

DERBYSHIRE COUNTY COUNCIL

PENSIONS AND INVESTMENTS COMMITTEE

8 May 2019

Report of the Director of Finance & ICT

**THE RECORDING AND REPORTING OF STATUTORY BREACHES OF
THE LOCAL GOVERNMENT PENSION SCHEME (LGPS) AND RELATED
REGULATIONS**

1 Purpose of the Report

To inform the Committee of the processes being used by Derbyshire Pension Fund (the Fund) to identify, record and report statutory breaches of the LGPS and related Regulations.

2 Information and Analysis

In compliance with the Pension Regulator's (TPR) Code of Practice 14 (CoP14), the Fund has had in place since 2015 an approved procedure for identifying, determining the material significance of, and reporting statutory breaches to TPR. (Appendix 1). Such breaches could be committed by the Fund, its employing authorities, or any of its stakeholders.

CoP14 also requires public sector schemes to have in place a system to record breaches, even if they are not reported to TPR. Further to an exercise carried out with input from members of Derbyshire Pension Board, the Derbyshire Pension Fund Breaches Log (the Log) has been devised and implemented to cover all the aspects of managing statutory breaches. The Log has been devised to be a live, working document, in the manner of the Risk Register, in order to support continued transparency and consistency. An anonymized Log is attached as Appendix 2 and the user guidance document is attached as Appendix 3.

It is intended that the Log will also support internal reporting on statutory breaches. Any additions or updates to the Log will be reported to the Pensions Office Management Team's monthly meeting, to the Derbyshire Pension Board's quarterly meeting, and in the Pensions Administration Performance report presented to Pensions and Investments Committee each quarter. This will ensure that all parties are fully informed of statutory breaches and should assist in reducing their recurrence.

3 Other Considerations

In preparing this report the relevance of the following factors have been considered: financial, legal, human rights, human resources, equality and diversity, health, environmental, transport, property, and prevention of crime and disorder.

4 Officer's Recommendation

That the Committee notes the processes being used by Derbyshire Pension Fund to identify, record and report statutory breaches of the LGPS and related Regulations.

PETER HANDFORD

Director of Finance & ICT

Appendix 1

A Procedure for Reporting Breaches of the Law to the Pensions Regulator

Derbyshire Pension Fund

Introduction

- 1 In April 2015 the Pensions Regulator (the Regulator) published its Code of Practice no 14 (the Code) *Governance and administration of public service pension schemes*. This is not a statement of law of itself, but nonetheless it carries great weight. In some respects it is like the Highway Code, in that some of its contents refer to statutory items, whilst others are advisory. The Courts may however also rely on the latter. In the same way, if determining whether any pensions related legal requirements have been met, a court or tribunal must take into account the Code.
- 2 There are many and various laws relating to the Local Government Pension Scheme, with many and various people having a statutory duty to report material breaches of the law to the Regulator. To assist, the Code states that a procedure should be established to ensure that those with a responsibility to make reports are able to meet their legal obligations. This document is that procedure, which relates to all of the Fund's areas of operation.
- 3 Much of the text herein is drawn from the Code itself. Where it has been, the Regulator's copyright applies.

Legal requirements

- 4 Certain people are required to report breaches of the law to the Regulator where they have reasonable cause to believe that:
 - a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with;
 - the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions.
- 5 People who are subject to the reporting requirement ('reporters') for public service pension schemes are:
 - scheme managers (meaning, in the case of the DPF, the Pensions and Investments Committee);
 - members of the pension board (meaning, in the case of the DPF, the Pension Board);
 - any person who is otherwise involved in the administration of the Fund, including all of the Fund's officers;
 - employers, and any participating employer who becomes aware of a breach should consider their statutory duty to report, regardless of whether the breach relates to, or affects, members who are its employees or those of other employers;
 - professional advisers including auditors, actuaries, legal advisers and fund managers; and
 - any person who is otherwise involved in advising the managers of the scheme in relation to the scheme

