

Local Government Pension Scheme Breaches Training



What is a breach?

- an act of breaking or failing to observe a law, agreement or code of conduct'
- Responsible for reporting a breach:
 - Pension / Committee / Board
 - Scheme Manager (i.e. pensions team)
 - Scheme Employer
 - Any professional advisers
 - 3rd party providers

An individual responsibility

- Requirement is to report breaches of the law to the Regulator where there is reasonable cause to believe that:
 - a legal duty in relation 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
- The report must be submitted in writing as soon as reasonably practicable

TPR – Traffic light system



Where the **cause, effect, reaction** and **wider implications** of a breach, when considered together, are likely to be of material significance, the breach is 'red'. These must be reported to the regulator.



Where the cause, effect, reaction and wider implications of a breach, when considered together, may be of material significance, the breach is 'amber'.



Where the cause, effect, reaction and wider implications of a breach, when considered together, are not likely to be of material significance, the breach is 'green'. These should be recorded but do not need to be reported.

Staffordshire Pension Fund

Our Process

All cases that appear on this breaches log have been through an internal process to resolve issues relating to late payment of contributions, this includes informal communication with the employer (email / telephone call) and formal requests (letters) to bring payment inline with the statutory deadline of 22 days from the end of the month in which the contributions were deducted from pay.

Date Logged	Period of Late Payment	No. Days Late	Contributions Due For Period	Person Dealing With Case	Severity Level	Comments On Material Breach Decision
Example Case	December 2014	43	£45,324.20	Lee Mountford		Agreed not to report this case to the TPR as representatives of this employer attended a meeting at the Pension Services office to discuss the problem, they explained the internal issues they were having which were responsible for the current problems, they gave assurance that the issues had been resolved and that all future payments would be made on time.
	January 2015	12	£45,433.32			
	March 2015	29	£44,472.12			
	April 2015	49	£50,118.07			
	May 2015	50	£49,873.25			
	June 2015	20	£50,496.55			
Example Case	January 2016 - February 2017	No Payment Received	£314.52	Lee Mountford		All though the amount of contributions is not material the employer is not making any efforts to comply with our requests for payments.

How are we recording breaches

- Individuals from specific teams within Pensions Services are responsible for identifying potential breaches.
- Guidelines have been set to initially determine whether a breach is material enough to be entered on to the breaches log.
- Based on the TPR Traffic Light System, the initial assessment will result in either a green or amber light allocation.
- Cases that are assigned an amber light will be entered on to the breaches log.
- The Pensions Manager and Assistant Managers will review the breaches log quarterly and decide if the breaches are material enough to be reported to The Pensions Regulator (Red Lighted).

“Materially Significant”

Need to consider;

- **Cause-** dishonesty, poor governance, incomplete/inaccurate information.
- **Effect-** ineffective internal controls, lack of knowledge/ understanding, potential for further breaches
- **Reaction-** action taken, notification to interested parties
- **Wider implication-** issues that make it likely breach will reoccur in the future

Penalties

- Failure to comply with obligation to report a breach is a civil offence
- Pensions Regulator can:
 - Issue warning notice- identifying the alleged breach
 - Impose fines
 - Issue Compliance Notice
 - Make report to the “reporter’s” professional or other body

The Breach

- Breaches can be direct or indirect
- **Direct** breach is an occasion where either legislation or the administration strategy directly requires an employer to perform a task.



The Breach

- **Indirect** breach is when ultimately the responsibility for performing a task, sits with the Administering Authority (and any failure is therefore a breach by the Administering Authority), but where meeting the requirements is dependent on the employer providing particular information.



Late issue of year end data

Scenario

Year-end pay and contribution return in respect of active scheme members submitted late to administrators

- We are collecting and processing data for around 35,000 members across 400 employer
- We are required to issue ABS for active members by 31 August
- Legislative deadline V's administration strategy deadline (direct / indirect breach)

Data Quality

- Year end data is interfaced directly to individual member records
- Checks are carried out on pay and contribution data provided
- Queries will be sent back to employers / payroll providers
- Timely responses are required to conform with deadlines.
- Employers are ultimately responsible for the quality of data provided.

What sort of breaches are these?

Notify the Fund of a scheme leaver including pay information

Carry out reviews where a Tier 3 ill-health benefit was awarded (after 18 months)

Issue annual benefit statements to deferred members by the 31 August each year

Provide information to the member about the amount of benefits payable on retirement

Direct or Indirect Breaches

Notify the Fund of a scheme leaver including pay information

Direct Breach – Administration Strategy/ Regulations

Carry out reviews where a Tier 3 ill-health benefit was awarded (after 18 months)

Direct Breach – (Legislation)

Direct or Indirect Breaches

Issue annual benefit statements to deferred members by the 31 August each year

No Breach, but it would be an Indirect one for active members

Provide information to the member about the amount of benefits payable on retirement

Indirect breach

Can you think of any others ?



Questions?

