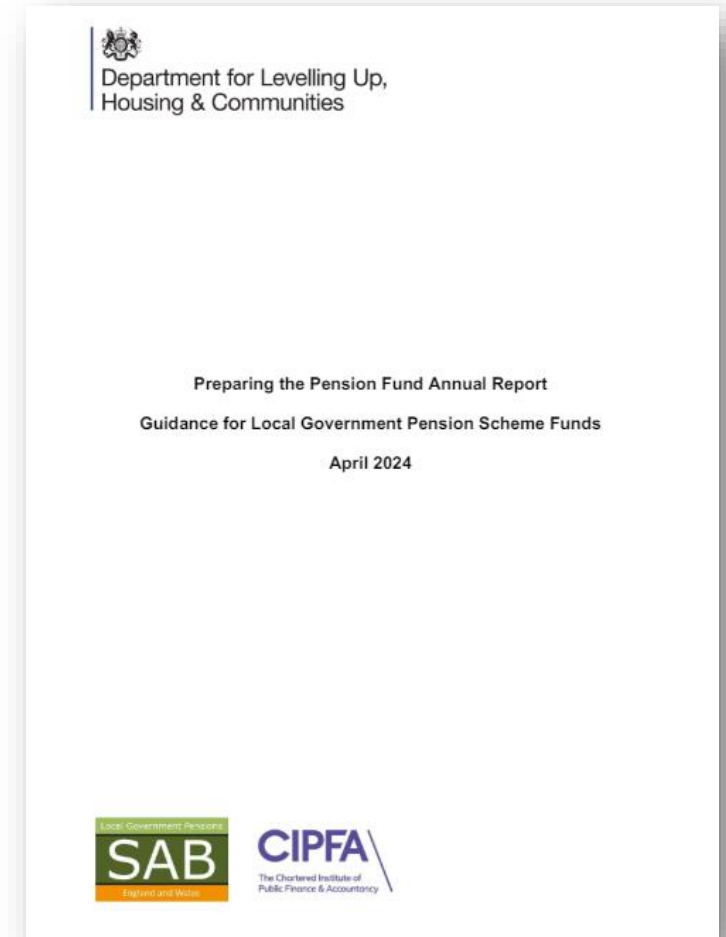
Requirements based on

The updated guidance for preparing the LGPS Fund Annual Report contains provisions for standardised performance indicators to be used across the LGPS in England and Wales. This guidance is the first publication which has been reviewed and jointly approved by the SAB's Compliance and Reporting Committee (CRC), the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Department for Levelling Up, Housing and Communities (DLUHC). It replaces the 2019 guidance produced by the CIPFA Pensions Panel, which was disbanded in 2021.

The new guidance applies to 2023/24 annual reports which are due for publication by 1 December 2024, and later years. The guidance says that funds should use their *best endeavours* to comply with the requirements for 2023/24 but exercise judgement where, because of changes to the previous content, to do so would require disproportionate effort or cost. The guidance will be kept under regular review.

The guidance is available online at:

<https://lgpsboard.org/images/Guidance/Annual%20Report%20Guidance%202024.pdf>



Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

A – Total Casework

Key Performance Indicators		Total number of cases open as at 31 March (starting position)	Total number of new cases created in the year (1 April to 30 March)	Total number of cases completed in year	Total number of cases completed in previous year	Total % of cases completed in previous year
A1	Deaths recorded of active, deferred, pensioner and dependent members					
A2	<i>New dependent member benefits</i>					
A3	Deferred member retirements					
A4	Active member retirements					
A5	Deferred benefits					
A6	Transfers in (including interfunds in, club transfers)					
A7	Transfers out (including interfunds out, club transfers)					

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

A – Total Casework

Key Performance Indicators		Total number of cases open as at 31 March (starting position)	Total number of new cases created in the year (1 April to 30 March)	Total number of cases completed in year	Total number of cases completed in previous year	Total % of cases completed in previous year
A8	Refunds					
A9	Divorce quotations issued					
A10	Actual divorce cases					
A11	Member estimates requested either by scheme member and employer					
A12	New joiner notifications					
A13	Aggregation cases					
A14	Optants out received after 3 months membership					

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

B – Casework Processing Time

Key Performance Indicators		Proposed Target Days	% completed within fund target in year	% completed in previous year
B1	Communication issued with acknowledgement of death of active, deferred, pensioner and dependent member	5 days		
B2	Communication issued confirming the amount of dependents pension	10 days		
B3	Communication issued to deferred member with pension and lump sum options (quotation)	15 days		
B4	Communication issued to active member with pension and lump sum options (quotation)	15 days		
B5	Communication issued to deferred member with confirmation of pension and lump sum options (actual)	15 days		
B6	Communication issued to active member with confirmation of pension and lump sum options (actual)	15 days		
B7	Payment of lump sum (both actives and deferreds)	15 days		
B8	Communication issued with deferred benefit options	30 days		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

B – Casework Processing Time

Key Performance Indicators		Proposed Target Days	% completed within fund target in year	% completed in previous year
B8	Communication issued to scheme member with completion of transfer in	15 days		
B9	Communication issued to scheme member with completion of transfer out	15 days		
B10	Payment of refund	10 days		
B11	Divorce quotation	45 days		
B12	Communication issued following actual divorce proceedings i.e application of a Pension Sharing Order	15 days		
B13	Communication issued to new starters	40 days		
B14	Member estimates requested by scheme member and employer	15 days		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

C – Communications and engagement

Key Performance Indicators		% as at 31 March	% in previous year
KPI	Engagement with online portals		
C1	% of active members registered		
C2	% of deferred member registered		
C3	% of pensioner and survivor members		
C4	% total of all scheme members registered for self-service		
C5	Number of registered users by age		
C6	% of all registered users that have logged onto the service in the last 12 months		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

C – Communications and engagement

Key Performance Indicators		Number in Year	Number in Previous Year
KPI	Communication		
C1	Total number of telephone calls received in year		
C2	Total number of email and online channel queries received		
C3	Number of scheme member events held in year (total of in-person and online)		
C4	Number of employer engagement events held in year (in-person and online)		
C5	Number of active members who received a one-to-one (in-person and online)		
C6	Number of times a communication (i.e newsletter) issued to each of: Active Members / Deferred Members / Pensioners		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

D – Resources

Key Performance Indicators		Number in Year	Number in Previous Year
D1	Total number of all administration staff (FTE)		
D2	Average service length of all administration staff		
D3	Staff vacancy rate as %		
D4	Ratio of all administration staff to total number of scheme members (all staff including management)		
D5	Ratio of administration staff (excluding management) to total number of scheme members		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

E – Data Quality

Key Performance Indicators		Current Year	Previous Year
KPI	Annual Benefit Statements		
E1	Percentage of annual benefit statements issued as at 31 August		
	Short Commentary if below 100%		
	Data Category		
E2	Common data score		
E3	Scheme Specific data score		
E4	Percentage of active, deferred and pensioner members recorded as 'gone away' with no home address held, or address is known to be out of date		
E5	Percentage of active, deferred and pensioner members with an email address held on file		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

E – Data Quality

Key Performance Indicators		Current Year	Previous Year
KPI	Employer performance		
E7	Percentage of employers set up to make monthly data submissions		
E8	Percentage of employers who submitted monthly data on time during the reporting year		

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

F – Investments

UK Listed Equities		Pooled	Under Pool Management	Not Pooled	Total
KPI	UK Exposure - £m Asset values as at 31 March				
F1	UK Listed Equities				
	UK Government Bonds				
	UK Infrastructure				
	UK Private Equity				
	Total				
F2	Total Private Equity Exposure - £m Asset values as at 31 March				
F3	Levelling Up Investment - £m Asset values as at 31 March				

Service Performance Indicators

(2024/25 KPIs to be reported in Fund Annual Report)

G – Pooled Assets

Assets Pooled		Pooled	Under Pool Management	Not Pooled	Total
G1	Total				
Pooling Savings		Total			
G2	Cumulative Pooling Savings since inception	£			
G3	Pooling Savings in year to 31 March	£			

Local Government Pension Scheme
Scheme Advisory Board

The Rt Hon Laura Trott MBE MP
Chief Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

17 May 2024

Please reply to joanne.donnely@local.gov.uk

Dear Laura

Gender Pensions Gap – Local Government Pension Scheme Advisory Board

I am writing to you on behalf of the Local Government Pension Scheme Advisory Board (“the Board”) to follow up on a letter you have recently received from Garry Graham, Deputy General Secretary of the Prospect Union.

The Board is a statutory body which was established under the Public Service Pensions Act 2013 to advise Ministers on the desirability of making changes to the Local Government Pension Scheme in England and Wales (LGPS). As you may know, the LGPS is the largest funded defined benefit pension scheme in the UK and has 6.6 million members, including many of the lowest paid employees in the public sector, and some £359 billion in assets. Full details of the Board can be found at www.lgpsboard.org.

During 2022/23, the Board commissioned the Government Actuary’s Department to undertake some analysis of the gender pensions gap in the LGPS and two reports on this issue have been published on the Board’s website. The [first report](#) identified a substantial difference in the pensions accrued by men and women in the LGPS, showing a gender pensions gap of 34.7% in the reformed Career Average Revalued Earnings (CARE) scheme. The second report explored in more depth how career patterns and differences within LGPS employers affected the gap. We are now actively considering how best to address the significant gaps which have been found, and have set up a dedicated working group to take forward an action plan.

Due to our progress in highlighting this issue, local government employers and unions have found that the gender pensions gap analysis has given a more dynamic picture of how scheme members’ salaries change over time and some of the graphs in our reports very clearly illustrate the different trajectory of men and women’s careers. Additionally, this analysis adds context and richness to the existing data that the Local Government Association has gathered as part of the statutory gender pay analysis that local government employers undertake.

Scheme Advisory Board

We recognise that these gaps have many causes both in the workplace and wider society, and won't be resolved overnight, but calculating the gender pensions gap gives us a benchmark by which we can assess how well we are progressing in delivering more equal employment opportunities in the public sector (which I am sure we are all committed to).

I would like to place on record the Board's support for Prospect's call to take a consistent and active cross-public sector approach to assessing and addressing the gender pensions gap. As a body which has already given much thought to the issues arising, we would be keen to be part of any discussions on how we could 'mainstream' this type of analysis into the management of public service pension schemes.

As providers of social care and support, many councils are well aware of the challenges of achieving pension adequacy, especially for older women. We therefore also feel that if gender pension gap information were more widely produced, it would be an important evidence base for Government to use when exploring how future tax and state pension changes might be made to improve pension adequacy for women.

As the Board's Chair, I hope to be able to work with you and your officials on this important question.

Yours sincerely



Cllr Roger Phillips
Chair of the Board

cc Simon Hoare MP, Local Government Minister



Department for Levelling Up, Housing & Communities

Simon Hoare MP
Minister for Local Government
2 Marsham Street
London
SW1P 4DF

Chief Executives and Section 151 Officers of
Administering Authorities in England

By email

15
May 2024

Dear Colleagues,

Efficiencies in local government and the management of Local Government Pension Scheme (LGPS) funds

I wrote to all chief executives on 16 April setting out my expectations for the productivity plans to be developed by each authority as announced at the local government finance settlement. In this, I asked for plans covering service transformation, better use of technology and data and reduction of wasteful spend as well as views on barriers which government could remove (letter at annex A).

I am now writing to you to ask you to set out your approach to efficiencies in the management, governance and administration of your LGPS fund and asset pool in a separate letter. I am interested in what is happening across local government to deliver efficiencies in the management of the £359 billion of pension assets you hold, and in your administration of pension benefits for the 6.6 million members.

