



Committee report

Committee	PENSION BOARD
Date	17 OCTOBER 2017
Title	REPORTING BREACHES OF THE LAW TO THE PENSIONS REGULATOR POLICY
Report of	TECHNICAL FINANCE MANAGER

EXECUTIVE SUMMARY

1. The report introduces a new policy for reporting breaches of the law to the Pensions Regulator, relevant to both the Local Government Pension Scheme and the Firefighters' Pension Schemes.
2. Both the Fire Pension Board and the Local Pension Board are asked to recommend this policy to the Pension Fund Committee for adoption at its meeting on 24 November 2017.
3. Following adoption of the policy, training will be delivered for committee and board members, as well as council officers and other stakeholders, to ensure all relevant parties are aware of their responsibilities under this policy.

BACKGROUND

4. The Isle of Wight Council ("the council") is the administering authority for the Isle of Wight Council Pension Fund ("the fund") part of the Local Government Pension Scheme ("LGPS"), as well as scheme manager for the Isle of Wight Firefighters' Pension Schemes ("FPS").
5. The council has delegated its duties as scheme manager for both the LGPS and the FPS to the Pension Fund Committee ("the committee") under section 101 of the Local Government Act 1972.
6. Following the enactment of the Public Service Pensions Act 2013, subsequent LGPS regulations and FPS regulations have given the Pensions Regulator ("the regulator") greater responsibilities for the oversight of all public service pension schemes (including both the LGPS and FPS).
7. In April 2015 the regulator published its code of practice no 14 *Governance and administration of public service pension schemes* ("the code"). The code refers both to a statutory duty as well as advisory duties in responding to

potential unlawful activity. Those involved with the pension scheme have a duty to have regard to the code in reporting breaches of the law.

8. One of the key requirements of the code is that scheme managers should have a process which recognises the duties imposed on certain people 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, and
 - the failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions.
9. The council has not previously had a policy for reporting breaches of the law to the Pensions Regulator, so this policy seeks to document the council's procedures, relevant to both the LGPS and the FPS, to ensure that those with a responsibility to make reports are able to meet their legal obligations.
10. The purpose of this policy is to:
 - ensure individuals have the correct understanding and necessary skills to be able to identify and report breaches as they arise;
 - ensure that stakeholders of the pension schemes are given appropriate information in order to understand the consequences of a breach; and
 - ensure adequate procedures are in place to fully comply with the code.
11. This policy sets out the responsibility of elected members, officers of the council, any person involved in the administration of the pension scheme and members of both the Local Pension Board and the Fire Pension Board in identifying, managing and where necessary reporting breaches of the law as they apply to the management and administration of the pension schemes.
12. Following the adoption of this policy, training/briefing sessions will be arranged for committee and board members, as well as officers and other stakeholders, so that their responsibilities under the policy can be explained.

STRATEGIC CONTEXT

13. Good governance arrangements are essential to the delivery of the council's services. Having appropriate policies in place will improve the standards of governance for the pension schemes for which the council has responsibility.
14. Ensuring that all the resources available to the Island are used in the most effective way in achieving the Island's priorities.

CONSULTATION

15. No external consultation on this new policy has been carried out.
16. The policy has been drafted based on the Pensions Regulator's guidance, and using examples from two other pension funds within the ACCESS

investment pooling group. It has been reviewed internally by the head of resources and the monitoring officer. It was also circulated to members of the Local Pension Board for comment in draft.

17. It is intended that discussions at both Fire Pension Board and Local Pension Board will be sufficient to ensure that the policy is discussed with all interested parties.
18. Following the adoption of the policy, training will be delivered for committee and board members, as well as council officers and other stakeholders, to ensure all relevant parties are aware of their responsibilities under this policy.

FINANCIAL / BUDGET IMPLICATIONS

19. There are no direct financial implications in adopting this policy.
20. Should breaches be identified under the policy, then resources will need to be prioritised to ensure compliance with the policy.

LEGAL IMPLICATIONS

21. The Public Service Pensions Act 2013 gave greater responsibilities to the Pensions Regulator for the oversight of public service pension schemes, including the Local Government Pension Scheme and the Firefighters' Pension Schemes.
22. The Pensions Regulator's code of practice no 14 *Governance and administration of public service pension schemes* sets out the legal requirements for public service pension schemes in respect of the governance of those schemes, including the requirement to establish and operate suitable procedures for the reporting of breaches of the law to the Pensions Regulator.
23. Failure to implement such a policy, and subsequently to adhere to the policy and to implement effective controls to prevent breaches of the law may result in fines and imprisonment of those charged with responsibility of the Fund.

EQUALITY AND DIVERSITY

24. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
25. As this report introduces a new policy, an equality impact assessment (EIA) has been undertaken. This shows that there is no impact on any of the protected groups from the adoption of this policy.

OPTIONS

26. Option 1 - The board agrees the contents of the Reporting Breaches of the Law to the Pensions Regulator policy and recommends the policy to the Isle of Wight Pension Fund Committee for adoption.
27. Option 2 - The board reviews the Reporting Breaches of the Law to the Pensions Regulator policy and identifies any changes to be made. The board authorises the chairman of the board to finalise such changes with the technical finance manager and the monitoring officer, and recommends the amended policy to the Isle of Wight Pension Fund Committee for adoption.
28. Option 3 – The board does not accept the Reporting Breaches of the Law to the Pensions Regulator Policy and does not recommend it to the Isle of Wight Pension Fund Committee for adoption.

RISK MANAGEMENT

29. It is the responsibility of the Isle of Wight Council, as scheme manager for both the LGPS and FPS, to ensure that the Isle of Wight Pension Fund and the Isle of Wight Firefighters' Pension Schemes are properly governed and administered in compliance with relevant regulations and other requirements. The council has delegated this function to the pension fund committee, under section 101 of the Local Government Act 1972.
30. Adopting and implementing this policy relevant to all pension schemes for which the council is responsible will ensure compliance with the requirements of the Pensions Regulator.
31. Should the council fail to ensure appropriate standards of governance and administration of the pension schemes for which it has responsibility, the Pensions Regulator has the powers to issue an improvement notice under section 13 of the Pensions Act 2004. This would have reputational issues for the council.

EVALUATION

32. Adopting and implementing this policy relevant to all pension schemes for which the council is responsible will ensure compliance with the requirements of the Pensions Regulator.
33. Authorising the chairman of the board to agree any necessary changes to the policy with the technical finance manager and the monitoring officer, and recommending the policy subject to those changes being made will reduce any delay in adopting the policy, and reduce the risks breaches of the law remaining unrecorded and unreported.

RECOMMENDATION

34. Option 2 - The board reviews the Reporting Breaches of the Law to the Pensions Regulator Policy and identifies any changes to be made. The board authorises the chairman of the board to finalise such changes with the technical finance manager and the monitoring officer, and recommends the amended policy to the Isle of Wight Pension Fund Committee for adoption.

APPENDICES ATTACHED

35. [Appendix 1](#) – Reporting Breaches of the Law to the Pensions Regulator draft Policy.

BACKGROUND PAPERS

36. The Pensions Regulator's code of practice 14.
<http://www.thepensionsregulator.gov.uk/public-service-schemes/code-of-practice.aspx>

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