

**CAMBRIDGESHIRE
PENSION FUND**



Pension Fund Committee

Date: 18 October 2018

Report by: Head of Pensions

Subject:	Review of the Reporting Breaches of the Law to the Pensions Regulator Policy
Purpose of the Report	To present the review of the Reporting Breaches of the Law to the Pensions Regulator Policy to the Pension Fund Committee.
Recommendations	The Committee are asked to - <ol style="list-style-type: none"> 1. Approve the Reporting Breaches of the Law to the Pensions Regulator Policy; and 2. Delegate to the Head of Pensions in consultation with the Chairman any immaterial amendments to the policy.
Enquiries to:	Name – Michelle Oakensen, Governance Officer, LGSS Pensions moakensen@northamptonshire.gov.uk

1. Background

- 1.1 In line with the Pensions Regulator's Code of Practice number 14 (Governance and administration of public service pension schemes); the Fund has developed a policy that sets out the mechanism for reporting breaches of the law.
- 1.2 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.
- 1.3 The policy was first approved by the Pension Fund Committee in October 2015 and has been reviewed and updated for approval by the Pension Fund Committee at this meeting. The Pension Fund Board have been asked to feed into this process by providing any recommendations to the review where appropriate.
- 1.4 The revised Reporting Breaches of the Law to the Pensions Regulator Policy is attached in Appendix 2.

2. The Pensions Regulator Code of Practice

- 2.1 The Code of Practice identifies those individuals responsible for reporting breaches of the law and the associated legal requirements
- 2.2 The policy provides the process to report a breach to the Regulator and details surrounding timescales and urgency of cases.

- 2.3 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.
- 2.4 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 acting on reasonable cause to report a breach.

3. Changes to the Policy

- 3.1 The policy has been enhanced providing more clarification over significant material breaches and a decision tree featuring a traffic light system has been incorporated in order to make the assessing of breaches easier.
- 3.2 Additional appendices have also been added which provide additional examples of breaches in order to help establish the significance of a breach and what instances would need reporting.
- 3.3 All changes made to the policy can be found in appendix 1.

4. Pension Fund Board Recommendations

- 4.1 The Reporting Breaches of the Law Policy was taken to the July meeting of the Pension Fund Board to seek recommendations to the Pension Fund Committee before approval by the Pension Fund Committee. The table below shows the changes to the policy as recommended by the Board -

Section of Policy	Change recommended
Throughout report	References to the Chairman should say Chairman/Chairwoman
9.7	Include Vice Chairman/Chairwoman to individuals that should be advised if a significant breach has occurred.
12	Consider no blame culture wording

- 4.2 The recommendations in the table above have been incorporated as requested in section 12 with the exception of adding in reference to a no blame culture. This was explored as a possibility but as Cambridgeshire County Council does not have in place a formal policy or framework relating to a no blame culture and as the Cambridgeshire Pension Fund has delegated authority from the County Council it would be difficult to embed this into the policy at this stage as the Pension Fund and Administering Authority could have conflicting views.
- 4.3 Internal Audit have been made aware of the need to consider this as part of their next review and if adopted, the Reporting Breaches of the Law to the Pensions Regulator Policy will be amended to reflect the changes.

5. Relevant Pension Fund Objectives

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.

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
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.

6. Finance & Resources Implications

- 6.1 Resources will need to be prioritised if a breach occurs to ensure compliance with the policy.

7. Risk Management

- 7.1 The Pension Committee and Local 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.
- 7.2 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 register	Risk mitigated	Residual risk
Governance (risk 1)	Failure to administer the scheme in line with regulations and policies.	Amber
Governance (risk 2)	Those charged with governance of the Fund and Scheme are unable to fulfil their responsibilities effectively.	Amber
Governance (risk 4)	Policies and Strategies not being in place and up to date.	Green
Governance (risk 12)	Changes to the LGPS and lack of expertise in the new/revised area	Green
Governance (risk 18)	Failure to provide adequate information to the Pension Committee/Pension Board	Green

- 7.3 The full risk register for Cambridgeshire Pension Fund can be found on the LGSS Pensions website at the following link: <http://pensions.northamptonshire.gov.uk/governance/key-documents/cambridgeshire/>

8. Communication Implications

Direct Communications	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.
Website	The policy will be published on the LGSS Pensions Service website.

9. Legal Implications

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

10. Consultation with Key Advisers

- 10.1 Consultation with the Funds advisers was not required for this report.

11. Alternative Options Considered

- 11.1 Not applicable

12. Background Papers

- 12.1 Reporting Breaches of the Law to the Pensions Regulator Policy 2015 - <http://pensions.northamptonshire.gov.uk/app/uploads/2016/01/Reporting-Breaches-of-the-Law-to-the-Pensions-Regulator-Policy.pdf>

13. Appendices

- 13.1 Appendix 1 – Comparison between the 2015 and 2018 policy.
- 13.2 Appendix 2 – Reporting Breaches of the Law to the Pensions Regulator Policy 2018

Checklist of Key Approvals	
Is this decision included in the Business Plan?	Not applicable
Will further decisions be required? If so, please outline the timetable here	Not applicable
Is this report proposing an amendment to the budget and/or policy framework?	No
Has this report been cleared by Head of Pensions?	Mark Whitby – 18 September 2018
Has this report been cleared by Section 151 Officer?	Sarah Heywood – sent 26 September 2018
Has the Chairman of the Pension Fund Committee been consulted?	Councillor Terry Rogers – 3 October 2018
Has this report been cleared by Legal Services?	Fiona McMillan – 28 September 2018