Since taking on ministerial responsibility for the LGPS I have been grateful for the generous engagement I have received, and I have been struck by the generally strong financial position of the scheme, as well as the strong commitment to serving scheme members. However, it is clear that there is also a need for improvements, including to meet the expectations set out on asset pooling and investments set out at the [Autumn Statement](#). More efficiencies in fund administration and management should also be achieved: across the scheme in 2022-3 investment management costs were £1.7 billion and £280 million on administration and governance.

Your response should consider the following themes on pensions.

1. How your fund will complete the process of pension asset pooling to deliver the benefits of scale.


- What proportion of assets have been pooled in your chosen LGPS asset pool? Is your fund on track to pool all listed assets by March 2025, and if not, what are the barriers to this?
- Is there scope for minimising waste and duplication by making use of your LGPS asset pool's services and expertise in reporting and development of the pensions investment strategy? What is your expenditure on pensions investment consultancy?
- Does your LGPS asset pool have an effective, modern governance structure in place, which is able to deliver timely decisions and ensure proper oversight? If not, what steps are you taking to make your pool's governance more effective?

2. How you ensure your LGPS fund is efficiently run, including consideration of governance and the benefits of greater scale.

- Does your LGPS fund have effective and skilled governance in place, which is able to hold officers, service providers and the pool to account on performance and efficiency?
- Would you be likely to achieve long-term savings and efficiencies if your LGPS fund became part of a larger fund through merger or creation of a larger pensions authority?

As set out in my previous letter I do not wish to impose excessive burdens. I expect your letter to be no more than two pages in length. Your plans must be returned by 19 July 2024, by email to lgpensions@levellingup.gov.uk. We will review your responses and consider the issues emerging and the implications for future national policy.

I look forward to working with you to deliver the best outcomes.

With every good wish.
Yours,

SIMON HOARE MP
Minister for Local Government

Area	Section	Module	Does it apply to LGPS?	Comment	New/Existing Requirement	Main requirements
	Board Structure and Activities	Role of the governing body	YES		Existing	Consider the make up of the governing body - legislation may dictate this. Committee & LPB make up. Should consider proportionality, fairness, transparency. Fair recruitment process. Lists the expected behaviours of the governing body members.
		Recruitment and appointment to the governing body	YES	Explicitly applies to PSPS pension boards be mindful of TPR EDI guidance	Existing	Process in place for recruiting and appointing governing body members. Ensure recruitment practices are inclusive. Regularly review membership. Have a clear recruitment process, succession plan, resignation and removal policy, process for dealing with extended/temp absences. Must follow scheme regulations in regards to representation required. Have a procedure for appointing a chair.
		Arrangements for member-nominated trustee appointments	NO		n/a	n/a
		Appointment and role of the chair	GOOD PRACTICE	PSPS are not relevant scheme but states good practise (other than para 4 & 5)	Existing	Appointment of chair should be robust and documented process. Skills and behaviours expected from Chair are listed in the code.
		Meetings and decision-making	YES		New - some existing clauses	Frequency should be established, meet quarterley at least. Operate effective systems of governance. Establish and operate internal controls to ensure scheme is operated in accordance with the law. Meeting and decision-making requirements for LGPS set out in Local Government Act 1972. Recording of meeting with appropriate information minuted. Establish procedures and processes .e.g. how, when, where, meetings will be held, basically ensure meetings are organised and ran appropriately. Appropriate training in place to support decision-making
		Remuneration and fee policy	GOOD PRACTICE		New	Policy should set out the basis and means for paying those undertaking activities in relation to the scheme that are paid for by the Governing Body. Keep a written record. Be reviewed at least triennially but likely annually. Include explanation of the decision-making process for the levels of remuneration and why these are considered appropriate.
	Knowledge and understanding requirements	Knowledge and understanding	YES LPB / COMMITTEE GOOD PRACTICE		Existing	Maintain a list of items/topics which members of governing body should be familiar with. In accessible format & reviewed regularly. Regularly carry out audit of skills and experience and identify gaps.
		Governance of knowledge and understanding	YES - LPB		New	Can demonstrate that as a group they hold enough knowledge to run scheme effectively. Keep record of training. Have training and development plan.
	Value for members	Value for members	NO		n/a	
	Managing advisers and service providers	Managing advisers and service providers	GOOD PRACTICE			New

Area	Section	Module	Does it apply to LGPS?	Comment	New/Existing Requirement	Main requirements
Governing Body	Risk Management	Identifying, evaluating and recording risks	YES		Existing	Identifying and evaluating risks, before developing internal controls. Key risks should be identified and acceptable parameters established. Contingency plans in place should a risk materialise.
		Internal controls	YES	PSPS should review annually	Existing	Internal controls are in place with the purpose of ensuring the scheme is administered and managed in accordance with scheme rules. They refer to all the following: - the arrangements and procedures to be followed in the administration and management of the scheme - the systems and arrangements for monitoring that administration and management, and - arrangements and procedures to be followed for the safe custody and security of the assets of the scheme.
		Assurance reports on internal controls	YES		Existing	Internal and external Audits of the scheme. Assurance reporting ensures scheme is being ran within legislation and internal controls (above) are in place and working as intended. Reporting can be done by variety of providers, internal, external, wider scoped audits, reporting from service providers, specially commissioned reporting.
		Scheme continuity planning	GOOD PRACTICE	Highlighted as good practice but remember legal internal control requirements	New	Business continuity plan in place covering all areas of fund, data, services, ICT etc. May also want to consider service provider's BCP and if we are reliant on them. Regularly review the plan.
		Conflicts of interest	YES LPB / COMMITTEE GOOD PRACTICE		Existing	Conflicts of interest can be amongst members, service providers, employers, advisers etc. This forms part of internal controls, identifying and evaluating risks. Understand importance of managing conflicts of interests, maintain a policy and register of interests. Encourage a culture of openness and transparency. Have processes in place to deal with conflicts to ensure decision making is not compromised.
		Own risk assessment	GOOD PRACTICE		New	An ORA is not legally required but we could carry out own risk assessment. These normally cover how the governing body has assessed the effectiveness of each policy covered within the ORA. The ORA covers policies surrounding the governing body, risk management, investments, administration, payment of benefits etc.
		Risk Management function	NO		n/a	

Area	Section	Module	Does it apply to LGPS?	Comment	New/Existing Requirement	Main requirements
	Systems of governance	Systems of governance	GOOD PRACTICE	Internal Controls which form part are legal requirement. Legally ESG does not apply but TPR has broadly the same expectation for each type of scheme	Existing	All pension schemes need to have systems of governance and internal controls that: - provide the governing body with oversight of the day-to-day operations of the scheme - include any delegated activities for which the governing body remains accountable - provide the governing body with assurances that their scheme is operating correctly and in accordance with the law. (Need to be fully compliant with all modules of the code to be fully compliant with this module.)
Funding & Investment	Investment Governance	Investment Governance	GOOD PRACTICE		New	Procedures in place which ensure obligations in relation to investments are met. Governing body should have good knowledge of investment matters, appoint investment managers, obtain and consider investment advice from advisors. Clearly document objectives and the roles & responsibilities of those making investment decisions. Obtain relevant advice and have oversight of those with delegated responsibilities. Compliance with with LGPS investment regulations and investment regulations.
	Investment decision making	Investment decision making	NO		n/a	
	Investment monitoring	Investment monitoring	GOOD PRACTICE		New	Have an effective system of governance which monitors and reviews investment performance including stewardship and climate change. This can be reports, meetings with advisors and managers. Having independent advice. Monitoring at least quarterly
	Stewardship	Stewardship	GOOD PRACTICE	Paragraph 12/13 only	New	Stewardship provides a tool for encouraging behaviours throughout the investment chain to ensure long term value and sustainability. Consideration of ESG in decision making. Governing bodies should - identify their rights (including voting rights) attached to investments and consider relevant matters including on ESG ensure they are familiar with their investment managers' own stewardship policies, monitor and seek to influence. Consider following the principles set out in the Financial Reporting Council's UK Stewardship Code
	Climate Change	Climate Change	YES/GOOD PRACTICE	Internal controls apply (para 7) Para 8 & 9 good practice	New	Expectation that we operate ESG. Consider the possible effects of climate change on the scheme's objectives and its operations maintain and document processes for identifying and assessing climate-related risks and opportunities integrate these processes into their risk management and governance arrangements ensure they oversee, assess, and manage climate-related risks and opportunities relating to the scheme

Area	Section	Module	Does it apply to LGPS?	Comment	New/Existing Requirement	Main requirements
	Statement of Investment principles	Statement of Investment principles	GOOD PRACTICE	Para 5 only, reference to para 10/11 good practice	New	Good practise to prepare a document similar to a SIP and publish online as if it were required.
	Default arrangements and change restrictions	Default arrangements and change restrictions	NO		n/a	
Administration	Planning and maintaing administration	Planning and maintaing administration	YES		New	Should operate internal controls including admin processes. Governing bodies should maintain understanding and knowledge of administration and understand administrators responsibilities and tasks. Include admin as agenda item at meetings. Ensure admin and record keeping are on risk register. Monitor performance of administration. Develop strategy for long-term admin objectives.
	Information Handling	Financial transactions	YES		New	Record keeping of all financial transactions. For public sector the Public Sector Pensions (Record Keeping and Misc Amendments) regs 2014 sets out the records that we must maintain. Procedures which ensure transactions are processed promptly and accurately. Separation of duties for authorisation, use electronic means where possible. Review performance.
		Transfers out	YES	Para 9 is not relevant	New	TPR guidance, maintain accurate data, produce CETVs, complete due diligence checks, scams warning issued, financial advice required for large transfers out, be vigilant in identifying possible fraud, act within expected timescales.
		Record Keeping	YES/GOOD PRACTICE		New some existing clauses	Maintain accurate and up-to date records to ensure member benefits are paid correctly. Operate processes to maintain accurate records. Keep records of meetings, member data and transactions and investments. Have electronic member records and monitor developments in technology which could improve record keeping. Provide members with accurate pension info.
		Data monitoring and improvement	YES		New some existing clauses	Monitor data on ongoing basis to ensure accuracy. Prioritise data for members close to drawing benefits. Any improvement plans should be achievable and can be monitored. Have processes to identify/rectify errors. Perform regular reconciliations. Carry out tracing and existence exercises. Processes in place to address data breaches. understand obligation under data protection law. Data reviews and improvement plans.
		Maintainance of IT systems	YES		New	Cyber security measures/procedures in place. Record evidence of planend and executed changes in the system. Regular data backups disaster recovery in place and tested. Written policy for maintaining upgrading hardware and software. Adequate systems capacity to cope with requirements.
		ICT	Cyber controls	YES/GOOD PRACTICE	Legal Internal controls yes. Some good practice, Separate TPR cyber guidance	New

