



WILTSHIRE
PENSION FUND

tPR Code of Practice 14 - Breaches Policy

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The Regulator's viewpoint - 2018

Risk management



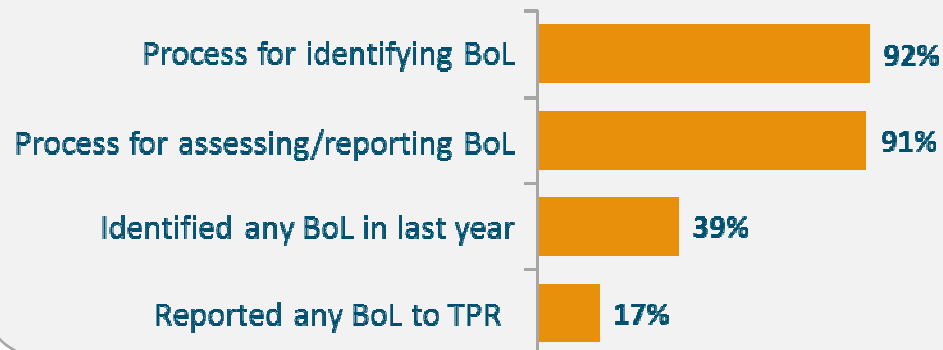
Top 3 risks

Securing compliance with legislation	45%
Record keeping	39%
Funding or investment	35%

Top 3 causes of breaches of the law

Failure of employers to provide timely, accurate or complete data	57%
Systems or process failure	41%
Failure to maintain records or rectify errors	18%

