

<b>Meeting:</b>	Pensions Committee
<b>Date:</b>	27/03/2023
<b>Title:</b>	POLICY ON REPORTING BREACHES OF THE LAW
<b>Purpose:</b>	To seek feedback from the Committee in respect of the new policy
<b>Author:</b>	Meirion Jones, Pensions Manager
<b>Recommendations:</b>	Approve the new policy

## 1. Introduction

As part of the Good Governance project, it is a requirement for the Fund to produce a policy in relation to Reporting Breaches of the Law. A policy has been drafted by Hymans Robertson in conjunction with Fund officers and it can be seen in **Appendix A**.

It contains information on the policy and procedures for identifying, monitoring and, where appropriate, reporting breaches of the law as required in the Pensions Act 2004 and detailed in the Pensions Regulator's (tPR) Code of Practice no 14 - Governance and administration of public service pension schemes.

**NOTE:** This breaches of the law policy in in relation to the implementation of the pension scheme regulations only. Any breach of criminal law e.g. fraud or financial irregularities are dealt with in accordance with Cyngor Gwynedd's policies.

## 2. What is a breach of the law?

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 Local Government Pension Scheme ("LGPS") it can encompass many aspects of the management and administration of the scheme, including, for example, failure:

- to do anything required under the LGPS 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;
- 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.

## 3. What is non-compliance under the LGPS Regulations?

Non-compliance with the LGPS regulations can cover many aspects of the management and administration of the scheme, including failure:

- to do anything required under the LGPS Regulations
- to comply with policies and procedures (e.g. the Fund's Investment Strategy Statement, Funding Strategy Statement, discretionary policies, etc.);

## 4. Responsibilities in relation to breaches

Responsibility to report identified breaches of the law in relation to the Code of Practice falls on the following (known as "reporters"):

- Elected members and officers of the Council (the Scheme Manager);
- Members of the local pension board;
- Scheme employers;
- Professional advisers (including the Fund actuary, benefit consultant, investment advisers, legal advisers); and
- Third party providers (where so employed).

This policy applies only to elected members and officers of the Council, and members of the local pension board. It is for the other reporters to ensure adequate procedures and policies are put in place to identify, assess and where necessary report breaches. Both the Council and the local pension board will take all necessary steps to consider the breach and report to the Regulator, rather than having the breach solely reported by any of the other "reporters".

## **5. Process**

All relevant officers and elected members of the Council, as well as all members of the local pension board have a responsibility to:

- identify and assess the severity of any breach or likely breach;
- report all breaches or likely breaches to the monitoring officer and section 151 officer;
- in conjunction with relevant colleagues agree a proposed course of action to rectify the breach and put in place measures to ensure the breach does not re-occur, obtaining appropriate legal or other advice where necessary;
- ensure that the appropriate corrective action has been taken to rectify the breach or likely breach and to prevent it from recurring; and
- co-operate with, and assist in, the reporting of breaches and likely breaches to the Pension Committee, local pension board and where necessary the Regulator.

## **6. How should a breach be reported to the Regulator?**

All materially significant breaches must be reported to the Regulator in writing. This can be via post or electronically. The Regulator encourages the use of its standard reporting facility via its Exchange on-line service.

The Council will report all material breaches to the Regulator via their Exchange website.

## **7. Conclusion**

This policy was presented to the Pension Board at their meeting on 6/3/2023 and it was highlighted that the policy sets out a clear process for the Fund to follow in relation to reporting breaches of the Law.

The policy has also been shared with Iwan Evans, Cyngor Gwynedd's Monitoring Officer. Mr Evans is also happy with the content of the policy.

We would appreciate the Committee's approval to adopt this policy.