Area	Section	Module	Does it apply to LGPS?	Comment	New/Existing Requirement	Main requirements
	Contributions	Receiving contributions	YES/GOOD PRACTICE		Existing	Monitor contributions to ensure they are received and on time within regulation and accompanied by a payment schedule. Record any missed payments. Ensure scheme has systems in place to accept contributions.
		Monitoring contributions	YES		Existing	Keep a record of contributions being received, check rates correct and payment amounts received are correct. System should monitor both employee and employer contributions. Have a system to identify material payment failures.
		Resolving overdue contributions	YES		Existing	If payment failure occurs contact employer quickly to resolve. Investigate why/how it happened. Consider wider impact, consider if it's a pattern, seek to resolve and ensure it doesn't reoccur. Maintain a record of communication between employer and fund, and associated investigations. Monitoring process should help identify and also stop any deliberate underpayments or non-payment.
		Contribution notices	NO		n/a	
Communication and Disclosure	Information to Members	General Principles for member communications	YES	Mindful of TPR EDI guidance	New some existing clauses	Ensure all communications with members is accurate, clear, concise, relevant and in plain English. Regularly review communications, taking into account feedback, developments in law and code of practice. When deciding on format of communication and info to be published, consider technology that may be available and appropriate. Consider using various methods, online, audio, braille etc. Consider additional info or explanations.
		Annual pension benefit statements DC	NO	May want to consider who is governing body for AVC providers?	existing	monitor and apply pressure to AVC providers in regards to ABS – consider reporting to TPR if fails
		Summary funding and pension benefits statements DB	NO		n/a	
		Benefit information statements PSPS	YES		Existing	Ensure information which must be provided to members is shown within the ABS. ABS must be provided to members before statutory deadline.
		Retirement risk warnings and guidance	YES - only in regards AVCs (DC only)		New	Only applies to AVC benefits. When retiring or making an AVC related decision the member should be made aware of the Money Helper service and sent risk warnings. Scheme must offer to book appointment and member must make declaration they have took advice or don't want advice.
		Notification of right to transfer cash transfer sum or contribution refund	YES	Para 8 not relevant	Existing	Where member is entitled to a refund or cash transfer sum after leaving the scheme they must be provided with the info within 3 months, or explain if this is likely to take longer. Scheme should carry out member wishes within 3 months of their decision.
		Chairs statement	NO		n/a	
		Scams	YES		New	Appropriate steps and have internal controls in place to mitigate risk of scams. Take steps to ensure members are aware of scams. Provide clear info on scams. Place warnings on website, standard communications etc. Complete due diligence checks on transfers-out.
		Audit requirements	NO		n/a	Occ pension schemes regulations

Page 90 Area	Section	Module	Does it apply to LGPS?	Comment	New/Existing Requirement	Main requirements
	Public Information	Publishing scheme information PSPS	YES		Existing	Board info must be published; names, representation and responsibilities. Consider publishing board papers, agendas, meeting minutes. May publish recruitment process, full terms of reference. Should have a policy on monitoring all published data and often review. Identify out of date or incorrect info and remove.
		Dispute Resolution procedures	YES		Existing	Provide IDRPs info to members, prospective members, new members. Should contain info about money and pensions service and ombudsman. Reasonable period for review and keeping member up to date. Publish IDRPs to website to allow accessibility. Governing body must follow the IDRPs to resolve matters.
Reporting to TPR	Notifiable events	Notifiable events	No	n/a	n/a	Calls on pension protection fund
	Registrable information and scheme returns	Registrable information and scheme returns	YES		New	Scheme returns should be completed accurately and sent annually before deadline. Processes should be in place to ensure accuracy.
	Whistleblowing reporting breaches of the law	Who must report	YES		Existing	Pension Boards, scheme managers, employers, professional advisers all have duty to report. Governing bodies should be satisfied those responsible for
		Decision to report	YES		Existing	Two main judgements required when deciding whether to report; Is there reasonable cause to believe there has been a breach of the law and is the breach material to TPR.
		How to report	YES		Existing	Procedure in place to ensure reporter is able to meet legal duty. Should have process for clarifying law around suspected breaches, process for clarifying facts about breach, process to consider materiality, clear referral process to seniority, timeframes, system to record breaches. Reports should use TPR online form, email or post.
		Reporting payment failures	YES		Existing	Only report if have reasonable cause to believe that payment failure is likely to be of significance to TPR. Significance can be regarded as belief that employer cannot or will not pay, dishonesty, misuse of assets, fraud, poor payment procedures, contributions are outstanding for more than 90 days.

Local Pension Board

24 June 2024

Internal Dispute Resolution Procedure

(IDRP) Cases



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 To provide Board Members with a summary of the outcomes of any internal dispute cases or Pensions Ombudsman cases in which the Pension Fund has been involved in during 2023/24.

Executive summary

- 2 Since April 2023, 17 scheme members or their representatives have made an appeal under the Pension Fund's IDRP process. These applications were of a varying nature.
- 3 Of the 17 applications, 17 were reviewed at Stage 1 by the Fund's appointed Adjudicator, who in 13 cases upheld the original decision. Three of these cases were then progressed to be reviewed at Stage 2 of the IDRP Process, with one case being turned down and two remaining ongoing.

Recommendation(s)

- 4 The Board is asked to note the report.

Background

- 5 Scheme members with an unresolved complaint concerning their pension benefits are able to make use of the Pension Fund's two stage Internal Dispute Resolution Procedure (IDRP). Whenever a scheme member initially receives a benefit from the scheme, they are made aware of this procedure – a copy of the information sent to the scheme members about the procedure is enclosed as Appendix 1.

Review of IDRP Cases

- 6 From 1 April 2023 to 31 March 2024 a total of 17 applications under the IDRP process were resolved. The first stage of the resolution process is an application to the Fund's Adjudicator. There have been a total of 17 applications to the Adjudicator resolved during 2023/24 - thirteen of these applications related to ill-health retirement, one related to the calculation of survivor benefits, one related to the reductions applied in benefit calculations and two appeals relate to disputes concerning transfers.
- 7 In 13 of the 17 applications the adjudicator upheld the Council's original decision, whilst four cases were referred back to the fund employer to gather further information. In one case the fund was recommended to make a compensation payment.
- 8 The Council's Occupational Health Team is responsible for submitting ill health retirement applications to an independent doctor for review where the individual worked (or formerly worked) for the Council. As the Council represents around two thirds of the non-active members, most of the ill health retirement applications are initially processed by the Council's Occupational Health Team.
- 9 The Council's Occupational Health Team provide up to date instructions to the independent doctors that provide opinions in respect of ill health retirement applicants, partly as a consequence of previous comments made by the adjudicator. For example, the instructions now make it clear that the independent doctors need to be clear about the probability of success of any untried treatments if they are going to make reference to any such treatments in their report. The Fund continues to monitor the reasons for disputes referred back for further consideration.

Stage Two Appeals and Ombudsman Rulings

- 10 The Pension Fund monitors all Stage Two Appeals, and any rulings of the Pensions Ombudsman in respect of the Fund and its employers.

- 11 Three cases which were reviewed at Stage One during 2023/24 were progressed to Stage Two Appeals. In all cases the Adjudicator had upheld the original decision, with the individuals subsequently initiating Stage Two of the IDR process. Two of these cases related to ill-health retirement the other related to the award of survivors' benefits.
- 12 Two of these cases remains ongoing, however the other appeal which was considered has been turned down. This has resulted in the individual progressing their appeal to the Pension Ombudsman, (the final stage of IDR) and this remains ongoing.

Author(s)

Paul Cooper

Tel: 03000 269798

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THE LOCAL GOVERNMENT PENSION SCHEME (LGPS)

Internal Disputes Resolution Procedure

Introduction

1. Decisions regarding your membership of the LGPS will initially be made by your employing authority in respect of such matters as the amount of your pensionable earnings, date of scheme entry etc.

2. Other matters regarding your membership will then be determined by Durham County Council in its role as administrator of the LGPS, e.g. the amount of service transferred into the scheme from a previous employment.

Note: In the case of Durham County Council employees, both items (1) and (2) will be determined by the same authority. It will however be the responsibility of the employing service to determine issues under (1) and the Pensions Group to determine issues under (2).

What should you do if you are unhappy with any aspect of your pension scheme membership?

Initially you should contact the Durham County Council Pensions Team by telephoning 03000 264322, or by email at pensions@durham.gov.uk. They will be able to explain any questions you have about scheme membership and service, and, if necessary, direct you to the contact person within your employing authority.

If you are still unhappy with the explanation you have been given, or if you have not been provided with an explanation, you may refer the matter to the adjudicator.

You must apply to the adjudicator within six months of being notified of the decision which is the cause of your complaint.

Who is the adjudicator?

The adjudicator for Durham County Council Pension Fund is **Mr Yunus Gajra, Development Manager (Strategic), West Yorkshire Pension Fund, P.O. Box 67, Bradford, BD1 1UP**

When referring your complaint to the adjudicator, you must send a signed letter and include the following information:

- Your full name, address, date of birth, National Insurance number, the name of your employer and your job title (If your complaint is on behalf of another person, you must submit all of the above details in respect of that person and explain your relationship to them).
- A statement setting out the details of the disagreement, enclosing any relevant letters or documentation.

What happens next?

Within two months of receiving your complaint the adjudicator must reach a decision and confirm his decision in writing to you, your employer and Durham County Council Pension Fund.

If he is not able to reach a decision within two months he must write to you to tell you why this is the case and to give you an estimate of when he is likely to be able to reach a decision (the expected decision date).

What should I do if I am not satisfied with the findings of the adjudicator?

If you are not satisfied with the findings of the adjudicator you may refer the matter to the Administering Authority at the following address:

Pensions Group
Resources
County Hall
Durham
DH1 5UE

When referring your complaint to the Administering Authority you must send a signed letter which includes the information in section C2 and a statement that you wish the decision to be reconsidered by the Administering Authority.

Your application must be made by the relevant date as follows:

- Within six months of the date the adjudicator's decision was received.
- If the adjudicator was unable to reach a decision within two months and he wrote to you giving you an expected decision date, you must submit your application within seven months from the expected decision date.
- If the adjudicator did not make a decision and did not provide an expected decision date, you must submit your application within nine months from the date on which your application was made to the adjudicator.

Note: You may also refer your complaint to the Administering Authority should the adjudicator fail to reply to you within the timescales set out overleaf.

What happens next?

Within two months of receiving your complaint, the Administering Authority must confirm its decision in writing to you and to your employer. If it is not possible to reach a decision within two months it must write to you to tell you why this is the case and to give you an estimate of when a decision is likely to be made.

Is there anything else I can do after referring my complaint to the Administering Authority?

When the Administering Authority gives you its decision, it will also give you details about the services provided by TPAS and the Pensions Ombudsman.

What is TPAS?

The Pensions Advisory Service (**TPAS**) is an independent non-profit organisation that provides free information, advice and guidance on all types of pension schemes. You can contact TPAS through your local Citizens Advice Bureau or in writing to:

11 Belgrave Road,
London
SW1 1RB

Or by telephone on 08456012923 Or online at www.pensionsadvisoryservice.org.uk

Note: If you want the Pensions Ombudsman to consider your complaint, you should normally contact TPAS first. If TPAS is unable to resolve your complaint and believes that maladministration has occurred, or that the decision made by the Administering Authority is incorrect, they will recommend that you refer your complaint to the Ombudsman.

You can ask TPAS for help at any time if you are having difficulties in resolving your complaint under the dispute procedure.

What is the role of the Pensions Ombudsman?

The Pensions Ombudsman can investigate complaints of maladministration or disputes of fact or law relating to decisions made about your pension. Unless your complaint relates only to maladministration, you must follow the procedure set out in this leaflet before referring your complaint to the Ombudsman. This means that you must refer your complaint to the adjudicator and then to the Administering Authority before the Pensions Ombudsman will commence an investigation.

If, however, your complaint is about maladministration, i.e. the way your case has been handled by either the adjudicator or the Administering Authority, you do not need to wait until the Internal Disputes Resolution Procedure has been completed.

