

**Local Pension Board**

**24 June 2024**

**Pension Fund Breaches 2023/24**



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## **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)**

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