

<b>REPORT TO:</b>	<b>Pension Board 14 October 2021</b>
<b>SUBJECT:</b>	<b>Review of Breaches Log</b>
<b>LEAD OFFICER:</b>	<b>Nigel Cook Head of Pensions and Treasury</b>
<p><b>1. RECOMMENDATION</b></p> <p>1.1 The Board is asked to note the contents of the Pension Fund Breaches Log and to comment as appropriate.</p>	

## **2. EXECUTIVE SUMMARY**

- 2.1 It is a requirement of The Pension Regulator for the Pension Fund to maintain a breaches log detailing incidences where breaches have occurred. In line with the recommendations of the Aon Hewitt Governance Review, on 15 September 2020 the Committee agreed the revised Reporting Breaches of the Law Policy. This included a requirement for the Committee to monitor breaches on a regular basis. This report presents the current log (Appendix A) for the Board's consideration.

## **3 DETAIL**

- 3.1 The Pension Act 2004 (PeA 2004, s 70) imposes duties on certain persons to report breaches of the law as follows:

70 Duty to report breaches of the law

(1) Subsection

(2) imposes a reporting requirement on the following persons —

- (a) a trustee or manager of an occupational or personal pension scheme;
- (b) a person who is otherwise involved in the administration of such a scheme;
- (c) the employer in relation to an occupational pension scheme;
- (d) a professional adviser in relation to such a scheme;
- (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.

- (2) Where the person has reasonable cause to believe that -
- (a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with, and
  - (b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions, he must give a written report of the matter to the Regulator as soon as reasonably practicable.
- (3) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this section.
- This is subject to section 311 (protected items).
- (4) Section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this section.

In line with this legislation The Pensions Regulator requires that a Breaches Log is maintained by the Fund. In their Governance Review Aon Hewitt recommended that the log was reviewed regularly by the Pension Committee. It was last reviewed on 16 March 2021. The current log is attached (Appendix A).

- 3.2 In this context a breach of the law is “an act of breaking or failing to observe a law, agreement, or code of conduct.” In the context of the LGPS this can encompass many aspects of the management and administration of the LGPS, including failure:
- to do anything required under the Regulations;
  - to do anything required under overriding legislation, applicable statutory guidance or codes of practice;  to maintain accurate records;
  - to act on any fraudulent act or omission that is identified;
  - to comply with policies and procedures (e.g. the Fund’s statement of investment principles, funding strategy, discretionary policies, etc.);
  - of an employer to pay over member and employer contributions on time;
  - to pay member benefits either accurately or in a timely manner;
  - to issue annual benefit statements on time or non-compliance with the Code.
- 3.3 Since the Board last reviewed the Log, 5 items have been added to the log. They are concerning failure to pay refunds of scheme contributions within regulatory deadlines, failure to produce 100% of annual benefit statements within regulatory deadlines, failure to publish the Fund accounts for 2019/20 by 30 September 2020 and failure to produce meeting minutes.
- 3.4 The Board is asked to note the contents of the Breaches Log and to comment.

**4. DATA PROTECTION IMPLICATIONS**

**4.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**NO**

4.2 Approved by: Nigel Cook on behalf of Richard Ennis, Interim Corporate Director of Resources and Section 151 Officer.

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**CONTACT OFFICER:**

Nigel Cook, Head of Pensions and Treasury, Resources Department, ext. 62552.

**BACKGROUND DOCUMENTS:**

None.

**APPENDIX:**

Appendix A - Breaches Log