You can contact the Pensions Ombudsman in writing at:

11 Belgrave Road,
London
SW1 1RB

By telephone on 020 7630 2200 or email enquiries@pensions-ombudsman.org.uk

You can find out more about the Pensions Ombudsman by visiting their web site at:

www.pensions-ombudsman.gov.uk

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Local Pension Board

24 June 2024

Pension Fund Breaches 2023/24



Report of Paul Darby, Corporate Director of Resources

Purpose of the Report

- 1 This report provides the Board with information in relation to breaches of the law and provides an overview of the operation of the Durham County Council Pension Fund's policy on management of breaches.

Executive summary

- 2 Individuals with a role in the LGPS have a duty to report breaches of law when they reasonably believe that a relevant legal duty is not being complied with and that failure is likely to be of material significance to the Pensions Regulator.
- 3 As such, the Pension Fund has developed a procedure for dealing with breaches, including a record to log both material and non-material breaches. Periodic reporting to the Local Pension Board will be provided to ensure oversight of the Fund's breach management.

Recommendation(s)

- 4 The Board is asked to note the report, including the attached Reporting Breaches Procedure, and provide any comments on the approach outlined, and;
- 5 Note the 2023/24 breaches log.

Background

- 6 There is a requirement for those with a role in administering or overseeing the Local Government Pension Scheme (LGPS) – including Committee members, Local Pension Board members and Officers – to report breaches of the law to the Pensions Regulator when they have reasonable cause to believe a breach of ‘material significance’ has occurred.
- 7 The Fund has set out a procedure (Appendix 1) which explains how and when breaches, or suspected breaches, should be reported and recorded. The procedure takes into account the guidance on the subject provided by the Pensions Regulator. Pensions Regulator guidance is included in Appendix 2.

Procedure for Reporting Breaches

- 8 All individuals with a role in the LGPS have a duty to report breaches of law when they have reasonable cause to believe that:
 - (a) A legal duty relevant to the administration of the scheme has not been, or is not being, complied with; and
 - (b) The failure to comply is likely to be of material significance to the Pensions Regulator.
- 9 Breaches can potentially take place in relation to a wide variety of tasks associated with the administering a pension scheme such as record keeping, internal controls and benefit calculation, as well as making decisions relating to investments.
- 10 In line with guidance issued by the Pensions Regulator, the Fund has developed a policy and procedure for ensuring those responsible for reporting can identify, assess and report (or record, if not reported) a breach of law relating to the Pension Fund.
- 11 The procedure includes examples of potential breaches and a flowchart showing the process to following in determining whether to report or merely record a suspected breach. The procedure also includes an example breaches record. The Local Pension Board will be provided with periodic reporting of breaches – material breaches will also be reported to the Pension Fund Committee.

Summary of Pension Fund Breaches 2023/24

- 12 An extract of the Fund’s Breach Log for 2023/24 is included at Appendix 3. The log includes the monitoring of compliance against key activities including the timely issuing of Annual Benefit

Statements, provision of Pensions Savings Statements and publication of the Annual Report and Accounts.

- 13 The Occupational Pension Scheme Disclosure Regulations set out the timescales for the provision of information to Pension Scheme Members. The Board receives quarterly reporting in respect of key services provided, including performance against Disclosure.
- 14 The log details three issues relating to scheme member data. On one occasion the Fund had sent paperwork containing personal information to the wrong person. Steps were taken, as detailed on the log, to ensure that the mistake was not repeated. There were also two recorded instances of Royal Mail inadequately delivering letters to the Fund's members – these incidents are reported to the Board for information only.
- 15 There were two occasions where employers were late in paying over contributions to the Fund. One related to an employer failing to pay over employer contributions on time, whilst the second related to an employer newly admitted to the Fund. Full details are included in the breaches log.
- 16 There were no breaches in the period which warranted reporting to the Regulator.

Author(s)

Paul Cooper

Tel: 03000 269798

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Appendix 1

Durham County Council Pension Fund

Reporting Breaches Procedure

1. Introduction

1.1 This document sets out the procedure to be followed by certain persons involved with the Durham County Council Pension Fund ('the Pension Fund'), the Local Government Pension Scheme managed and administered by Durham County Council ('the Council') in relation to reporting breaches of the law to the Pensions Regulator.

1.2 Breaches can occur in relation to a range of tasks associated with the administrative function of a pension scheme such as keeping records, internal controls, calculating benefits and making investment or investment-related decisions.

1.3 This procedure applies to:

- The scheme manager (the Council in its capacity as administering authority to the Pension Fund)
- all members of the Council's Local Pension Board;
- all members of the Council's Pension Fund Committee
- all Council officers involved in the administration or management of the Pension Fund;
- any professional advisers including auditors, actuaries, legal advisers and fund managers;
- officers of employers participating Pension Fund who are responsible for pension matters; and
- any person otherwise involved in advising the Council in relation to the Pension Fund.

2. Requirements

2.1 This section clarifies the full extent of the legal requirements and to whom they apply.

2.2 Pensions Act 2004

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement on the following persons:

- a trustee or manager of an occupational or personal pension scheme;
- a person who is otherwise involved in the administration of such a scheme;
- the employer in relation to an occupational pension scheme;
- a professional adviser in relation to such a scheme;

- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme

to report a matter to The Pensions Regulator as soon as reasonably practicable where that person has reason to believe that:

- a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- b) the failure to comply is likely to be of material significance to The Pensions Regulator.

The Act states that a person can be subject to a civil penalty if he or she fails to comply with this requirement without a reasonable excuse. The duty to report breaches under the Act overrides any other duties the individuals listed above may have. However, the duty to report does not override 'legal privilege'. This means that, generally, communications between a professional legal adviser and their client, or a person representing their client, in connection with legal advice being given to the client, do not have to be disclosed.

2.3 The Pension Regulator's Code of Practice

Practical guidance in relation to this legal requirement is included in The Pension Regulator's Code of Practice including in the following areas:

- implementing adequate procedures.
- judging whether a breach must be reported.
- submitting a report to The Pensions Regulator.
- whistleblowing protection and confidentiality.

3 Reporting Breaches Procedure

The following procedure details how individuals responsible for reporting and whistleblowing can identify, assess and report (or record if not reported) a breach of law relating to the Pension Fund. It aims to ensure individuals responsible are able to meet their legal obligations, avoid placing any reliance on others to report. The procedure will also assist in providing an early warning of possible malpractice and reduce risk.

3.1 Clarification of the law

Individuals may need to refer to regulations and guidance when considering whether or not to report a possible breach. Some of the key provisions are shown below:

- Section 70(1) and 70(2) of the Pensions Act 2004:
- <http://www.legislation.gov.uk/ukpga/2004/35/section/70>
- Employment Rights Act 1996:
www.legislation.gov.uk/ukpga/1996/18/contents

- Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (Disclosure Regulations): www.legislation.gov.uk/ukxi/2013/2734/contents/made
- Public Service Pension Schemes Act 2013: www.legislation.gov.uk/ukpga/2013/25/contents
- Local Government Pension Scheme Regulations (various): <http://www.lgpsregs.org/timelineregs/Default.html> (pre 2014 schemes) <http://www.lgpsregs.org/index.php/regs-legislation> (2014 scheme)
- The Data Protection Act 2018, the UK's implementation of the General Data Protection Regulation (GDPR): <https://www.gov.uk/data-protection>
- The Pensions Regulator's Code of Practice: <http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx>

In particular, individuals should refer to the section on 'Reporting breaches of the law', and for information about reporting late payments of employee or employer contributions, the section of the code on 'Maintaining contributions'.

Further guidance and assistance can be provided by the Council's Head of Pensions provided that requesting this assistance will not result in alerting those responsible for any serious offence (where the breach is in relation to such an offence).

3.2 Clarification when a breach is suspected

Individuals need to have reasonable cause to believe that a breach has occurred, not just a suspicion. Where a breach is suspected the individual should carry out further checks to confirm the breach has occurred. Where the individual does not know the facts or events, it will usually be appropriate to check with the Council's Corporate Director of Resources or Head of Pensions, a member of the Pension Fund Committee or Local Pension Board or others who are able to explain what has happened. However there are some instances where it would not be appropriate to make further checks, for example, if the individual has become aware of theft, suspected fraud or another serious offence and they are also aware that by making further checks there is a risk of either alerting those involved or hampering the actions of the police or a regulatory authority. In these cases The Pensions Regulator should be contacted without delay.

If the suspected breach relates to potential fraud within an organisation, individuals should also be aware of any procedures relating to fraud that they should follow within their organisation and consider whether the breach should also be reported under those procedures. If the suspected breach relates to a possible data breach within an organisation, individuals should consider whether they also need to follow the data breach policy within their organisation.

3.3 Determining whether the breach is likely to be of material significance

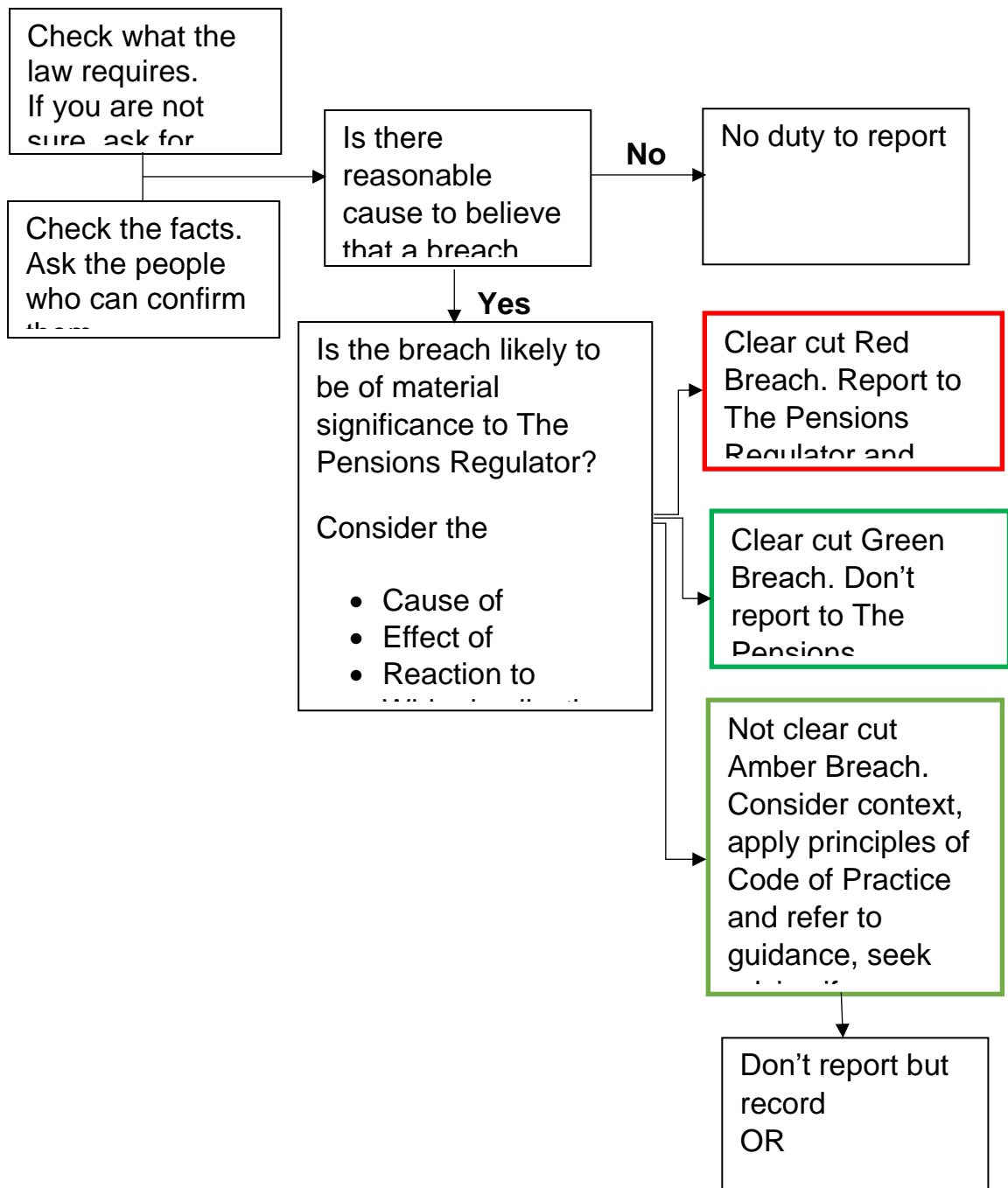
To decide whether a breach is likely to be of material significance an individual should consider the following, both separately and collectively:

- cause of the breach (what made it happen);

- effect of the breach (the consequence(s) of the breach);
- reaction to the breach; and
- wider implications of the breach.