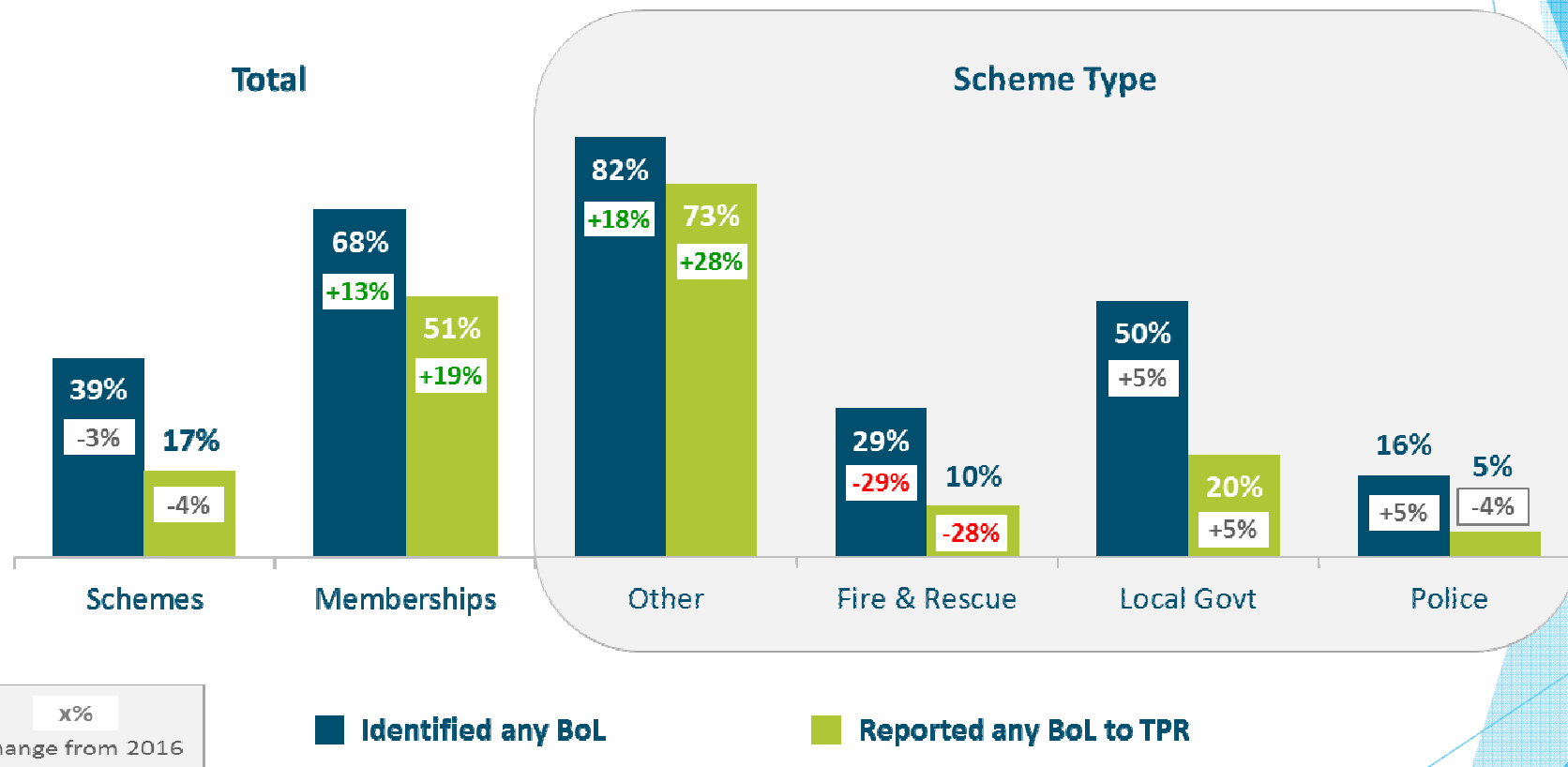
Breaches of the law



The top cause of breaches of law is failure of employers to provide timely, accurate or complete data

Identifying and reporting breaches of law

Proportion of schemes that have “identified any breaches of the law” and “reported any breaches to TPR as you thought they were materially significant” in the last 12 months



While 39% identified breaches, only 17% of schemes reported them to TPR (ie less than half of those identifying breaches). ‘Other’ schemes most likely to both identify and report breaches.

Code 14 content - Resolving Issues

Governing your scheme <ul style="list-style-type: none">• Knowledge and understanding• Conflicts of interest• Publishing information about schemes	Risk <ul style="list-style-type: none">• Internal Controls
Administration <ul style="list-style-type: none">• Record-keeping• Maintaining contributions• Providing information to members	Resolving Issues <ul style="list-style-type: none">• Internal dispute resolution• Reporting breaches of the law

Reporting breaches of law

- Who is responsible for the legal duty to report a breach of the law that is likely to be of material significance to TPR:
 - ▶ scheme manager
 - ▶ Elected members
 - ▶ professional advisers
 - ▶ employers
 - ▶ administrators and others providing advice to the manager
- Reporters must determine if a breach has occurred based on reasonable cause and not a mere suspicion
- WPF Policy was approved in December 2015 & should be reviewed annually
- TPR provides example scenarios and RAG system for assessing scale of materiality by way of:
 - ▶ cause
 - ▶ effect
 - ▶ reaction
 - ▶ wider implications
- www.tpr.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf

What is a breach?

“an act of breaking or failing to observe a law, agreement or code of conduct”

- ▶ In terms of the LGPS, it is a failure to:
 - ▶ Do anything required by the scheme or overriding legislation;
 - ▶ Maintain accurate records;
 - ▶ Act on any fraudulent act or omission identified;
 - ▶ Comply with policies and procedures;
 - ▶ Of an employer to pay over contributions;
 - ▶ Pay benefits accurately, or on time.



The steps to follow



1 - Identify

- ▶ Procedures - appropriate and effective
 - ▶ Legal clarification
 - ▶ Facts around the case
 - ▶ Clear process for referral, particularly severe cases
 - ▶ Process for dealing with difficult cases
 - ▶ Timeframe for dealing with each referral
 - ▶ Freedom to raise concerns



Identify

2 - “Reasonable cause”

- ▶ Ensuring breach has actually happened
- ▶ Not acting on a suspicion or hearsay
- ▶ Robust checks
 - ▶ Officers
 - ▶ Elected members
 - ▶ Pension board
- ▶ Legal advice



“Reasonable
cause”

