



West Northamptonshire Council

Local Pension Board

30/6/2022

Mark Whitby – Head of Pensions

Report Title	Reporting Breaches of the Law to the Pensions Regulator Policy
Report Author	Michelle Oakensen, Governance Officer michelle.oakensen@westnorthants.gov.uk

Contributors/Checkers/Approvers

Head of Pensions	Mark Whitby	10 June 2022
-------------------------	-------------	--------------

List of Appendices

Appendix A – Proposed Reporting Breaches of the Law to the Pensions Regulator Policy 2022

Appendix B – Comparison between the 2018 and 2022 Policy

1. Purpose of Report

- 1.1 To present the review of the Reporting Breaches of the Law to the Pensions Regulator Policy to the Pension Fund Board.

2. Executive Summary

The report contains the 2022 review of the Reporting Breaches of the Law to the Pensions Regulator Policy.

3. Recommendations

- 3.1 The Pension Board is asked to review the Reporting Breaches of the Law to the Pensions Regulator Policy.

4. Report Background

In line with the Pensions Regulator's Code of Practice number 14 (Governance and administration of public service pension schemes); the Fund has a policy in place that sets out the mechanism for reporting breaches of the law.

The policy ensures that those with a responsibility to report breaches of the law are able to meet their legal obligations, by analysing situations effectively in order to make an informed decision on whether a breach has been made.

The policy was first approved by the Pension Committee in October 2015 and was subsequently reviewed and approved in October 2018. A review should be undertaken every two years.

“The new code of practice” was due to come into force in November 2021 and the Cambridgeshire Pension Fund review was postponed to align with this date. However, now that date has passed with no firm date for publication of “The new code” it is prudent to review at this time based on the current code. A further review will be carried out when “The new code” comes into effect. “The new code” is due to comprise of 51 modules representing the content of the 10 existing codes and therefore it is believed that the majority of the content will be the same.

The current review of the Policy can be located in appendix A and the comparison document in appendix B.

5. Issues and Choices

5.1 The Pensions Regulator Code of Practice

- 5.1.1 The Code of Practice identifies those individuals responsible for reporting breaches of the law and the associated legal requirements
- 5.1.2 The policy provides the process to report a breach to the Regulator and details surrounding timescales and urgency of cases.
- 5.1.3 The policy also identifies the need to record breaches that are not significant to the Regulator in order that processes can be improved to avoid repeated occurrences.
- 5.1.4 Examples of breaches of significance and non-significance are documented in the appendix of the policy, the purpose is to put into context the policy and when it may need to be enforced. Individuals will need to apply the principles of the policy when deciding whether to report a breach.

5.2 Changes to the Policy

- 5.2.1 The below table documents the proposed changes to the policy:

Number	Section	Proposed change
	Whole Policy	General tidying up of – <ul style="list-style-type: none"> • Job titles • Branding • Chair references • Fund references • Removal of LGSS • Contact details updated • Full details in replace of full report when the Committee/Board is to be updated of a breach. A full report may not always be necessary and an update via the Governance and Compliance Report maybe more appropriate.
4.	Effective date	A table has been incorporated to clearly show the previous reviews.

Number	Section	Proposed change
6.	Scope	Service providers added to the list that the policy applies to.
9.4/9.5/9.7	Material significance	Clarification on the traffic light framework and decision tree. Administering Authority (AA) reference changed to Head of Pensions as a single point for decision as AA is too vague and could result in no responsibility being taken.
10.4.	Guidance on reporting a breach to the Pensions Regulator	Preferred methods of reporting for the Northamptonshire Pension Fund added
12.	The Pensions Regulator's response to a report of a breach of the law	Additional section added to demonstrate potential measures that could be taken by the Regulator.
14.4.	Whistleblowing protection and confidentiality	Statement added on Regulator expectations for reporters

6 Implications (including financial implications)

6.1 Resources and Financial

6.1.1 Failure to adhere to the policy and to implement effective controls to prevent breaches of the law may result in fines for those charged with responsibility of the Fund.

6.2 Legal

6.2.1 Failure to adhere to the policy and to implement effective controls to prevent breaches of the law may result in fines for those charged with responsibility of the Fund.

6.3 Risk

6.3.1 The Pension Committee and Pension Board have an obligation to ensure that breaches of the law that are considered to be of a material interest to the Pensions Regulator are reported accordingly.

6.3.2 The risks associated with Pension Committee and Pension Board members not having the required level of knowledge and understanding surrounding reporting breaches of the law to the Pensions Regulator have been captured in the Fund's risk register as detailed below.

Risk	Residual risk rating
Information may not be provided to stakeholders as required	
Those charged with governance are unable to fulfil their responsibilities effectively	Green
Risk of fraud and error	Green
Failure to administer the scheme in line with regulations and guidance	Green
Failure to understand and monitor risk compliance	Green
Failure to provide relevant information to the Pension Committee/Pension Board to enable informed decision making	Green

6.3.2 Please see the full [Northamptonshire Pension Fund Risk Register](#).

6.4 Communication Implications

6.4.1 All individuals who are involved in the administration of the Fund will be advised of their obligations to report breaches of the law and the associated procedure as detailed in the policy.

6.4.2 The policy will be published on the Pensions Service website.

6.5 Relevant Pension Fund Objectives

- To have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies, whilst ensuring compliance with appropriate legislation and statutory guidance.
- To manage the Fund in a fair and equitable manner, having regard to what is in the best interest of the Fund's stakeholders, particularly the scheme members and employers.
- To ensure the relevant stakeholders responsible for managing, governing and administering the Fund, understand their roles and responsibilities and have the appropriate skills and knowledge to ensure those attributes are maintained in a changing environment.
- To continually monitor and manage risk, ensuring the relevant stakeholders are able to mitigate risk where appropriate

6.6 Consultation

6.6.1 Not applicable.