Further details on the above four considerations are provided in Appendix A to this procedure. Individuals should use the traffic light framework described in Appendix B to help assess the material significance of each breach and to formally support and document their decision.

3.4 A decision tree is provided below to show the process for deciding whether or not a breach has taken place and whether it is materially significant and therefore requires to be reported.



3.5 Referral to a level of seniority for a decision to be made on whether to report

The Council's Head of Pensions is designated to ensure this procedure is appropriately followed as they have appropriate experience to help investigate whether there is reasonable cause to believe a breach has occurred, to check the law and facts of the case, to maintain records of all breaches and to assist in any reporting to The Pensions Regulator, where appropriate. If breaches relate to late or incorrect payment of contributions or pension benefits, the matter should be highlighted to the Head of Pensions at the earliest opportunity to ensure the matter is resolved as a matter of urgency. Individuals must bear in mind, however, that the involvement of the Head of Pensions is to help clarify the potential reporter's thought process and to ensure this procedure is followed. The reporter remains responsible for the final decision as to whether a matter should be reported to The Pensions Regulator.

The matter should not be referred to any officer if doing so will alert any person responsible for a possible serious offence to the investigation (as highlighted in section 2). If that is the case, the individual should report the matter to The Pensions Regulator setting out the reasons for reporting, including any uncertainty – a telephone call to the Regulator before the submission may be appropriate, particularly in more serious breaches.

3.6 Dealing with complex cases

The Council's Corporate Director of Resources or Monitoring Officer may be able to provide guidance on particularly complex cases. Information may also be available from national resources such as the Scheme Advisory Board or the LGPC Secretariat (part of the LG Group - <http://www.lgpsregs.org/>). If timescales allow, legal advice or other professional advice can be sought and the case can potentially be discussed at Resources Management Team (RMT), Local Pension Board or Pension Fund Committee meeting.

3.7. Timescales for reporting

The Pensions Act and Pension Regulator's Code of Practice require that if an individual decides to report a breach, the report must be made in writing as soon as reasonably practicable. Individuals should not rely on waiting for others to report, nor is it necessary for a reporter to gather all the evidence which The Pensions Regulator may require before taking action. A delay in reporting may exacerbate or increase the risk of the breach. The time taken to reach the judgements on "reasonable cause to believe" and on "material significance" should be consistent with the speed implied by 'as soon as reasonably practicable'. In particular, the time taken should reflect the seriousness of the suspected breach.

3.8 Early identification of very serious breaches

In cases of immediate risk to the scheme, for instance, where there is any indication of dishonesty, The Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty, the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert The Pensions Regulator to the breach.

3.9 Recording all breaches even if they are not reported

The record of past breaches may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). The Council will maintain a record of all breaches identified by individuals and reporters should therefore provide copies of reports to the Head of Pensions. Records of unreported breaches should also be provided as soon as reasonably practicable and certainly no later than within 20 working days of the decision made not to report. These will be recorded alongside all reported breaches. The record of all breaches (reported or otherwise) will be reported periodically to the Local Pension Board.

3.10 Reporting a breach

Reports must be submitted in writing via The Pensions Regulator's online system at www.tpr.gov.uk/exchange, or by post (The Information Team, The Pensions Regulator, Napier House, Trafalgar Place, Brighton, BN1 4DW) or email wb@tpr.gov.uk and should be marked urgent if appropriate. If necessary, a written report can be preceded by a telephone call. Reporters should ensure they receive an acknowledgement for any report they send to The Pensions Regulator. The Pensions Regulator will acknowledge receipt of all reports within five working days and may contact reporters to request further information. Reporters will not usually be informed of any actions taken by The Pensions Regulator due to restrictions on the disclosure of information.

As a minimum, individuals reporting should provide:

- full scheme name (Durham County Council Pension Fund);
- description of breach(es);
- any relevant dates;
- name, position and contact details;
- role in connection to the scheme; and
- employer name or name of scheme manager (the scheme manager is Durham County Council)

If possible, reporters should also indicate:

- the reason why the breach is thought to be of material significance to The Pensions Regulator;
- scheme address (Durham County Council Pension Fund, County Hall, Durham, DH1 5UE)
- scheme manager contact details (postal address as above, telephone 03000 269798, email: pensions@durham.gov.uk)
- pension scheme registry number (10079166) and
- whether the breach has been reported before.

The reporter should provide further information or reports of further breaches if this may help The Pensions Regulator in the exercise of its functions. The Pensions Regulator may make contact to request further information.

3.11 Confidentiality

If requested, The Pensions Regulator will do its best to protect a reporter's identity and will not disclose information except where it is lawfully required to do so. If an individual's employer decides not to report and the individual employed by them disagrees with this and decides to report a breach themselves, they may have protection under the Employment Rights Act 1996 if they make an individual report in good faith.

3.12 Reporting to the Pension Fund Committee and Local Pension Board

A periodic report will be presented to the Local Pension Board setting out:

- all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates;
- in relation to each breach, details of what action was taken and the result of any action (where not confidential);
- any future actions for the prevention of the breach in question being repeated; and
- highlighting new breaches which have arisen in the last year/since the previous meeting.

This information will also be provided upon request by any other individual or organisation (excluding sensitive/confidential cases or ongoing cases where discussion may influence the proceedings). An example of the information to be included in the periodic reporting is provided in Appendix C to this procedure.

Any breaches reported to the Pensions Regulator ('Red' breaches) will also be reported to the Pension Fund Committee, should they occur.

3.13 Review

This Reporting Breaches Procedure will be kept under review and updated as considered appropriate. It may be changed as a result of legal or regulatory

changes, evolving best practice and ongoing review of the effectiveness of the procedure.

Durham County Council Pension Fund Reporting Breaches Procedure - Appendix A

1. Determining whether a breach is likely to be of material significance

1.1 To decide whether a breach is likely to be of material significance individuals should consider the following elements, both separately and collectively:

- cause of the breach (what made it happen);
- effect of the breach (the consequence(s) of the breach);
- reaction to the breach; and
- wider implications of the breach.

2. The cause of the breach

2.1 Examples of causes which are likely to be of concern to The Pensions Regulator are provided below:

- acting, or failing to act, in deliberate contravention of the law;
- dishonesty;
- incomplete or inaccurate advice;
- poor administration, i.e. failure to implement adequate administration procedures;
- poor governance; or
- slow or inappropriate decision-making practices.

2.2 When deciding whether a cause is likely to be of material significance individuals should also consider:

- whether the breach has been caused by an isolated incident such as a power outage, fire, flood or a genuine one-off mistake.
- whether there have been any other breaches (reported to The Pensions Regulator or not) which when taken together may become materially significant.

3. The effect of the breach

3.1 Examples of the possible effects (with possible causes) of breaches which are considered likely to be of material significance to The Pensions Regulator in the context of the LGPS are given below:

- Pension Fund Committee or Local Pension Board members not having enough knowledge and understanding, resulting in pension boards not fulfilling their roles, the scheme not being properly governed and administered and/or scheme managers breaching other legal requirements.

- Conflicts of interest of Pension Fund Committee or Local Pension Board members, resulting in them being prejudiced in the way in which they carry out their role and/or the ineffective governance and administration of the scheme and/or scheme managers breaching legal requirements.
- Poor internal controls, leading to schemes not being run in accordance with their scheme regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the scheme at the right time.
- Inaccurate or incomplete information about benefits and scheme information provided to members, resulting in members not being able to effectively plan or make decisions about their retirement.
- Poor member records held, resulting in member benefits being calculated incorrectly and/or not being paid to the right person at the right time.
- Misappropriation of assets, resulting in scheme assets not being safeguarded.
- Other breaches which result in the scheme being poorly governed, managed or administered.

4. The reaction to the breach

4.1 A breach is likely to be of concern and material significance to The Pensions Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion; or
- fail to notify affected scheme members where it would have been appropriate to do so.

5. The wider implications of the breach

5.1 Reporters should also consider the wider implications when deciding whether a breach must be reported. The breach is likely to be of material significance to The Pensions Regulator where the fact that a breach has occurred makes it more likely that further breaches will occur within the Fund or, if due to maladministration by a third party, further breaches will occur in other pension schemes.

6. Examples of breaches

Example 1

An employer is late in paying over employee and employer contributions, and so late that the employer is in breach of the statutory period for making such payments. The employer is contacted by officers from the administering authority, and immediately makes the payment that is overdue, as well as improving its procedures so that in future contributions are paid over on time. In this instance there has been a breach but members have not been adversely affected and the employer has put its house in order regarding

future payments.

The breach is therefore not material to The Pensions Regulator and need not be reported but it will be recorded.

Example 2

An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. The employer is also late in paying Additional Voluntary Contributions (AVCs) to the AVC provider (Prudential or Standard Life). The employer is contacted by officers from the administering authority, and it eventually pays the moneys that are overdue, including AVCs. This has happened before, with there being no evidence that the employer is putting its house in order. In this instance there has been a breach that is relevant to The Pensions Regulator, in part because of the employer's repeated failures, and also because those members paying AVCs will typically be adversely affected by the delay in the investing of their AVCs.

The breach is therefore material to The Pensions Regulator and needs to be reported and recorded.

Example 3

An employer is late in submitting its statutory year end return of pay and contributions in respect of each of its active members and as such it is in breach. Despite repeated reminders the employer still does not supply its year end return. Because the administering authority does not have the year-end data it is unable to supply, by 31 August, annual benefit statements to the employer's members. In this instance there has been a breach which is relevant to The Pensions Regulator, in part because of the employer's failures, in part because of the enforced breach by the administering authority, and also because members are being denied their annual benefits statements.

The breach is therefore material to The Pensions Regulator and needs to be reported and recorded.

Example 4

A member of the Pension Fund Committee owns a property. A report is made to the Pension Fund Committee about a possible investment by the Fund, in the same area in which the member's property is situated. The member supports the investment but does not declare an interest and is later found to have materially benefitted when the Fund's investment

proceeds. In this case a material breach has arisen, not because of the conflict of interest, but rather because the conflict was not reported.

The breach is therefore material to The Pensions Regulator and needs to be reported and recorded.

Example 5

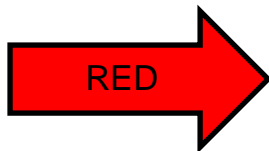
A pension overpayment is discovered and thus the administering authority has failed to pay the right amounts to the right person at the right time. A breach has therefore occurred. The overpayment is however for a modest amount and the pensioner could not have known that (s)he was being overpaid. The overpayment is therefore waived. In this case there is no need to report the breach as it is not material.

