

WILTSHIRE COUNCIL

WILTSHIRE LOCAL PENSION BOARD

23 September 2024

TPR Breach Policy Guidelines

Purpose of the Report

1. The purpose of this report is for the Board to ratify that the Fund's existing TPR Breach Policy has been aligned to the requirements of TPR's new General Code of Practice.

Background

2. There is a legal requirement on all LPB Members (as well as the Pension Fund committee Members, officers of the Fund, employers, and advisers) to report any significant breaches of the law to the Pensions Regulator (tPR).
3. As part of the Board's training in February 2022 on tPR Breach Policy it agreed that a further review should take place following the introduction of tPR's new general code of practice. The new code came into force on 27 March 2024.
4. The aim of the review was to ensure that the Fund's attached tPR Breach Policy (Appendix 1), continues to set out all the responsibilities of relevant stakeholders and provide a framework for the Fund which continues to align with the new code, identifying, managing and where necessary, making a decision to report breaches of the law to the Regulator. Noting that this framework applies to the management and administration of the Fund.
5. Under Sections 49 to 51 of the new Code of Practice the Fund is required to ensure that:
 - a) It recognises "who must report":
 - b) The process in relation to the "Decision to report": &
 - c) "How to report".

As well as incorporating a mechanism for the "Reporting of payment failures".

Considerations for the Board

6. As reviewing the new code officers are satisfied that no material changes were required to the exist policy. However, a number of associated activities are being completed in order to assist with the execution of this policy. These include:
 - a) The development of "material significance" examples to accompany the Pension Regulator's breach decision tree and assist officers in correctly categorising the severity of a breach:
 - b) The policy's alignment with the Fund's escalation arrangements, as set out in the LPB's terms of reference and the Pensions Administration Strategy document to ensure a consistent approach to escalation matters between policies. Clarifying that where a difference may occur, tPR breach policy's escalation approach for breaches of law will take primacy: &
 - c) Clarifications in relation to reporting arrangements to the Pensions Regulator, which in practice will allow for another senior officer, other than the s151 officer to submit a report to the Regulator, on behalf of the s151 officer.

7. As indicated in the February 2022 training, since this policy was introduced in October 2015 an established framework of documents is now in place to assist in the recording, managing and reporting of any breaches of law which may occur. This includes an annual summary of all recorded breaches in each scheme year, which is set out in the Low Volume Performance Report.
8. It is noted that it was originally agreed that all Fund breaches would be published in the Annual Report and on the Fund's website. However, in practice this approach has been modified so that the publication of breaches via the Fund's annual Low Volume Performance Report within Part 1 of the Board/Committee's meeting papers is seen as its preferred method of openness and transparency.

Environmental Impact of the Proposal

9. Not applicable.

Financial Considerations & Risk Assessment

10. There are no significant financial implications from this report.
11. The implementation of these Guidelines will mitigate the risk of the Fund breaching the Regulations and failing to report this or taking appropriate remedial action.

Legal Implications

12. The Guidelines will ensure compliance with tPR Code of Practice.

Safeguarding Considerations/Public Health Implications/Equalities Impact

13. There are no known implications at this time.

Proposals

14. The Board is asked to:
 - a) to review the attached tPR Breach Policy Guidelines and recommend its approval to the Committee on the basis that it is aligned with the tPR's new general code of practice.
 - b) to recommend to the Committee the practice of publishing the Fund's record of breaches via the annual Low Volume Performance Report as a preferred approach.

Jennifer Devine
Head of Wiltshire Pension Fund

Report Author: Richard Bullen, Fund Governance Manager

Appendix 1 – TPR Breach Policy