Reasonable cause

- 6 Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.
- 7 Reporters should ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. For example, a member of a funded pension scheme may allege that there has been a misappropriation of scheme assets where they have seen in the annual accounts that the scheme's assets have fallen. However, the real reason for the apparent loss in value of scheme assets may be due to the behaviour of the stock market over the period. This would mean that there is not reasonable cause to believe that a breach has occurred.
- 8 Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to consult the Deputy Director of Finance, the Pensions Manager, the Investments Officer and/or the Assistant Director of Legal Services, regarding what has happened. It would not be appropriate to check in cases of theft, suspected fraud or other serious offences where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances the reporter should alert the Regulator without delay.
- 9 If the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.
- 10 In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Regulator may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

Material significance

- 11 In deciding whether a breach is likely to be of material significance to the Regulator, it would be advisable for the reporter to consider the:
 - cause of the breach;
 - effect of the breach;
 - reaction to the breach; and
 - the wider implications of the breach.
- 12 When deciding whether to report, those responsible should consider these points together. Reporters should take into account expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the Regulator.
- 13 The breach is likely to be of material significance to the Regulator where it was caused by:
 - dishonesty;
 - poor governance or administration;

- slow or inappropriate decision making practices;
 - incomplete or inaccurate advice; or
 - acting (or failing to act) in deliberate contravention of the law.
- 14 When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.
- 15 A breach will not normally be materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances. But in such a situation, it is also important to consider other aspects of the breach such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

Effect of the breach

- 16 Reporters need to consider the effects of any breach, but with the Regulator's role in relation to public service pension schemes and its statutory objectives in mind, the following matters in particular should be considered likely to be of material significance to the Regulator:
- Pension Board members not having the appropriate degree of knowledge and understanding, which may result in the Board not fulfilling its role, the Fund not being properly governed and administered and/or the Pensions and Investments Committee breaching other legal requirements;
 - Pension Board members having a conflict of interest, which may result in them being prejudiced in the way that they carry out their role, ineffective governance and administration of the scheme and/or the Pensions and Investments Committee breaching legal requirements;
 - adequate internal controls not being established and operated, which may lead to the Fund not being run in accordance with the Scheme's Regulations and other legal requirements, risks not being properly identified and managed and/or the right money not being paid to or by the Fund at the right time;
 - accurate information about benefits and Scheme administration not being provided to Scheme members and others, which may result in members not being able to effectively plan or make decisions about their retirement;
 - appropriate records not being maintained, which may result in member benefits being calculated incorrectly and/or not being paid to the right person at the right time;
 - anyone involved with the administration or management of the Fund misappropriating any of its assets, or being likely to do so, which may result in assets not being safeguarded; and
 - any other breach which may result in the Fund being poorly governed, managed or administered.

- 17 Reporters need to take care to consider the effects of the breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

Reaction to the breach

- 18 Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected members, the Regulator will not normally consider this to be materially significant.

- 19 A breach is likely to be of concern and material significance to the Regulator where a breach has been identified and those involved:

- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion;
- fail to notify affected scheme members where it would have been appropriate to do so.

Wider implications of the breach

- 20 Reporters should consider the wider implications of a breach when they assess which breaches are likely to be materially significant to the Regulator. For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the scheme manager or pension board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For instance, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

Examples of breaches

Example 1

- 21 An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. It is contacted by officers from the administering authority, it immediately pays the moneys that are overdue, and it improves its procedures so that in future contributions are paid over on time. In this instance there has been a breach but members have not been adversely affected and the employer has put its house in order regarding future payments. The breach is therefore not material to the Regulator and need not be reported.

Example 2

- 22 An employer is late in paying over employee and employer contributions, and so late that it is in breach of the statutory period for making such payments. It is also late in paying AVCs to the Prudential. It is contacted by officers from the administering authority, and it eventually pays the moneys that are overdue, including AVCs to the Prudential. This has happened before, with there being no evidence that the employer is putting its house in order. In this instance there has been a breach that *is* relevant to the Regulator, in part because of the employer's repeated failures, and also because those members paying AVCs will typically be adversely affected by the delay in the investing of their AVCs.