The breach is therefore not material to The Pensions Regulator and need not be reported but it will be recorded.

Durham County Council Pension Fund Reporting Breaches Procedure – Appendix B

Traffic light framework for deciding whether or not to report

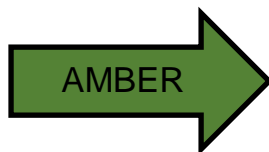
It is recommended that those responsible for reporting use the traffic light framework when deciding whether to report to The Pensions Regulator. This is illustrated below:



Where the cause, effect, reaction and wider implications of a breach, when considered together, are likely to be of material significance.

These must be reported to The Pensions Regulator.

Example: Several members' benefits have been calculated incorrectly. The errors have not been recognised and no action has been taken to identify and tackle the cause or to correct the errors.



Where the cause, effect, reaction and wider implications of a breach, when considered together, may be of material significance. They might consist of several failures of administration that, although not significant in themselves, have a cumulative significance because steps have not been taken to put things right. You will need to exercise your own judgement to determine whether the breach is likely to be of material significance and should be reported.

Example: Several members' benefits have been calculated incorrectly. The errors have been corrected, with no financial detriment to the members. However the breach was caused by a system error which may have wider implications for other public service schemes using the same system.



Where the cause, effect, reaction and wider implications of a breach, when considered together, are not likely to be of material significance. These should be recorded but do not need to be reported.

Example: A member's benefits have been calculated incorrectly. This was an isolated incident, which has been promptly identified and corrected, with no financial detriment

to the member. Procedures have been put in place to mitigate against this happening again.

All breaches should be recorded even if the decision is not to report.

When using the traffic light framework individuals should consider the content of the red, amber and green sections for each of the cause, effect, reaction and wider implications of the breach, before you consider the four together. Some useful examples of this framework is provided by The Pensions Regulator at the following link:

<https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/ps-reporting-breaches-examples-traffic-light-framework.ashx>

Reporting breaches of the law

REGULATORY
Code of
practice

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**Code of
practice**
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Introduction

1. This code of practice is issued by the Pensions Regulator, the body that regulates work-based pension arrangements (occupational pension schemes, stakeholder pension schemes and certain aspects of personal pension schemes which have direct payment arrangements, whereby the employer pays contributions on behalf of the employee).
2. The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund (PPF), and to promote the good administration of work-based pension schemes.
3. The Pensions Regulator has a number of regulatory tools, including issuing codes of practice, to enable it to meet its statutory objectives. The Pensions Regulator will target its resources on those areas where members' benefits are at greatest risk.
4. Codes of practice provide practical guidelines on the requirements of pensions legislation and set out the standards of conduct and practice expected of those who must meet these requirements. The intention is that the standards set out in the code are consistent with how a well-run pension scheme would choose to meet its legal requirements.

-
- The status of codes of practice**
5. Codes of practice are not statements of the law and there is no penalty for failing to comply with them. It is not necessary for all the provisions of a code of practice to be followed in every circumstance. Any alternative approach to that appearing in the code of practice will nevertheless need to meet the underlying legal requirements, and a penalty may be imposed if these requirements are not met. When determining whether the legal requirements have been met, a court or tribunal must take any relevant codes of practice into account.
- Other regulatory requirements**
6. Pensions legislation also imposes duties to report to the regulator in some specific circumstances, for example changes in registrable information, a failure to pay contributions due¹ and certain failures in relation to the funding of defined benefit schemes.²
7. Additionally, there are requirements placed on trustees and employers to notify the Pensions Regulator about certain events that may affect the pension scheme and the sponsoring employer.³

In this code of practice, references to the law that applies in Great Britain should be taken to include corresponding legislation in Northern Ireland; an annex lists the corresponding references.

¹ See s228(2) of the Pensions Act 2004.

² See Part 3 of the Pensions Act 2004.

³ See for example s69 and s120 of the Pensions Act 2004. This code of practice does not cover these more specific requirements; if they arise, reference should be made to the relevant legislative provisions and any associated codes of practice.

At a glance

The requirement to report breaches

- Breaches of the law which affect pension schemes should be considered for reporting to the Pensions Regulator.
- The decision whether to report requires two key judgements:
 - (i) is there reasonable cause to believe there has been a breach of the law;
 - (ii) if so, is the breach likely to be of material significance to the Pensions Regulator?
- Not every breach needs to be reported.

Who does the requirement to report apply to?

- There is a wide range of reporters:
 - trustees and their advisers and service providers (including those carrying out tasks such as administration or fund management);
 - managers of schemes not set up under trust; and
 - employers sponsoring or participating in work-based pension schemes.

Which pension schemes does the requirement to report apply to?

- The requirement applies to occupational and personal pension schemes (including stakeholder schemes).

Reporting arrangements

- All reporters should have effective arrangements in place to meet their duty to report breaches of the law.
- Reliance cannot be placed on waiting for others to report.
- Breaches should be reported as soon as reasonably practicable.
- Failure to report when required to do so is a civil offence.

The Code of Practice 'Whistleblowing' – the requirement to report breaches of the law

1. The requirement to report is a vital part of the regulatory framework. Whistleblowing reports will be a key source of information used by the Pensions Regulator in fulfilling its regulatory responsibilities for work-based pensions. (The relevant legislation is at Appendix A.)
2. To enable the Pensions Regulator to fulfil its responsibilities and achieve its objectives, the categories of those required to report breaches of the law was expanded from April 2005.⁴
3. The duty applies to those involved in running occupational and personal pension schemes, including stakeholder schemes, and covers breaches in certain circumstances of any legislation or rule of law concerning the administration of pension schemes. There is no requirement to report every breach.
4. In this code the term 'reporter' is used to describe any person who may have a duty to report.
5. There are other requirements placed on firms and organisations to report to other bodies; these are outside the scope of this code.⁵ Where the duty to report to another body arises, and a reporter also concludes that there is a separate duty to report to the Pensions Regulator, it would assist if the report to the Pensions Regulator referred to the other report.
6. The Pensions Regulator's expectation is that all those who may have this duty to report will have an understanding of the requirements of the law and this code of practice and, in particular, of how 'reasonable cause to believe', 'material significance' and 'as soon as reasonably practicable' should be interpreted.
7. This code and supporting guidance material issued by the Pensions Regulator will inform these judgements. Whilst it cannot cover every circumstance, it provides principles and benchmarks against which reporters can consider breaches they come across.
8. If you are concerned about whether or not to report a breach you should refer to the legislation, this code of practice, any other code of practice that may apply and any relevant supporting guidance. If you require further assistance, you can contact the Pensions Regulator for help and advice.⁶

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⁴ In particular it extends, compared with the Pensions Act 1995, the categories of those required to report.
⁵ For example, in relation to money laundering under chapter 29 of the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2003 (SI 2003/3075), certain persons are required to make suspicious activity reports to the National Criminal Intelligence Service.
⁶ Contact details will be available on the Pensions Regulator's website: www.thepensionsregulator.gov.uk.

‘Whistleblowing’ – the requirement to report breaches of the law

Who has a duty to report?

- A legal duty falls on:**
- Trustees of trust-based schemes**
9. The duty to report applies to each individually appointed trustee. If the trustee is a corporate body, and the individuals concerned are trustee directors, the requirement to report falls on the trustee company.
- Managers of schemes not established under trust**
10. The requirement is placed on managers of personal pension schemes, including stakeholder schemes. Only breaches in relation to stakeholder schemes, or other personal pension schemes where a direct payment arrangement exists, will be of material significance to the Pensions Regulator.
- Persons otherwise involved in the administration of a scheme**
11. This category covers all those who provide services for the trustees or managers that relate to the administration and management of occupational and personal pension schemes, including stakeholder schemes. It includes:
- insurance companies and third party administrators who carry out administrative tasks relating to a scheme;
 - a participating employer who provides staff to carry out administration tasks in-house (this includes performing payroll and similar functions as well as carrying out or helping with direct administration of the pension scheme); and
 - independent financial advisers and consultants who provide services to trustees relating to administration such as record-keeping or acting as an intermediary receiving and forwarding scheme documents and other materials.
- Any employer participating in an occupational pension scheme
12. The duty to report applies to employers participating in an occupational pension scheme. In the case of a multi-employer scheme, this includes any participating employer who becomes aware of a breach regardless of whether the breach relates to, or affects, members who are its employees or those of other employers.

	<p>Professional advisers</p> <p>13. The duty to report applies to specific groups of professionals appointed by the trustees to provide them with advice or services in relation to their occupational pension scheme. This category comprises scheme actuaries, scheme auditors, legal advisers, fund managers and custodians of scheme assets.⁷</p> <p>14. Often a firm, rather than an individual, is appointed to provide the relevant services; in these circumstances the duty to report applies to the firm. The firm must put in place suitable systems and train its staff to ensure that the firm meets this duty.</p> <p>15. Where an individual is appointed to provide the service, as is the case with the scheme actuary, the duty to report applies to the individual.</p> <p>Persons otherwise involved in advising a trustee (or manager of a scheme not established under trust) in relation to the scheme</p> <p>16. The duty to report applies to other firms (or individuals where the appointments are personal) providing advice to the trustees or managers of occupational and personal pension schemes, including stakeholder schemes. Included within this category are:</p> <ul style="list-style-type: none"> • independent financial advisers, pensions consultants and investment consultants; • actuaries and auditors providing advice to the managers of personal pension schemes; • actuaries and auditors engaged to provide advice to the trustees of occupational pension schemes other than would cause them to be classed as professional advisers; • reporting accountants appointed to stakeholder schemes; and • anyone acting as custodian of the assets of a personal pension scheme. <p>Reporters with more than one role</p> <p>17. In most cases it will be clear into which category a reporter falls. However, sometimes a reporter may have more than one role in relation to the scheme. Where this is the case, the Pensions Regulator expects reporters to apply their wider knowledge of the scheme in judging whether a matter is likely to be of material significance to the regulator. Where appropriate, they are expected to report irrespective of the function they were performing when the breach was identified.</p> <p style="text-align: right;">continued over...</p>
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Professional advisers are defined in section 47(4) of the Pensions Act 1995.

'Whistleblowing' – the requirement to report breaches of the law

Who has a duty to report?

- Systems and training**
18. The Pensions Regulator expects firms to ensure that their staff are adequately trained to a level commensurate with their roles. In particular, the staff of a firm appointed to provide advice or a service to trustees or managers, and which carries a reporting duty, should be trained to recognise potentially reportable situations. Firms should put adequate systems in place to ensure that staff are aware of their responsibilities and that they are familiar with reporting procedures.
- Whistleblowing protection and confidentiality**
19. The Pensions Act 2004 makes clear that the duty to report overrides any other duties a reporter may have such as confidentiality, and that any such duty is not breached by making a report. The Pensions Regulator understands the potential impact of a report on the relationship between a reporter and their client or, in the case of an employee, their employer.
20. The duty to report does not, however, override 'legal privilege'.⁸ What this means is that communications (oral and written) between a professional legal adviser and their client, or a person representing that client, whilst obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
21. The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the Pensions Regulator. Consequently, where individuals employed by firms having a duty to report disagree with a decision not to report to the Pensions Regulator, they may have protection under the ERA if they make an individual report in good faith. The Pensions Regulator expects such individual reports to be rare and confined to the most serious cases.
22. The Pensions Regulator will, if requested, seek to protect the identity of reporters. However, this cannot be guaranteed. Even if the Pensions Regulator does not explicitly reveal the name of the reporter, their identity may become apparent in the course of an investigation.
23. In all cases, the Pensions Regulator expects reporters to act conscientiously and honestly, and to take account of expert or professional advice where appropriate.

