

## **Breaches of the LGPS regulations**

**Responsible Officer** Rebecca Purfit

Email: [rebecca.purfit@shropshire.gov.uk](mailto:rebecca.purfit@shropshire.gov.uk)

Tel: 01743 254457

### **1. Summary**

The report informs Pension Board members of the steps taken to reduce the number of breaches recorded which are due to employers not adhering to the regulations.

### **2. Recommendations**

Members are asked to note the report.

## **REPORT**

### **3. Risk Assessment and Opportunities Appraisal**

#### **3.1 Risk Management**

By ensuring the guidance and legislation mentioned in this report is followed and adhered to risks to the Fund are minimised.

#### **3.2 Human Rights Act Appraisal**

The recommendations contained in this report are compatible with the Human Rights Act 1998.

#### **3.3 Environmental Appraisal**

There is no direct environmental, equalities or climate change consequence of this report.

#### **3.4 Financial Implications**

By ensuring good internal controls are in place to monitor breaches reduces the risk to the Fund of being fined by the Pensions Regulator is minimised. There are no direct financial implications arising from this report.

### **4. Recording and reporting of breaches**

#### **4.1** Section 70 of the Pensions Act 2004 imposes a requirement on the following persons to report a breach of law:

- a trustee or manager of an occupational or personal pension scheme;
- a member of the pension board of a public service pension scheme;

- a person who is otherwise involved in the administration of such an occupational or personal pension scheme;
- the employer in relation to an occupational pension scheme;
- a professional adviser in relation to such a scheme; and
- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme,

- 4.1** When deciding whether a breach is likely to be of material significance to the Pensions Regulator, the cause, effect, reaction to and wider implications of the breach should all be considered and, if a breach has occurred that is deemed material, it should be reported to the Pensions Regulator.
- 4.2** Any potential breaches by the Administration Team or Fund Employers' are recorded on the Breaches Log and reported quarterly to Pension's Committee. In November 2016 41 breaches had been recorded. 13 of which were due to either late payment of contributions or missing paperwork which should accompany payment of contributions.
- 4.3** Under regulation 49 (8) of The Pensions Act 1995 and 16 (1) of The Occupational Pension Schemes (Scheme Administration) Regulations 1996, payment of employee and employer contributions must be paid to the Administering Authority by the 19<sup>th</sup> of the month following deduction (or 22<sup>nd</sup> if paid electronically). It is the Fund's policy that all payments must be made by the 19<sup>th</sup> of the month following deduction. Of the 13 breaches, relating to contributions, none were deemed materially significant to report to the Pensions Regulator as the Fund was satisfied that the employer is taking appropriate action to ensure future payments are made on time. The Fund's online employer guide clearly states the timescales for payment of contributions and all new employers are provided with a copy of the Pensions Administration Strategy which outlines employer and Fund responsibilities. Employer responsibilities have also been covered at the most recent employer meetings. Regular email bulletins are also sent to all employers. Copies of the presentations given at past employer meetings and the email bulletins can be found on the Funds website in the employers section.
- 4.4** The largest number, 27, of breaches recorded were due to employers not preparing a discretions policy. Since the breaches report went to the Pensions Committee 15 of the missing discretions policies have been received leaving a total of 11 policies outstanding as 1 had been recorded in error.
- 4.5** The Fund has worked hard with employers to ensure these policies are in place. To assist employers a template was purchased from the LGA which provided comprehensive guidance on making a policy including suggested wording. This has been a successful tool in increasing the number of discretions policies the Fund now has received. Visits have also been made to various employers around the county to provide one to one guidance. The Fund no longer issues any quotations which

require an exercise of a discretion when requested by an employee or employer who has not got the appropriate Policy in place.

**4.6** The Fund will continue to support the employers who have not provided a policy through updates to the website, presentations and one to ones.

**4.7** The final breach was an employer not applying the correct contribution rates for an employee which was again resolved quickly therefore determined as 'not materially significant'.

## **5. Future communication exercises**

**5.1** The Fund monitors breaches looking for any that are reoccurring or any employers who are repeatedly appearing on the log. Any patterns in common breaches will be used to identify training to be provided at future employer meetings. Smaller issues will be picked up in employer email bulletins.

### **List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Pensions Committee Meeting 25 November 2016 Record of Breaches Report  
(Exempt paper)

#### **Cabinet Member (Portfolio Holder)**

NA

#### **Local Member**

NA

#### **Appendices**

NA