Example 3

- 23 An employer is late in submitting its statutory year-end return of pay and contributions in respect of each of its active members and as such it is in breach. Despite repeated reminders it still does not supply its year-end return. Because the administering authority does not have the year-end data it is unable to supply, by 31 August, annual benefit statements to the employer's members. In this instance there has been a breach which *is* relevant to the Regulator, in part because of the employer's failures, in part because of the enforced breach by the administering authority, and also because members are being denied their annual benefits statements.

Example 4

- 24 A pension overpayment is discovered and thus the administering authority has failed to pay the right amounts to the right person at the right time. A breach has therefore occurred. The overpayment is however for a modest amount and the pensioner could not have known that (s)he was being overpaid. The overpayment is therefore waived. In this case there is no need to report the breach as it is not material.

Submitting a report to the Regulator

- 25 Before you submit a report you should obtain clarification of the law around the suspected breach from the Deputy Director of Finance, the Pensions Manager, the Investments Officer and/or the Assistant Director of Legal Services.
- 26 The person you contact will consider in the round whether the Regulator would regard the breach as being material. (S)he will also clarify any facts, if required. If the case is a difficult one (s)he will seek advice, as required.
- 27 Some matters could be urgent, if for example a fraud is imminent, whilst others will be less so. Non-urgent but material breaches should be reported to the Regulator within 30 working days of them being confirmed, and in the same time breaches that are not material should be recorded (see later).
- 28 Some breaches could be so serious that they must always be reported, for example a theft of funds by anyone involved with the administration or management of the Fund. It is difficult to be definitive about what constitutes a breach that must always be reported, but one test is: might it reasonably lead to a criminal prosecution or a serious loss in public confidence?
- 29 Any report that is made (which must be in writing and made as soon as reasonable practicable) should be dated and include as a minimum:
- full name of the Fund;
 - description of the breach or breaches;
 - any relevant dates;
 - name of the employer or scheme manager (where known);
 - name, position and contact details of the reporter; and
 - role of the reporter in relation to the Fund.
- 30 Additional information that would help the Regulator includes:
- the reason the breach is thought to be of material significance to the Regulator;
 - the address of the Fund;
 - the pension scheme's registry number (if available); and
 - whether the concern has been reported before.
- 31 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.
- 32 Reporters should ensure they receive an acknowledgement for any report they send to the Regulator. Only when they receive an acknowledgement can the reporter be confident that the Regulator has received their report.
- 33 The Regulator will acknowledge all reports within five working days of receipt, however it will not generally keep a reporter informed of the steps taken in response to a report of a breach as there are restrictions on the information it can disclose.

- 34 The reporter should provide further information or reports of further breaches if this may help the Regulator to exercise its functions. The Regulator may make contact to request further information.
- 35 Breaches should be reported as soon as reasonably practicable, which will depend on the circumstances. In particular, the time taken should reflect the seriousness of the suspected breach.
- 36 In cases of immediate risk to the Fund, for instance, where there is any indication of dishonesty, the Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert the Regulator to the breach.

Recording breaches that have not been reported to the Regulator

- 37 Breaches that are found not to be material to the Regulator must still be recorded. This is so that if similar breaches continue, then they become material. Recording all breaches also highlights where improvements are required, to try and prevent similar breaches.
- 38 Breaches that are not being reported should be recorded here; H:\AAA H DRIVE DOCS FOR EDM\MANAGEMENT\GOVERNANCE\Legislation Breaches.

Whistleblowing protection and confidentiality

- 39 The Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report. The Regulator understands the potential impact of a report on relationships, for example, between an employee and their employer.
- 40 The statutory duty to report does not, however, override 'legal privilege. This means that oral and written communications between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
- 41 The Regulator will do its best to protect a reporter's identity (if desired) and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law. This includes circumstances where the regulator is ordered by a court to disclose it.
- 42 The Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to the regulator. Consequently, where individuals employed by firms or another organisation having a statutory duty to report disagree with a decision not to report to the regulator, they may have protection under the ERA if they

make an individual report in good faith. The Regulator expects such individual reports to be rare and confined to the most serious cases.

Derbyshire CC whistleblowing policy

- 43 The Council has its own whistleblowing policy. The person contacted about the potential breach will take this into account when assessing the case.

