



Board Report

Committee	ISLE OF WIGHT LOCAL PENSION BOARD
Date	5 APRIL 2023
Title	POLICY FOR RECORDING AND REPORTING BREACHES OF THE LAW
Report of	PENSION FUND MANAGER

EXECUTIVE SUMMARY

1. This report presents the draft Policy for Recording and Reporting Breaches of the Law for the Isle of Wight Pension Fund, for consideration by the Local Pension Board.
2. The Pension Fund Manager will deliver a short briefing session during the board meeting to support members' understanding of the topic, and to support their consideration of the fitness for purpose of the drafted policy.
3. Once the board have reviewed and agreed the draft policy, either as presented or with amendments, it will be presented to the Pension Fund Committee for adoption.

RECOMMENDATION

4. That the Board receive the briefing from the Pension Fund Manager.
5. That the Board consider the Policy for Recording and Reporting Breaches of the Law in conjunction with the requirements of the Pension Regulator's code of practice and confirm that it is fit for purpose.
6. That the Board recommend the Policy for Recording and Reporting Breaches of the Law for adoption by the Pension Fund Committee at its meeting on 24 May 2023.

BACKGROUND

7. Following the enactment of the Public Service Pensions Act 2013, subsequent Local Government Pension Scheme (LGPS) regulations have given the Pensions Regulator (the regulator) greater responsibilities for the oversight of all public service pension schemes, including the LGPS.

8. 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.
9. The Isle of Wight Pension Fund adopted its current Reporting Breaches of the Law to the Pensions Regulator policy in November 2017, in line with the requirements of code of practice no.14. Due to capacity issues and other work priorities, the annual review of this policy was never actioned, so the current policy is significantly overdue for review.
10. In March 2021, the regulator issued a consultation on a new single code of practice, to combine its 10 of its existing 15 codes of practice (including no. 14) into a single, modular code – to be called the General Code. The General Code is due to be launched in Spring 2023.
11. The opportunity has been taken to update the current policy in line with the expected requirements of the General Code, which were published as part of the consultation process. An extract from the consultation document in respect of reporting breaches of the law is presented at Appendix 2 to this report.
12. The policy has been renamed to include the process for recording potential breaches, as well as steps for assessing whether those breaches could be of material significance to the regulator and hence should be reported.
13. The draft policy, included as Appendix 1 to this report, has been completely refreshed in comparison to the current version, so no schedule of changes has been presented.
14. Should the final requirements of the General Code differ significantly from the version consulted upon, the fund’s policy will be updated for those changes.
15. Other than any changes required as a result of the publication of the General Code, and any future significant changes to regulatory requirements or best practice, the policy will be scheduled for review and update every three years from the date of adoption.

KNOWLEDGE AND UNDERSTANDING

16. In order to support the members of the Local Pension Board in considering this new policy and recommending it for adoption to the Pension Fund Committee meeting on 8 February 2023, the Pension Fund Manager will deliver a brief development session during the meeting, based on the Pension Regulator’s public sector tool kit module, the link for which can be found in the background papers section of this report.
17. Board members are encouraged to have reviewed this module in advance of the meeting to support their understanding.

STRATEGIC CONTEXT

18. The primary objective of the fund is to provide pension and lump sum benefits for members on their retirement and/or benefits on death, before or after retirement, for

their dependents, in accordance with the Local Government Pension Scheme (LGPS) regulations and statutory provisions. The committee aims to operate the fund in such a manner that, in normal market conditions, all accrued benefits are fully covered by the value of the fund's assets and that an appropriate level of contributions is agreed by the employer to meet the cost of future benefits accruing.

19. The fund has also agreed the following objectives, which are supported by the review and update of this policy:
 - (a) Ensure compliance with the LGPS Regulations, other relevant legislation and the Pensions Regulator's Codes of Practice.
 - (b) Act with integrity and be accountable to our stakeholders for our decisions, ensuring they are robust, and evidence based.
 - (c) Clearly establish levels of performance and measure the performance of both the Fund and scheme employers against them.

CONSULTATION

20. The draft policy has been considered by the Monitoring Officer, the Strategic Manager – Legal Services, the Director of Finance, and staff from the pension administration team and the council's finance team. Comments received have been incorporated into the draft policy presented at Appendix 1 to this report.
21. Presentation of this policy to the Local Pension Board forms part of the general consultation process. Comments received from board members will be considered for inclusion in the final policy to be presented to the pension fund committee on 8 February 2023 for adoption.
22. Following adoption of this policy, it will be circulated to all employers in the fund, and a briefing session will be offered to explain both the policy and the employers' duties included therein.

FINANCIAL / BUDGET IMPLICATIONS

23. No additional costs have been incurred in the review and update of this policy. The policy has been adapted from that of another LGPS fund and has been updated by the Pension Fund Manager for matters relevant to the Isle of Wight Pension Fund.
24. Should breaches be identified under the policy, then resources will need to be prioritised to ensure compliance with the policy, and to review systems, control and processes to ensure any identified breach is corrected and prevented from reoccurrence.

APPENDICES ATTACHED

25. Appendix 1: Policy for Recording and Reporting Breaches of the Law 2023 v2.0.
26. Appendix 2: Extract from the Pensions Regulator's consultation document for the draft new code of practice: Whistleblowing – Reporting Breaches of the law

BACKGROUND PAPERS

27. Current Isle of Wight Pension Fund Reporting Breaches of the Law to the Pensions Regulator Policy
<https://www.isleofwightpensionfund.org/resources/reporting-breaches-of-the-law-to-the-pensions-regulator-policy/>
28. The Pensions Regulator's Code of Practice No 14: *Governance and administration of public service pension schemes*
<http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-public-service-pension-schemes.aspx>
Specifically the section "Reporting breaches of the law" paragraphs 241 - 275
29. The Pensions Regulator's draft new code of practice
<https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/full-draft-new-code-of-practice.ashx>
Specifically the section "Whistleblowing – Reporting breaches of the law" page 139
30. The Pensions Regulator's public sector toolkit module: Reporting breaches of the law
<https://trusteetoolkit.thepensionsregulator.gov.uk/course/view.php?id=67>
31. The Pensions Regulator's public sector toolkit module: Reporting breaches of the law Extra resource: Example breaches of the law and the traffic light framework
<https://trusteetoolkit.thepensionsregulator.gov.uk/mod/resource/view.php?id=472>

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