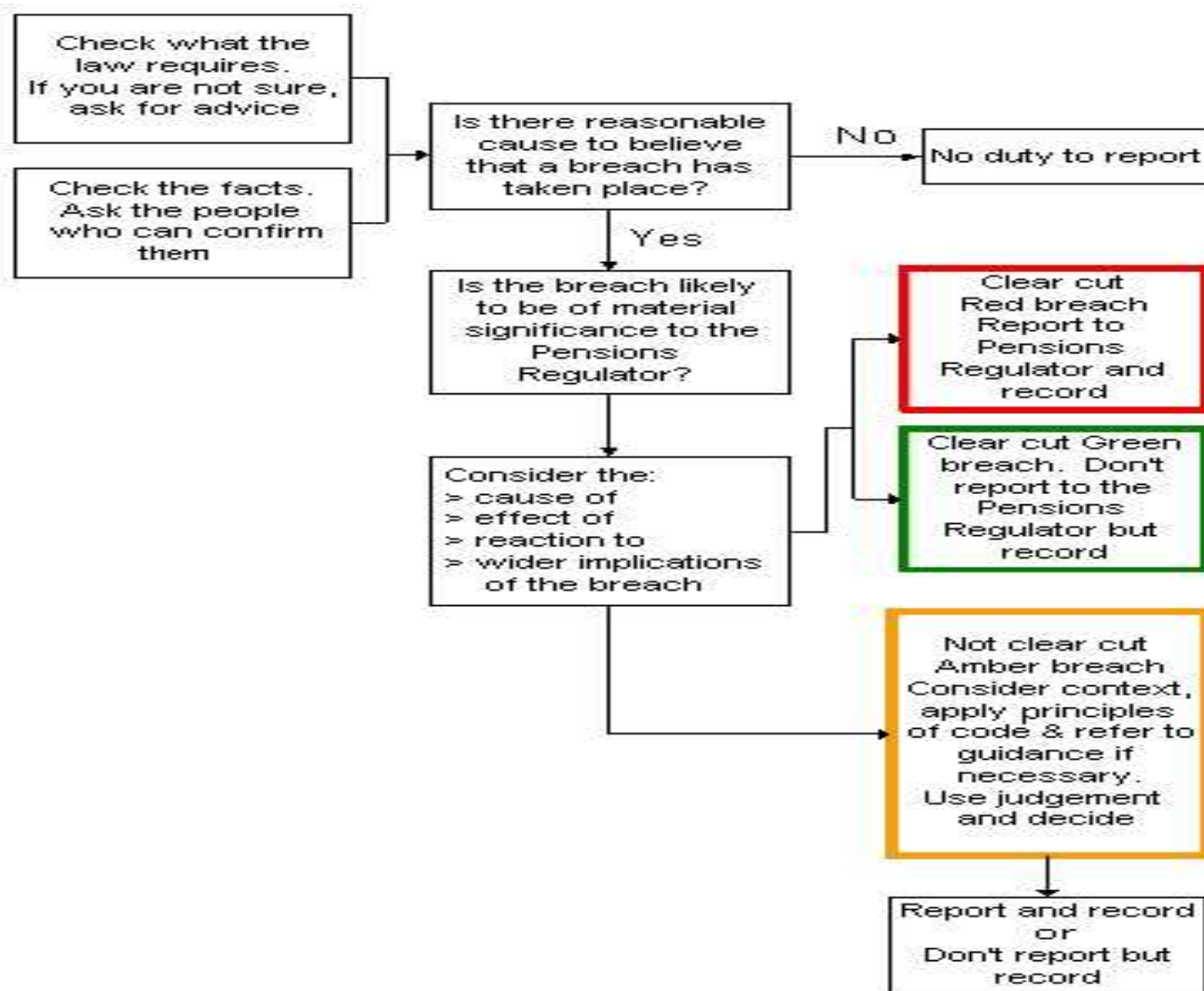
3 - “Materially significant”

- ▶ Need to consider:
 - ▶ **Cause** - dishonesty, poor governance, incomplete/inaccurate information.
 - ▶ **Effect** - ineffective internal controls, lack of knowledge/understanding, potential for further breaches
 - ▶ **Reaction** - action taken, notification to interested parties
 - ▶ **Wider implications** - issues that make it likely breach will reoccur in future



“Material
significance”

3 - “Materially significant” - chart



“Material significance”

4 - Reporting

▶ Internally

- ▶ Report all breaches to **Head of Pensions & Chairman of the Board**
- ▶ Agree proposed cause of action
- ▶ **Cooperate** with, and assist in, reporting of breaches

▶ Regulator

- ▶ Materially significant only
- ▶ In writing via **Exchange**
- ▶ Still worth informal reporting if not sure



Reporting

5 - Record keeping

- ▶ Officer responsible for recording breaches
 - ▶ **Becky Hellard - Section 151 Officer**
- ▶ Officer responsible for day to day monitoring
 - ▶ **Richard Bullen - Fund Governance & Performance Manager**
- ▶ Breaches log
 - ▶ Date, description, cause, effect, wider implications, severity, dates reported to officers/elected members/ Regulator, mitigating actions, target dates, responsible officer