Derbyshire Pension Fund Breaches Log

KEY - RAG Status 1
Red; Breach is material
Amber; Breach could become material if actions being taken are not effective
Green; Breach is not material as per TPR guidance

KEY - RAG Status 2
Amber; Resolution plan in place - monitoring continuing
Green; Resolved - continued monitoring to ensure early identification of any recurrence
Blue; Closed

Breach Number	Date of Breach	Failure Type	Nature of the Breach	A description of the breach including the reasons it is, or is not, believed to be of material significance;	Has the issue been reported to Pensions and Investments Committee	Has the issue been reported to Pension Board	Actions taken to rectify the breach	RAG Status 1 (further to immediate action)	Report to tPR Recommendation of Pensions Admin Manager	Recommendation approved by Head of Pension Fund and Director of Finance and ICT (from September 2018)	Actions required to prevent similar types of breaches recurring in the future.	RAG Status 2 (Current status)
1	01/09/2016	ABS 2016	Late issue	All Active ABSs were delayed due to software issues. The bulk were sent out in mid-September and the remainder over the following months as data issues were resolved with employers. It was determined that this was a breach of material significance because all the active ABSs were late as a result of poor administration practice.	YES	YES	A plan was agreed with TPR for the issue of outstanding ABSs	Red	YES		Systems issues were at the root of the problem and this breach contributed towards the decision in 2017 to procure a replacement pensions administration system that will process ABSs more efficiently. Improvement plans were also made in the areas of resourcing and employer engagement.	Blue
2	30/09/2016	Pension Savings Statement	Not provided	A member's annual allowance breach was overlooked and her PSS not provided in Sept 2016, further to the receipt of an interfund transfer in the previous tax year. The oversight was spotted when during the following year's annual allowance exercise. HMRC deadline missed but not deemed material due to isolated nature of the case and speed of resolution.	No	NO	Matter resolved promptly with member and HMRC	Green	NO		Team now more vigilant where transfers are received for high earners and training and guidance notes much improved.	Blue
3	31/03/2017	Overpayment of pension	Pension paid to which member was not entitled	Due to the member's failure to notify the Fund of a change in his personal circumstances, an overpayment accrued. Arrangements were agreed for repayment via deductions from monthly payments. However, the amounts were added rather than deducted and the error not noticed until Jan 2018. Total involved was £1777.86, so the effect of the breach was not major, and it was an isolated incident so not deemed to be of material significance.	YES - via the quarterly Pensions Admin Performance report	YES - via the quarterly Pensions Admin Performance report	Adjustments made to recover total overpayment. £100 goodwill payment made as recommended by Stage 1 Adjudicator	Green	NO		SSC is implementing more robust input checking regime and the SLA between the Fund and SSC is being reviewed. Longer term, there is an option for an integrated pension payroll module with the new pensions administration system which would eliminate the need to manually transpose data from the pension system onto the SAP payroll system.	Blue
4	01/09/2017	ABS 2017	Late issue	ABSs were held back awaiting the resolution of data issues with employers and the clearing of internal backlogs. This was not felt to be a material breach because 100% of the ABSs that could be safely issued by the deadline had been issued, the situation was dealt with transparently, and there was a plan in place to issue the remainder.	YES - Pensions Committee very supportive of the policy of holding back ABSs that may be inaccurate	YES	Short term plan implemented to issue outstanding ABSs as promptly as possible. Longer term improvement plan	Green	NO		Increased resource to work with employers to encourage the provision of more prompt and accurate data. Increased resource to work on internal backlogs. The procurement of a more efficient pensions admin system is at an advanced stage.	Blue