8 See s311 of the Pensions Act 2004.

The duty to report

24. The requirement to report breaches of the law arises when a duty which is:
- imposed by or by virtue of an enactment or rule of law; and
 - relevant to the administration of a scheme
- has not been or is not being complied with.
25. Not every breach has to be reported. The judgements required in order to reach a decision to report are outlined below.
- ‘Imposed by or by virtue of an enactment or rule of law’**
26. ‘Enactment’ covers Acts of Parliament and regulations or statutory instruments. For example, the Pensions Act 2004 is an enactment as are regulations made under that Act. Breaches of criminal law, such as an offence of dishonesty under the Theft Act, would also come within the term enactment.
27. ‘Rule of law’ covers law laid down by decisions of the courts. It would, for example, include trust law and common law.
28. When considering breaches of trust law, reporters should bear in mind the basic principle that trustees are holding property on behalf of others. Trustees should act in good faith and within the terms of their trust deed and rules for the benefit of all of the beneficiaries of the scheme. If they fail to do so, they are in breach of trust law. A very basic rule of thumb in considering whether an action or failure to act is, or may be, a breach of trust is this: if the trustees have acted in a way which would appear unfair or wrong to a reasonable and objective person, then a breach of trust may have taken place.
- ‘Relevant to the administration of the scheme’**
29. In view of its statutory objectives, the Pensions Regulator interprets ‘administration’ widely in the context of the need to report breaches. It is much wider than just those tasks normally associated with the administrative function such as keeping records, dealing with membership movements, calculating benefits and preparing accounts, though all these are included within it. The Pensions Regulator interprets administration to include such matters as the consideration of funding in defined benefit schemes, investment policy and investment management, as well as the custody of invested assets; indeed anything which could potentially affect members’ benefits or the ability of members and others to access information to which they are entitled.

The decision to report

30. There are two key judgements required:
- First, does the reporter have reasonable cause to believe there has been a breach of the law?
 - If so, then, secondly, does the reporter believe the breach is likely to be of material significance to the Pensions Regulator?
- ‘Reasonable cause to believe’**
31. Having a reasonable cause to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.
32. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with the trustees or manager, or with others who are in a position to confirm what has happened. However, it would not be appropriate to check with the trustees or the manager or others in cases of theft, or if the reporter is concerned that a fraud or other serious offence might have been committed and discussion with those persons might alert those implicated or impede the actions of the police or a regulatory authority.
33. If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.
34. In establishing that there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Pensions Regulator would require before taking legal action.

- ‘Likely to be of material significance to the Pensions Regulator’**
35. The legal requirement is that breaches likely to be of material significance to the Pensions Regulator in carrying out any of its functions⁹ must be reported. What makes the breach of material significance depends on:
- (i) The cause of the breach.
 - (ii) The effect of the breach.
 - (iii) The reaction to the breach.
 - (iv) The wider implications of the breach.
- When reaching a decision whether to report, the reporter should consider these points together. Each of these aspects is considered in more detail below.
- (i) The cause of the breach**
36. Where the breach was caused by:
- dishonesty;
 - poor governance, inadequate controls resulting in deficient administration, or slow or inappropriate decision-making practices;
 - incomplete or inaccurate advice; or
 - acting (or failing to act) in deliberate contravention of the law
- the breach is likely to be of material significance to the Pensions Regulator.
37. In forming a view on whether the breach is of material significance, reporters should consider other reported and unreported breaches of which they are aware. Reporters should use historical information with care, however, particularly if changes have been made to address previously identified problems.
38. On the other hand, the Pensions Regulator will not regard as materially significant a breach arising from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had.

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⁹ To further assist reporters in reaching a judgement on material significance, examples of breaches are set out in separate guidance. The guidance is illustrative and does not form part of this code of practice.

The decision to report continued

39. **(ii) The effect of the breach**
The Pensions Regulator's objectives are to protect the benefits of pension scheme members, to reduce the risk of calls on the Pension Protection Fund, and to promote the good administration of work-based pension schemes.
40. In the light of these objectives, the Pensions Regulator considers the following to be particularly important elements which are likely to be of material significance to the regulator.
- In relation to protecting members' benefits:
- substantially the right money is paid into the scheme at the right time;
 - assets are appropriately safeguarded;
 - payments out of the scheme are legitimate and timely;
 - defined benefit schemes are complying with the legal requirements on scheme funding;
 - trustees of occupational pension schemes are properly considering their investment policy, and investing in accordance with it;
 - contributions in respect of money purchase members are correctly allocated and invested.
- In relation to reducing the risk of compensation being payable from the PPF:
- the Pensions Regulator is informed of notifiable events;¹⁰
 - trustees comply with PPF requirements during an assessment period. This is the period starting with an insolvency event and during which the scheme's eligibility for entry into the PPF is assessed and certain restrictions apply. Reports should continue to be made to the Pensions Regulator during the assessment period.
- In relation to promoting good administration:
- schemes are administered properly and appropriate records maintained;
 - members receive accurate, clear and impartial information without delay.

¹⁰ See section 69 of the Pensions Act 2004.

- (iii) The reaction to the breach**
41. The Pensions Regulator does not normally regard a breach as materially significant where the trustees or managers (or their advisers and service providers) take prompt and effective action to investigate and correct the breach and its causes, and, where appropriate, to notify any members whose benefits have been affected.
42. However, where, after a breach is identified, the trustees and their advisers or service providers involved:
- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
 - are not pursuing corrective action to a proper conclusion; or
 - fail to notify members whose benefits have been affected by the breach where it would have been appropriate to do so;
- this is of concern to the Pensions Regulator, and the breach is likely to be of material significance.
43. For example, even where only a few members are not receiving benefits due to them, the breach is likely to be materially significant unless prompt and robust action is being taken to remedy the situation.
- (iv) The wider implications of the breach**
44. The wider implications of a breach should be taken into account when assessing which breaches are likely to be materially significant to the exercise of the Pensions Regulator's functions. For example, a breach is likely to be of material significance where:
- the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future because the trustees (or the manager) lack the appropriate knowledge and understanding to fulfil their responsibilities; or
 - other schemes may be affected, for example schemes administered by the same organisation where a system failure is to blame.
45. In forming a judgement on whether a particular breach may have wider implications, the reporter should take into account such general risk factors as the level of funding (in a defined benefit scheme) or how well run the scheme appears to be. Some breaches which arise in respect of a poorly funded, poorly administered scheme will be more significant to the Pensions Regulator than the same breaches would be in a well funded, well administered scheme. Such an approach is consistent with the risk-focused approach to regulation adopted by the Pensions Regulator.

The decision to report continued

- 'As soon as reasonably practicable'**
46. If a judgement has been reached that there is reasonable cause to believe that a breach has occurred, and that it is of material significance to the Pensions Regulator, it must be reported as soon as reasonably practicable. It is important that procedures are in place to allow reporters to make a judgement within an appropriate timescale as to whether a breach must be reported.
47. What is reasonably practicable depends on the circumstances. In any event the time taken to reach the judgements on reasonable cause to believe and on material significance should be consistent with the speed implied by 'as soon as reasonably practicable'. In particular, the time taken should reflect the seriousness of the suspected breach. In cases of immediate risk to scheme assets, the payment of members' benefits, or where there is any indication of dishonesty, the Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies but only to make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently these necessary checks should be made. In cases of potential dishonesty, the reporter should avoid, where possible, checks which might alert those implicated. In serious cases reporters should consider contacting the Pensions Regulator by the quickest means possible to alert the regulator to the breach.
- Identification of breaches**
48. There is no requirement or expectation that reporters should search for breaches.
49. Reporters should nevertheless be alert to breaches relevant to the service or services which they are providing in relation to the scheme. For example, administrators and insurers are expected to be in a position to identify breaches relating to member disclosure, transfer value quotations and payments, payment of benefits and receipt of contributions.
50. There are some breaches that all reporters should be alert to, in particular any dishonest behaviour.

Reporting arrangements

51. All reporters should have effective arrangements in place to identify breaches that occur in areas relating to their functions. These arrangements should enable them to evaluate and if appropriate report any breaches they become aware of in the course of their work.
52. If possible breaches are identified that do not relate to their functions, reporters should still follow the usual steps and consider reporting. If in doubt about whether a breach has in fact occurred, reporters should seek input from others having the necessary expertise.
53. All reporters should establish a procedure for evaluating matters to determine whether a breach has occurred and, if it has, whether it is likely to be of material significance to the Pensions Regulator. The nature of the arrangements is a matter for the reporter and should be conducive both to staff raising concerns and to the objective consideration of those concerns.

A satisfactory procedure is likely to include the following features:

- obtaining clarification of the law where it is not clear to the reporter;
- clarifying the facts around the suspected breach where these are not known;
- consideration of the material significance of the breach taking into account its cause, effect, the reaction to it, and its wider implications, including where appropriate dialogue with the trustees or managers;
- a clear process for referral to the appropriate level of seniority at which decisions can be made on whether to report to the Pensions Regulator;
- an established procedure for dealing with difficult cases such as a 'Regulator Committee' of experienced persons within the reporter's firm;
- a timeframe for the procedure to take place that is appropriate to the breach and allows the report to be made as soon as reasonably practicable;
- a system to record breaches even if they are not reported to the Pensions Regulator (the principal reason for this is that the record of past breaches may be relevant in deciding whether to report future breaches); and
- a process for identifying promptly any breaches that are so serious they must always be reported.

Reporting arrangements continued

Collective reporting

54. The Pensions Regulator accepts that often trustees, together with one or more of their advisers or other groups, will wish to make a collective report.
55. If that is the approach taken, the procedure put in place must allow for the evaluation of each breach as described in this code of practice and for a report to be made as soon as reasonably practicable.
56. Where the trustee is not a corporate body, the duty to report falls on the individual trustees rather than on the board of trustees. If a consensus cannot be reached, or if there is insufficient time to agree a collective approach, the Pensions Regulator will expect the individuals to report.

Duplicate reporting

57. The requirement to report applies to all those subject to the reporting duty who become aware of a breach that is likely to be of material significance to the Pensions Regulator; it is not automatically discharged by another party reporting the breach.
58. This gives rise to the possibility of duplicate reporting by those involved in a scheme. Duplicate reports carry a cost, which will ultimately be borne by the scheme members or the employer. Moreover, duplicate reports do not benefit the Pensions Regulator. Once aware of a particular breach, the Pensions Regulator does not regard that breach as being of material significance for the purpose of making further reports under the requirement to report breaches of the law. An exception is where another reporter has additional or different information about that breach or the circumstances relating to it.
59. The reporter coming across the breach should make the report to the Pensions Regulator. The regulator will send an acknowledgement to the reporter. The report (if not previously sent) and the acknowledgement should be sent by the reporter to the trustees or manager. The trustees or manager will be able to copy the original report and its acknowledgement to those other reporters who they consider may also be likely to come across the breach.
60. This arrangement is not intended to replace dialogue between trustees or managers and their advisers or service providers. When notified of a breach, trustees or managers may want to discuss matters with these groups. They will want to determine the best way to get things put right and may also want to discuss whether or not a report is needed. Indeed, trustees or managers should require their advisers to alert them when things appear to be going wrong and should ensure they are kept informed about matters affecting their scheme.

61. An exception to the arrangement above, and to the need for dialogue between trustees or managers and advisers or service providers, will apply in cases where there is a suspicion of dishonesty or other serious wrongdoing by the trustees or managers.

Making a report

62. Reports must be submitted in writing. Reporters should wherever practicable use the standard format available on the website at www.thepensionsregulator.gov.uk.

