

WILTSHIRE COUNCIL

WILTSHIRE LOCAL PENSION BOARD

22 October 2015

Breaches Procedure Policy Guidelines

Purpose of the Report

1. The purpose of this report is for the Local Pension Board (LPB) to consider the attached draft Breaches Policy Guidelines and to recommend:
 - a) any changes to be made by the Head of Pensions; and
 - b) adoption by the Pension Fund Committee as amended by the Head of Pensions.

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) where they are likely to be of material significance to them.
3. TPR 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 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 Council (Scheme Manager) and the LPB will need to take all necessary steps to consider the breach and if necessary report to tPR.
6. These Guidelines will be reviewed and approved at least annually by the Wiltshire Pension Fund Committee under its delegated authority as Scheme Manager. They will monitor all breaches and will ensure that adequate resources are allocated to managing and administering this process.
7. Officers will effectively be responsible for the management and execution of these guidelines and ensuring that training is conducted for all relevant officers, elected members, Members of the LPB and Wiltshire Pension Fund Committee at induction and on an ongoing basis.

Considerations for the LPB

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

10. 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 will be maintained of all breaches of the law as applicable to the management and administration of the Fund.
11. The Wiltshire Pension Fund and the LPB 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.
12. 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 tPR.
13. The LPB is asked to review this document and to make a recommendation to the Pension Fund Committee that this is adopted subject to any recommended changes.

Environmental Impact of the Proposal

14. Not applicable.

Financial Considerations & Risk Assessment

15. There are no significant financial implications from this report.
16. 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

17. Wiltshire Council Legal Services have been consulted and have assisted with drafting the Guidelines. The Guidelines will ensure compliance with tPR Code of Practice.

Safeguarding Considerations/Public Health Implications/Equalities Impact

18. There are no known implications at this time.

Reasons for Proposals

19. To ensure the Fund has a policy to address breaches of legislation in respect of the administration and governance of the Wiltshire Pension Fund.

Proposals

20. The LPB is asked to review the attached Breaches Policy Guidelines and to recommend:
 - a) any changes to be made by the Head of Pensions; and
 - b) adoption by the Pension Fund Committee as amended by the Head of Pensions.

MICHAEL HUDSON
Treasurer to the Pension Fund

Report Author: David Anthony, Head of Pensions

Unpublished documents relied upon in the production of this report: NONE