5	31/03/2018	Deferred benefits	Late notification of entitlement	Leavers with deferred benefits are required to be notified of their entitlement and options within 2 months of leaving. At the end of 2017/18, there were 440 cases in breach. It would not be helpful to determine a material breach however because robust plans are in place to resolve the issue.	YES via the quarterly admin performance report	YES via the quarterly admin performance report	Ongoing backlog management	Amber	NO		Increased resource to work on internal backlogs. Replacement pensions administration system will lead to greater processing efficiency. Notifications are prioritised where members request them. Breaches Log will be updated and position reconsidered at the end of 2019/20.	Amber
6	31/03/2018	Transfers out	Late processing of transfer values	Transfers are required to be processed within 6 months of leaving. At the end of 2017/18, there were 260 cases in breach. It would not be helpful to determine a material breach however because robust plans are in place to resolve the issue.	YES via the quarterly admin performance report	YES via the quarterly admin performance report	Ongoing backlog management	Amber	NO		Increased resource and backlog management has succeeded in eliminating the transfers backlog during Q3 of 2018/19.	Blue
7	07/08/2018	Year end return	Failure by EMPLOYER A to provide reconcilable year end return in reasonable time.	The LGPS Regs apply where, in the opinion of the admin authority, it has incurred additional costs due to employer underperformance. Also, this failure contributed directly to a number of ABSs missing the statutory deadline of 31st August.	YES - initial concerns have been reported	YES - initial concerns have been reported	Efforts to assist the employer concerned to collate a reconcilable year end return for 2017/18 were successful.	Amber	NO		Further work with the employer during 2018/19 to assist them to avoid similar problems at the next year-end. Also reminders communicated re the potential charge to cover the additional admin costs generated, in line with the Pensions Administration Strategy.	Blue
7	07/08/2018	Year end return	Failure by EMPLOYER B to provide reconcilable year end return in reasonable time.	The LGPS Regs apply where, in the opinion of the admin authority, it has incurred additional costs due to employer underperformance. Also, this failure contributed directly to a number of ABSs missing the statutory deadline of 31st August.	YES - initial concerns have been reported	YES - initial concerns have been reported	Efforts to assist the employer concerned to collate a reconcilable year end return for 2017/18 were successful.	Amber	NO		Further work with the employer during 2018/19 to assist them to avoid similar problems at the next year-end. Also reminders communicated re the potential charge to cover the additional admin costs generated, in line with the Pensions Administration Strategy.	Blue
8	01/09/2018	ABS 2018	Late issue	Almost 20% of ABSs held back due to data issues, including out of date addresses. This was not deemed material because of the ongoing long term plan in place, and a clear short term plan to issue, and monitor closely, outstanding ABSs. Also, advice taken from the LGA and other Funds re the interpretation of TPR's guidelines supported a decision not to report. However, improvements resulting from the long term plan will need to be realised.	YES	YES	Short-term plan to issue outstanding ABSs. Longer term improvement plan in place.	Amber	NO	Approved 24/10/18	The new pensions admin system has been procured and is being implemented ahead of 2019/20. Also a partner is being procured to assist with address tracing over the next three years. Alongside the improvements in resourcing and employer communication, these initiatives should start to show initial benefits in 2019 and significant improvement in 2020.	Blue
9		Monthly contribution return	Failure by EMPLOYER C to meet statutory deadlines	Failing to provide DPF with the monthly CR1 form and / or related payment by 19th of the following month is a statutory breach. Levels of escalation are defined clearly in the Pensions Admin Strategy and a letter describing the potential sanctions relating to underperformance was sent. The employer responded positively with a plan to remedy the issue. This breach would not be deemed material if adherence to the plan was achieved.	YES - as part of overall admin performance reporting	YES - as part of overall admin performance reporting	Rectification plan in progress.	Amber				

