

**Report of the Section 151 Officer**  
**Pension Fund Committee – 13 July 2017**  
**REPORTING BREACHES POLICY**

Purpose: The report presents any breaches which have occurred in the Pension Fund in accordance with the Reporting Breaches Policy.

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Legal Officer: Stephanie Williams – Principal Lawyer

Access to Services Officer: N/A

**FOR INFORMATION**

**1. Introduction**

1.1 The Reporting Breaches policy was adopted with effect from 9 March 2017.

1.2 The policy requires a report to be presented to the Pension Board and Pension Fund Committee on a quarterly basis, highlighting any new breaches which have arisen since the previous meeting and setting out:

- all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates
- in relation to each breach, details of what action was taken and the result of any action (where not confidential)
- any future actions for the prevention of the breach in question being repeated

**2. Breaches**

2.1 Under the policy, breaches of the law are required to be reported to the Pensions Regulator where there is 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

2.2 The Breaches Report is attached at Appendix A and the following further information is provided.

2.3 Under the LGPS regulations, interest is paid on retirement lump sum payments if the payment is made more than one month after retirement and calculated at one per cent above the base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.

- 2.4 Since the adoption of the Reporting Breaches policy, 20.37% of retirement lumps sums have not been paid within one month of retirement; however, further investigation has ascertained that all the late payments were as a result of members not returning the appropriate paperwork in order to make payment.
- 2.5 The Fund requires that employers pay employee and employer contributions to the Fund on a monthly basis and no later than the 19<sup>th</sup> of the month after which the contributions have been deducted. There have been a number of instances during the reporting period where breaches have occurred. In each case, Treasury Management staff have written to the employers to request payment and provide a reminder of the responsibilities to submit on time.
- 2.6 The final breach during this quarter is the failure of one employer (Gwrp Gwalia) to submit data to the Pension Fund by 30<sup>th</sup> April so that the end-of-year reconciliation of contributions and pay to members' records can take place. The data was received on 22<sup>nd</sup> June and has put the employer at risk of breaching the requirement for its members' Annual Benefit Statements to be distributed by 31<sup>st</sup> August after year-end.
- 2.7 Regular contact was made between the Pension Fund and Gwrp Gwalia during this period to ensure their responsibilities were understood and the risks attached to non-compliance. An invitation has been made to meet with them to discuss moving to i-connect in order that monthly returns may be submitted electronically.

### **3. Equality and Engagement Implications**

N/A

### **4 Legal Implications**

- 4.1 Where breaches have occurred, the legal implications are outlined in Code of Practice no.14.

### **5. Financial Implications**

- 5.1 The financial effects of each breach is identified below with the addition of the possibility of a penalty charge from TPR.

## **FOR INFORMATION**

**Background papers:** None

**Appendices:**

**Appendix A:** Breaches Report

City and County of Swansea Breach Register

Appendix A

Date	Category (e.g. administration, contributions, funding, investment, criminal activity)	Description and cause of breach	Possible effect of breach and wider implications	Reaction of relevant parties to breach	Reported / Not reported (with justification if not reported and dates)	Outcome of report and/or investigations	New Breach (since last report)
Mar 2017	Investment asset allocation	<p>The Investment Strategy Statement outlines an indicative allocation of 34% +/- 5% to Global Equities.</p> <p>At 31<sup>st</sup> March 2017, the allocation was 43%</p>	There is resulting over allocation to global equities	<p>The asset class in question returned 33% during the year which has caused the uplift in valuation- the best performing asset class during the year.</p> <p>There is a planned investment review for 2017/18 which shall review asset allocations on a long term basis.</p>	Noting the volatility of asset values and the pending asset allocation review, it is determined imprudent to incur material transaction costs to address the allocation imbalance. A longer term allocation shall be derived from the pending investment review.	Allocations shall be reviewed as part of the investment review	✓
Mar – Jun 2017	Administration	20.37% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement	The administering authority has accrued interest payments on the retirement lump sums under the 2013 LGPS	This was due to members not returning relevant documentation in a timely manner	.		✓

			regulations				
Mar – Jun 2017	Contributions	Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred			✓
30/04/2017	Administration	Gwrp Gwalia did not submit their annual return for year-end reconciliation until 22/06/2017 when it should have been provided by 30/04/2017	Delay in year-end reconciliation exercise and possibility of failure to issue Annual Benefit Statements to Gwrp Gwalia members	Regular contact maintained with employer throughout the delay. Recommended move to monthly returns via i-Connect			✓

\*New breaches since the previous meeting should be highlighted