Record
keeping

WPF - 2019/20 Breaches Log

TPR Breaches Log

Date	Employer	Description	Cause	Effect	Reaction	Wider Implications	Cause	Effect	x	Severity	Date reported to Officers	Date reported to Elected Members	Date reported to Regulator	Mitigation actions	Target dates	Responsible Officer
3/05/2019	Employer A	Late payment of March & April 2019 contributions	28/05 XXX received notification of e mail being deleted - she has resent - Await response	March & April o/s	XXX have apparently sent all their contributions with XXX and XXX are the new pay role provider		2	2	4	Green	28/05/2019	22/08/2019	No	Chased with XXX 26/04/19 & XXX 28/05/19.		DR
3/05/2019	Employer B	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	E Mail to XXX		ST
3/05/2019	Employer C	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	E Mail to XXX		ST
3/05/2019	Employer D	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	Advised by XXX - Payroll for this month not finalised. It would appear that we are out of sync with the payments/months payable!		ST
3/05/2019	Employer E	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	E Mail to XXX		ST
3/05/2019	Employer F	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	Advised XXX a chq has been sent. She is checking if this has been cashed		ST
3/05/2019	Employer G	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	E Mail XXX		ST
3/05/2019	Employer H	Late payment of April 2019 contributions		Chased 28/05/19			1	2	2	Green	28/05/2019		No	E Mail to XXX		ST
1/06/2019	n/a	Non compliant LPB Member due to training	XXX became a member of the LPB in May 2017, at which point he was required to complete mandatory training. Namely the Pension Regulator's on-line toolkit	Failure to complete the training could mean that the Member may lack sufficient knowledge & understand on the role he is required to carry out	Member is unwilling to complete the training see the 3rd of 3 email requests dated xx/xx/xx	If member does not have sufficient knowledge & understanding for the role he holds, the implications are that areas of the Fund's oversight & governance may be at risk	3	2	6	Amber	11/06/2019		No	To raise at next Board meeting	16/11/2017	RB
2/07/2019	Employer A	Late payment of May 2019 contributions & payment is at the incorrect rate	A new payroll provider has been appointed & there appears to be a breakdown in the process	March, April & May o/s - UET are also paying at 16.7% and it should be 18.1%	XXX have apparently sent all their contributions with XXX and XXX are the new pay role provider		3	2	6	Amber	02/07/2019		No	Site visit being considered by Employer Relationship Manager. 3/7/19		DR
2/07/2019	Employer I	Late payment of May 2019 contributions		Chased XXX 02/07/19			1	2	2	Green	02/07/2019		No	Advised Cashflow Problem will pay in 5 days 02/07/19 (Paid)		ST
2/07/2019	Employer C	Late payment of May 2019 contributions		Chased 02/07/19			1	2	2	Green	02/07/2019		No	E Mail to Steve Nell - Paid by 2/7/19		ST
2/07/2019	Employer J	Late payment of May 2019 contributions		Chased 02/07/19			1	2	2	Green	02/07/2019		No	E Mail to XXX - Paid by 2/7/19		ST
2/07/2019	Employer K	Late payment of May 2019 contributions		Chased 02/07/19			1	2	2	Green	02/07/2019		No	XXX - Paid by 2/7/19		ST
2/07/2019	Employer A	Payment is at the incorrect rate	Not following the contributions schedule provided by the Scheme Actuary	Underpayment may place a strain on the Fund.	Requested that XXX follow up with Employer	Minimal at present	1	2	2	Green	03/07/2019		No			ST
2/07/2019	Employer L	Payment is at the incorrect rate	Not following the contributions schedule provided by the Scheme Actuary	Underpayment may place a strain on the Fund.	Requested that XXX follow up with Employer	Minimal at present	1	2	2	Green	04/07/2019		No			ST
2/08/2019	n/a	Board non-compliant due to a long term Employer Representative vacancy	XXX left her post in March 2018	A breach of law & a loss of balance to the Board impairing its effectiveness	Repeated attempts by Officers to recruit a replacement	Lack of oversight in areas of Fund governance & administration	3	2	6	Amber	05/03/2018		No	Approach to the XXX has resulted in the possible appointment of XXX	14/11/2019	RB