63. The report should be dated and should include as a minimum:

- name of the scheme;
- description of the breach or breaches;
- any relevant dates;
- name of the employer (in the case of an occupational scheme) or scheme manager (in the case of a personal pension scheme, including stakeholder schemes);
- name, position and contact details of the reporter; and
- role of the reporter in relation to the scheme.

The information that we would expect to see in addition is:

- reason the breach is thought to be of material significance to the Pensions Regulator;
- address of the scheme;
- type of scheme – whether occupational (defined benefit, defined contribution or hybrid) or personal;
- name and contact details of the trustees or scheme manager (if different to the scheme address);
- pension schemes registry number; and
- address of employer.

Reports can be sent by post or electronically, including by email or by fax.¹¹

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¹¹ Contact details are available on the Pensions Regulator’s website: www.thepensionsregulator.gov.uk.

Reporting arrangements continued

64. Urgent reports should be marked as such, and attention should be drawn to matters considered particularly serious by the reporter. A written report can be preceded by a telephone call if appropriate.
65. A reporter should ensure they receive an acknowledgement in respect of any report they send to the Pensions Regulator. Only when an acknowledgement of receipt is received by the reporter can they be confident that the Pensions Regulator has received their report.
- Follow up**
66. The regulator will acknowledge all reports within five working days of receipt.
67. The Pensions Regulator will not generally keep a reporter informed of the steps it takes in response to a report of a breach. There are restrictions on the information it can disclose. Further information or reports of further breaches should, however, be provided by the reporter, if this may assist the Pensions Regulator in exercising its functions. The regulator may in any case make contact to request further information.

Failure to report

68. Failure to comply with the obligation imposed by the requirement to report breaches of the law without ‘reasonable excuse’ is a civil offence. To decide whether the reporter has a reasonable excuse for not reporting as required, or for reporting a breach later than the regulator would have expected, the regulator will look at:
- the legislation, case law, this code of practice and any guidance issued by the Pensions Regulator;
 - the role of the reporter in relation to the scheme;
 - the training provided to the individual or staff, and the level of knowledge it would be reasonable to expect that individual or those staff to have;
 - the procedures put in place to identify and evaluate breaches and whether these procedures had been followed;
 - the seriousness of the breach and therefore how important it was to report this to the Pensions Regulator without delay;
 - any reasons for the delay in reporting;
 - any other relevant considerations relating to the case in question.
69. If the Pensions Regulator is considering imposing a civil penalty, or exercising one of its functions, directly affected parties will receive a warning notice identifying the alleged breach and specifying the relevant function. Further details can be found in the regulator’s guidance on determination procedures.
70. The Pensions Regulator may, in addition, where it considers it appropriate to do so, make a complaint to the reporter’s professional or other governing body.

The Pensions Regulator's response to a report of a breach in the law

71. When the Pensions Regulator receives a report of a breach it has discretion over whether to take action and, if so, what action to take. The decision will depend on the breach and its circumstances and other information about the scheme notified to, or known by, the regulator.
72. The Pensions Regulator has a range of measures it can take, including:
- assisting or instructing trustees and others to achieve compliance;
 - providing education or guidance;
 - appointing trustees to help run the scheme;
 - removing trustees from office;
 - freezing the scheme;
 - imposing special measures where the scheme funding requirements of the Pensions Act 2004 are not complied with;
 - ordering that the scheme's funding position be restored to the level before a breach or other detrimental event occurred; and
 - imposing fines where appropriate.

Appendix A

Section 70 of the Pensions Act 2004 is reproduced under the terms of Crown Copyright Policy Guidance issued by HMSO

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Duty to report breaches of the law

- (1) Subsection (2) imposes a reporting requirement on the following persons –
 - (a) a trustee or manager of an occupational or personal pension scheme;
 - (b) a person who is otherwise involved in the administration of such a scheme;
 - (c) the employer in relation to an occupational pension scheme;
 - (d) a professional adviser in relation to such a scheme;
 - (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.
- (2) Where the person has reasonable cause to believe that –
 - (a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with, and
 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this section.

This is subject to section 311 (protected items).

- (4) Section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this section.

Article 65 of the Pensions (Northern Ireland) Order 2005 is reproduced under the terms of Crown Copyright Policy Guidance issued by HMSO

- 65 Duty to report breaches of the law
- (1) Paragraph (2) imposes a reporting requirement on the following persons –
- (a) a trustee or manager of an occupational or personal pension scheme;
 - (b) a person who is otherwise involved in the administration of such a scheme;
 - (c) the employer in relation to an occupational pension scheme;
 - (d) a professional adviser in relation to such a scheme;
 - (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.
- (2) Where the person has reasonable cause to believe that –
- (a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of a statutory provision or rule of law, has not been or is not being complied with, and
 - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) Subject to Article 283 (protected items), no duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this Article.
- (4) Article 10 of the 1995 Order (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this Article.

Annex

GB Legislation	NI Legislation
Section 70 of the Pensions Act 2004	Article 65 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 228(2) of the Pensions Act 2004	Article 207(2) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Part 3 of the Pensions Act 2004	Part IV of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Section 69 and section 120 of the Pensions Act 2004	Article 64 and Article 104 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
Pensions Act 1995	Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
Section 47(4) of the Pensions Act 1995	Article 47(4) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22))
The Employment Rights Act 1996	The Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))
Section 311	Article 283 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

How to get in touch with us

The Pensions Regulator

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Appendix 3

Breach log 2023/24



Durham County Council Pension Fund
- Breach Monitoring 2023/24

Ref	Date	Category	Description	Breach?	Action Taken	Impact - RAG	To be Reported to Regulator?	Comments	Reported to Data Protection Officer?	Date Reported	Follow Up Actions
001	20223 ABS	Regulatory	Annual Benefit Statements	No - Monitoring Only	ABS published prior to 31/08/23	n/a	n/a	Monitoring Only - Fund compliant with legal requirements	-	-	-
002	2023 AA	Regulatory	Pension Saving Statements	No - Monitoring Only	PSS published prior to 06/10/23	n/a	n/a	Monitoring Only - Fund compliant with legal requirements	-	-	-
003	2023 Annual Accounts	Regulatory	Pension Fund Annual Report and Accounts to be published	No - Monitoring Only	Annual Report is to be published by 31st December. Annual Accounts to be published by 31st July	n/a	n/a	Monitoring Only - Fund compliant with legal requirements	-	-	-
004	Q4 2023	Regulatory	Utmost Life AVC ABS forwarded on to members before 31/03/24	No - Monitoring Only	Utmost issue to DCCPF, Fund to forward to members before deadline 31st march following year	n/a	n/a	Monitoring Only - Fund compliant with legal requirements	-	-	-

005	Q1 2023	Other	DCC income team tried to bank Pension Fund cheque to DCC bank account	No - Monitoring Only	Initial request from Income team to reissue a cheque with amended payee - however Income Team Manager intervened, explaining cheque was in fact for Pension Fund and that it should be banked there and not DCC accounts. Income team reminded of banking arrangements.	n/a	n/a	-	-	-	-
006	Q1 2023	Data Breach	Copy of retirement paperwork (not containing benefit figures) including name, NINO, DOB sent to at least two other scheme members	Possible Breach	Relevant colleague notified and training provided. System process updated to add retirement paperwork to chaser letters to avoid this happening again.	Green	No	Not caused by dishonesty, poor governance, poor advice or was it intentional. Effect is not significant. It does not have wider implications. Steps are being taken to put matter right.	Yes		Process changed to automate reminder paperwork; manual intervention no longer required.
007	Q2 2023	Contributions	A scheme employer failed to pay employer contributions over on time.	Possible Breach	All employee contributions paid over on time. Arrears of employer contributions paid before financial year end, and all contributions paid on time since.	Green	No	Not considered material	-	-	Officers to meet with participating employer

008	Q2 2023	Data Breach	Royal mail data breach - delivered pensions info to wrong address.	No - Monitoring Only	Recipient called team - confirmed the address held on our system for member is correct, however royal mail have posted through wrong door. Info destroyed by recipient, new info posted out.	n/a	n/a	Considered that Fund not responsible for incident.	no	n/a	-
009	Q4 2023	Data Breach	Royal mail data breach - damaged ripped letter delivered to member	No - Monitoring Only	Recipient emailed pensions team explaining letter had arrived ripped to the point where personal information was visible. Advised member to raise formal complaint to royal mail and that we would log internally.	n/a	n/a	Considered that Fund not responsible for incident.	no	n/a	-
010	Q4 2024	Contributions	A scheme employer failed to pay contributions over on time.	Possible Breach	New employer to the Fund, were adjusting to the required procedures and processes. Contributions currently up to date and paid on time.	Green	No	Not considered material / legal obligation had not commenced.	No	June board	Employer now formally admitted to the fund. Processes in place for receipt of contributions on time.
011	Q1 2023	Disclosure	Performance against disclosure regs	No - Monitoring Only	Performance against disclosure regulations reviewed quarterly and reported to Pension Board	Green	No	Accepted that 100% compliance against Disclosure not possible.	n/a	Quarterly	Enhanced KPI reporting in development.

In 2023/24 the Fund recorded the breaches summarised on the above log. Of the breaches which occurred, none were considered of such significance that would warrant submitting a report to The Pension Regulator.

Monitoring Compliance

The Fund monitors compliance against key activity to avoid breaches of the law:

- **001** Annual benefit Statements to active and deferred scheme members by 31 August each year.
- **002** Pension Saving Statements to any individual scheme member affected by 06 October
- **003** Pension Fund Annual Report and Accounts to be published:
 - Annual Report 01 December
 - Draft Statement of Accounts 31 May
- **004** Utmost ABS submitted to scheme members by 31 March. Statements issued to Durham Pension Fund from Utmost to be sent to individuals.
- **011** Disclosure Regulations. Occupational Pension Scheme Disclosure regulations set out parameters for issuing of information to scheme members about their pension and are an absolute measurement - performance under 100% is technically a breach of law, however it is accepted that 100% compliance is not possible.

Breaches Recorded

005 In quarter 1 the council's Income Team attempted to bank a cheque for the Pension Fund into a DCC bank account. Steps were taken by the Income Team Manager to prevent the cheque being returned to the payee and had it paid into the Pension Fund account. Reported for monitoring only.

006 In quarter 1 retirement paperwork for one individual scheme member was incorrectly sent to at least two other scheme members. The paperwork contained Name/NINO/DoB. The Pensions Team were notified, training was provided and the process was amended to prevent this from happening again.

Not reported to The Pensions Regulator as this was not caused by dishonesty, poor governance, poor advice or was it intentional. The effect was not significant and steps taken to prevent future issues. Not considered material.

007 In quarter 2 Employer A did not pay over employer contributions to the Pension Fund April to July. Employer A have since paid arrears the contributions and have since continue to pay contributions on time. Employee contributions were not late.

Not considered material.

008 In quarter 2 the Royal Mail delivered a letter from the Pension Fund to the wrong address. Recorded for monitoring only. The recipient called the Pensions Team and destroyed the letter. A replacement letter was sent to the intended recipient.

009 In quarter 2 the Royal Mail delivered a letter which was damaged/ripped. Recorded for monitoring only. The recipient emailed the Pension Team explaining the issue. The letter was ripped to the point where personal information was visible. The recipient was advised to raise a formal complaint with Royal Mail.

010 In quarter 4 Employer B were late with paying over pension contributions. Employer B was new to the Pension Fund and was adjusting to new procedures and processes. Contributions are now up to date and payments continue. Not considered material.

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