

## **Breaches Procedure Policy Guidelines**

### **Report of the Strategic Finance Director**

#### **Purpose of the Report**

1. The purpose of this report is to provide the Board with a copy of the breaches policy which was approved by the Pension Committee on the 12<sup>th</sup> February 2016, which highlights the roles of the Pension Committee, Officers and Pension Board Members.

#### **Background**

2. There is a legal requirement on all Pension Fund Committee Members, Local Pension Board Members, officers of the Fund, employers, and advisers to report any significant breaches of the law to the Pensions Regulator where they are likely to be of material significance to them.

3. The Pensions Regulator Code of Practice no 14 (Governance and administration of public service pension schemes) states there should be a procedure in place within each Fund to identify and assess these breaches.

4. The attached Breaches Policy Guidelines, which have been produced by officers in conjunction with Hymans Robertson, set out these responsibilities and provide a framework for the Fund to identify, manage and where necessary report breaches of the law applying to the management and administration of the Fund.

5. Where a breach of the law is identified both the Pension Committee and the Local Pension Board will need to take all necessary steps to consider the breach and if necessary report to the Pensions Regulator.

6. It is stressed that, as set out in the breaches policy, only significant breaches are required to be reported to the Pensions Regulator.

7. The Pension Board, together with the Pension Committee, is required to monitor all breaches and ensure that adequate resources are allocated to managing and administering this process.

8. Officers will effectively be responsible for the management and execution of these guidelines and for ensuring that training is conducted for all relevant officers, Pension Committee members, Members of the Gloucestershire Pension Fund Committee and Local Pension Board at induction and on an ongoing basis.

9. The identification, management and reporting of breaches is important. It is a requirement of the Pensions Act 2004 and Pensions Regulator's Code of Practice; failure to report a breach without "reasonable excuse" is a civil offence that can result in civil penalties.

10. At the same time, in addition to identifying, rectifying and where necessary reporting a particular breach, it provides an opportunity to learn from mistakes and review and improve processes in the areas where the breach occurred.

11. All staff are required, to take a pro-active approach to the identification, management and reporting of all breaches that have occurred, or are likely to occur. A log, which is provided as an attachment to the policy, will be maintained of all breaches of the law as applicable to the management and administration of the Fund.

12. The Gloucestershire Pension Fund and the Local Pension Board cannot rely on waiting for other reporters to report a breach where it has occurred. Where a breach has occurred and has been identified it should be recorded, assessed and where necessary reported as soon as reasonably practicable. The Breaches Policy Guidelines provide a framework to achieve this.

13. The Guidelines define what a breach of the law is, the responsibilities on those who should be reporting, the requirements for reporting a breach, and deciding if a breach is "materially significant" to be reported to Pensions Regulator.

14. Under this document any breach identified should be reported, initially to the Head of Pension Fund, who will investigate and assess the severity. If a breach has occurred, it will be logged, and if significant be reported to the Chairman of the Pensions Committee and Local Pensions Board, and in conjunction with relevant colleagues agree a proposed course of action to rectify and put in place measures to prevent recurrences. The Breaches Log will be reported regularly to the Pension Committee and Local Pension Board.

15. If any breach is considered significant or it is not clear as to whether it is significant, then it will be reported to Committee and the Local Pension Board to consider. The Section 151 officer will make the final determination as to whether it is materially significant having regard to the guidance set out in the Code and after consultation with the Head of Legal Services.

16. Details of significant breaches will be published in the Fund's Annual Report.

### **Recommendation**

That the Board notes the attached breaches policy and the procedures set out for the recording and reporting of breaches.

### **Contact Officer**

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