Derbyshire Pension Fund

Recording and Reporting of Statutory Breaches

Appendix 3

To be read in conjunction with the 'Procedure for Reporting Breaches of the Law to the Pensions Regulator' (Appendix 1)

A. Rationale for recording items in the Breaches Log

Items to be included in the Log will meet the following criteria;

1. a statutory breach has occurred directly or indirectly, and
2. the breach is potentially of material significance to TPR (i.e. due to dishonesty, poor governance or administration, slow or inappropriate decision-making practices, incomplete or inaccurate advice, or acting or failing to act in deliberate contravention of the law)

The Pensions Administration Manager will log breaches as they occur and make a recommendation in each case as to whether the Fund should report the breach to the Pensions Regulator (TPR). The recommendations will be reported to the Head of Pension Fund and considered in consultation with the Director of Finance and ICT. New breaches will be reported to the Pensions and Investments Committee and the Pension Board via the quarterly Pensions Administration Performance Report. The Pension Board will also periodically review the Breaches Log in its entirety.

Specific considerations relating to each particular type of potential breach are detailed below. These considerations will require review at appropriate points.

Employer items

Item	Statutory requirement	Considerations regarding inclusion in the Breaches Log
Monthly contributions return	Payment and CR1 Form required by 19 th of following month (22 nd for BACS payments)	Breached regularly by approx. 10 employers each month, but not necessarily repeat offenders. The first reminder often resolves the matter. However, where there are persistent cases of poor performance that have not responded to reminders, offers of assistance etc., the employers responsible will be charged the costs of underperformance, in line with the Pensions Administration Strategy, and entered into the Breaches Log.
Discretions document	Must be drawn up and published	Currently a significant proportion of employers have yet to publish their discretions document. Further to an exercise carried out with employers in November 2018, a target date of 14 th May 2019 was set and cases of failure against this target will be recorded on the Log.

Year-end returns	Indirect requirement	Where accurate year-end returns are not returned promptly and this has an impact on the Fund's ability to meet its statutory requirements, these cases will be recorded.
Provision of starter, change, leaver, death data etc.	Indirect requirement	Where accurate data to enable accurate record-keeping and timely and accurate benefit processing is not returned within acceptable targets, there is no plan in place to rectify matters, and this has an impact on the Fund's ability to meet its statutory requirements, these cases will be recorded.

Pension Fund items

Item	Statutory requirement	Considerations re inclusion in the Breaches Log
Live and Deferred ABSs	100% issued by 31 st August each year	Even when 100% of ABSs that could safely be issued have been issued by the target date, this will not satisfy the statutory requirement. Therefore, this item will necessarily be recorded in the Log each year.
Pension Savings Statements	Issue in first week of October each year	This item should be recorded if there is any delay at all in issuing the bulk of the PSSs and in individual cases if due to oversight or other poor practice by DPF.
Apply Pensions Increase	Apply accurately in line with annual PI Review Orders	This item should be recorded if there is any delay at all in uprating pensions in payment and in individual cases if due to oversight or other poor practice by DPF or its pension payroll service supplier.
Inaccurate or unauthorised payments	Meet the specifications of Part 1 of the LGPS Regs	These items should be recorded where significant under or overpayment has occurred, due to oversight or other poor practice by DPF or its pension payroll service supplier, which leads potentially to hardship for the pensioner and/or legal action by DCC.
Notification of entitlement to benefits	In line with the requirements of the Disclosure Regs	Where the failure to meet the target is ongoing and is being managed and reported regularly to Pensions and Investments Committee and Pensions Board, rather than report each breach individually, an annual entry to the Log should be made describing progress against the resolution plan. Currently the backlog of deferred benefits would qualify for recording in the Log.
Notification of membership (stat notices)	In line with the requirements of the Disclosure Regs	Where the failure to meet the target is ongoing and is being managed and reported regularly to Pensions and Investments Committee and Pensions Board, rather than report each breach individually, an annual entry to the Log should be made describing progress against the resolution plan. Currently there is no starter backlog.

TPR Scheme Return	No direct requirement	Whilst this is not a statutory requirement, it would be appropriate to record a failure as the first stage of self-reporting the issue to TPR.
Late reporting for TPR, FRS17, HMRC, GAD etc.	Some reporting is statutorily required	Reports re FRS17, for example, must be produced in a timely manner in order to enable employers to meet their accountancy requirements. Any breach should be recorded in the Log.
Statement of communications policy	In line with the requirements of the LGPS Reg 60	Failure to review the current policy when material changes, such as the implementation of Member Self Service, occurs should be recorded.
Data protection breaches	Within GDPR requirements	Information security breaches are not recorded on this Log but on a separate log specifically for data protection purposes.

B. Rationale for reporting items to TPR

Where an item qualifies for recording on the Breaches Log, a decision is then required for the Fund on whether or not to take the next step and report the item to TPR. The decision made and the rationale used to arrive at it is also recorded on the Breaches Log. Guidance in making reporting decisions is established in the 'DPF Procedure approved by Pensions Committee' in 2015 and attached at Appendix 1.

