

# Cambridgeshire Pension Fund

## Pension Fund Committee

25 October 2022

Report by: Head of Pensions

Subject: 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 Pension Fund Committee is asked to approve the Reporting Breaches of the Law to the Pensions Regulator Policy.

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### 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 a policy in place 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 was subsequently reviewed and approved in October 2018.
- 1.4 The Pension Regulator's new code of practice was due to come into force in November 2021 but has been postponed until Autumn 2022 so review of this policy was postponed. However, it is felt prudent to review now based on the current code and other necessary changes that are detailed in section 4.1 of this report. A further review will be carried out within 6 months of the new code coming into effect.

### 2. Executive summary

- 2.1 The report contains the 2022 review of the Reporting Breaches of the Law to the Pensions Regulator Policy.
- 2.2 The draft revised Policy is located in appendix 1 and the comparison of changes document is in appendix 2.

### 3. The Pensions Regulator Code of Practice

- 3.1 The Code of Practice identifies those individuals responsible for reporting breaches of the law and the associated legal requirements.

- 3.2 The policy provides the process to report a breach to the Regulator and details surrounding timescales and urgency of cases.
- 3.3 The policy also identifies the need to record breaches that are not of material significance to the Regulator in order that processes can be improved to avoid repeated occurrences.
- 3.4 Examples of breaches of material significance and non-material 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 deciding whether to report a breach.

## 4. Changes to the Policy

- 4.1 The below table documents the proposed changes to the policy:

Number/Section	Proposed change
Whole Policy	<p>General tidying up of –</p> <ul style="list-style-type: none"> <li>• Job titles</li> <li>• Branding</li> <li>• Chairman/woman references</li> <li>• Fund references</li> <li>• Removal of references to LGSS</li> <li>• Contact details updated</li> <li>• Full details in replace of full report when the Committee/Board is to be updated of a breach. A full report may not always be necessary and an update via the Governance and Compliance Report maybe more appropriate.</li> </ul>
4.	<p><u>Effective date</u> A table has been incorporated to clearly show the previous reviews.</p>
6.	<p><u>Scope</u> Service providers added to the list that the policy applies to.</p>
9.4/9.5/9.7	<p><u>Material significance</u> Clarification on the traffic light framework and decision tree. Administering Authority (AA) reference changed to Head of Pensions as a single point for decision as AA is too vague and could result in no responsibility being taken.</p>
10.4.	<p><u>Guidance on reporting a breach to the Pensions Regulator</u> Preferred methods of reporting for the Cambridgeshire Pension Fund added</p>
12.	<p><u>The Pensions Regulator's response to a report of a breach of the law</u> Additional section added to demonstrate potential measures that could be taken by the Regulator.</p>
13.	<p><u>Failure to report</u> Additional section added to highlight factors the Regulator would consider if a report has not been made or not been made in a timely manner as required.</p>
14.4.	<p><u>Whistleblowing protection and confidentiality</u> Statement added on Regulator expectations for reporters.</p>

## 5. Pension Fund Board Review

- 5.1 The draft revised policy was presented to the Board on 1 July 2022 for consideration with the following suggestions made after discussion:

Suggestion	Comment
That the policy was consistent in referring to 'the reporter' throughout opposed to 'the reporter' and 'a reporter'.	Policy amended to only display 'the reporter'.
To review the decision tree to ensure it is as clear as possible to the reader.	The decision tree is a tool published by the Pensions Regulator and therefore should remain the same to be consistent with TPR expectations. A footnote has been added to the policy to confirm.
To be clearer on 'if appropriate' in section 10.6 of the policy.	Reporters should mark urgent reports as such and draw attention to matters they consider particularly serious. They can precede a written report with a telephone call, if appropriate. Has been changed to: Reporters should mark urgent reports as such and draw attention to matters they consider particularly serious. They can precede a written report with a telephone call, if the matter requires an urgent acknowledgement to ensure it will be dealt with promptly.

## 6. Relevant Pension Fund Objectives

To 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.

To 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.

To 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.

To continually monitor and manage risk, ensuring the relevant stakeholders are able to mitigate risk where appropriate

## 7. Risk Management

- 7.1 The Pension Fund Committee and Pension Fund Board have an obligation to ensure that breaches of the law that are considered to be of a material significance to the Pensions Regulator are reported accordingly.

- 7.2 The risks associated with Pension Fund Committee and Pension Fund 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	Residual risk rating
Information may not be provided to stakeholders as required	Green
Those charged with governance are unable to fulfil their responsibilities effectively	Green
Risk of fraud and error	Green
Failure to administer the scheme in line with regulations and guidance	Green
Failure to understand and monitor risk compliance	Green
Failure to provide relevant information to the Pension Committee/Pension Board to enable informed decision making	Green

- 7.3 Please see the [Cambridgeshire Pension Fund Risk Register](#) executive summary.

## 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 Pensions Service website.

## 9. Finance & Resources Implications

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

## 10. Legal Implications

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

## 11. Consultation with Key Advisers

- 11.1 Consultation with the Fund's advisers was not required for this report.

## 12. Alternative Options Considered

- 12.1 Not applicable

## 13. Background Papers

- 13.1 [Current Reporting Breaches of the Law to the Pensions Regulator Policy](#)

## 14. Appendices

14.1 Appendix 1 Proposed Reporting Breaches of the Law to the Pensions Regulator Policy 2022

14.2 Appendix 2 Comparison between the 2018 and 2022 Policy

### Checklist of Key Approvals

Has this report been cleared by Section 151 Officer? Sarah Heywood – 29/9/2022

Has this report been cleared by Head of Pensions? Mark Whitby – 18/8/2022

Has the Chair of the Pension Committee been consulted? Councillor Whelan – 14/10/2022

Has this report been cleared by Legal Services? Fiona McMillan – 30/9/2022

