

## Local Pension Board

8 December 2022

### Procedure for Reporting Breaches



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## Report of Paul Darby, Corporate Director of Resources

### Purpose of the Report

- 1 This report provides the Board with a copy of the Fund's Procedure for Reporting Breaches in relation to the Durham County Council Pension Fund and provides an overview of its operation.

### 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 Local Pension Board is asked to note the report, including the attached Reporting Breaches Procedure, and provide any comments on the approach outlined; and
- 5 Agree to receive periodic reporting on Pension Fund breaches.

## **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 (enclosed in 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.
- 12 A review of the Fund’s effectiveness of the Fund’s management of breaches will be carried out by the Council’s Internal Audit.

## **Author(s)**

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