TPR requires the cause, effect and reaction to a breach to be considered, and only wants to receive a report of a breach where it is deemed 'materially significant'. Examples of material significance include areas where it is felt that the scheme manager or pension board members have a lack of appropriate knowledge and understanding to fulfil their responsibilities, and where prompt and effective action is not being taken to remedy the matter and minimise risk of recurrence.

The decision to report or not will be taken by the Head of Pension Fund in consultation with the Director of Finance and ICT, and the Breaches Log will be updated accordingly.

The following table provides a framework to support consistent decision-making around reporting in each of the potential Employer and Fund breach areas identified in Part A above.

Item	Statutory requirement	Considerations re reporting to TPR
Monthly contributions return	Payment and CR1 Form required by 19 th of following month (22 nd for BACS payments)	Where the decision has been taken to charge the employer for underperformance, this clearly suggests that there is a failure to understand and fulfil responsibilities under the LGPS regs, so such cases would be reported.
Discretions document	Must be drawn up and published	Where the decision has been taken to include a case in the Breaches Log, this clearly suggests that there is a failure to understand and fulfil responsibilities under the LGPS regs, so such cases would be reported.
Year-end returns	No direct requirement	This cannot be reported as a statutory breach but, by recording it on the Breaches Log, it is captured should it be required in reference to a Fund breach re ABSs
Provision of starter, change, leaver, death data etc.	No direct requirement	This cannot be reported as a statutory breach, but by recording it on the Breaches Log, it is captured should it be required in reference to a Fund breach re meeting Disclosure Regulations
Live and Deferred ABSs	100% issued by 31 st August each year	This should be reported as a breach if; <ul style="list-style-type: none"> the Fund fails to produce 100% of all ABSs that can safely be issued by the target date, and / or the Fund has no plan to issue the outstanding ABSs as promptly as possible
Pension Savings Statements	Issue in first week of October each year	Where the decision has been taken to include in the Breaches Log, this type of breach should be reported unless the affected Fund members have been contacted and there are visible and effective plans in place to swiftly rectify matters.
Apply Pensions Increase	Apply accurately in line with annual PI Review Orders	Where the decision has been taken to include in the Breaches Log, this type of breach should be reported unless the affected Fund members have been contacted and there are visible and effective plans in place to swiftly rectify matters.
Inaccurate or unauthorised payments	Meet the specifications of Part 1 of the LGPS Regs	This should be reported as a breach unless the affected member has been contacted, swift corrective action has been applied and steps have been taken to minimise the risk of recurrence.
Notification of entitlement to benefits	In line with the requirements of the Disclosure Regs	Notifications are provided by employers and processed by the Fund. There are backlogs at each of these stages. These backlogs are being managed and remedial work is in place with employers and at the Fund in terms of recruiting and developing increased resource and migrating to an efficient admin system. These actions demonstrate that responsibility is being taken and a credible improvement plan is being pursued, therefore there would be no value in reporting to TPR. However, in individual cases where Fund members have demonstrated that accurate information about benefits potentially resulting in them not being able to effectively plan or

		make decisions about their retirement is not being held or provided, and this has been upheld at any stage of the AADP process, a report to TPR should be considered.
Notification of membership (stat notices)	In line with the requirements of the Disclosure Regs	Where the decision has been taken to include in the Breaches Log, this type of breach should be reported unless the affected Fund members have been contacted and there are visible and effective plans in place to swiftly rectify matters.
TPR Scheme Return	No direct requirement	Where the decision has been taken to include in the Breaches Log, this has been done as a step to reporting the issue to TPR, so a report would be sent in every case.
Late reporting for TPR, FRS17, HMRC, GAD etc.	Some reporting is statutorily required	Where the decision has been taken to include in the Breaches Log, this type of breach should be reported unless there are visible and effective plans in place to swiftly rectify matters.
Statement of communications policy	In line with the requirements of the LGPS Reg 60	Where the decision has been taken to include in the Breaches Log, this type of breach should be reported unless there are visible and effective plans in place to swiftly rectify matters.
Data protection breaches	Within GDPR requirements	No requirement to report to TPR as these items are reported to DCC's DPO and the ICO as DCC deems appropriate.