



Report of the Section 151 Officer

Local Pension Board – 24 January 2019

Breaches Report

Purpose: The report presents any breaches which have occurred in the period 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 last report in Sep 2018, 77% of retirement lumps sums have not been paid within the benchmark (it should be noted that 98.5% of payments were made within 1 month when all documentation was received) this is an abnormally high number due to the implementation of the Amendment Regs re deferred benefit members with pre 2014 membership (change to earliest retirement age) with a high number of members failing either to return the pension election forms within a timely manner or providing a current address further investigation has ascertained that, in the main, the late payments were as a result of members not returning the appropriate paperwork in order to make payment. Communication sent to members at time of retirement has been reviewed to ensure that the importance of timely return of required documents is highlighted. It is recognised that this is a material deterioration of this PI and management are identifying measures to improve and prevent.
- 2.5 The Fund requires that employers pay employee and employer contributions to the Fund on a monthly basis and no later than the 19th 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.

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 Minimal loss of investment income and a possible penalty charge from TPR.

Background papers: None

Appendices:

Appendix A: Breaches Report

City and County of Swansea Breach Register

Appendix A

City and County of Swansea Breach Register

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	The Investment Strategy Statement outlines an indicative allocation of 34% +/- 5% to Global Equities. At 31 st March 2017, the allocation was 43%	There is resulting over allocation to global equities	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. There is a planned investment review for 2017/18 which shall review asset allocations on a long term basis	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	The administering authority has accrued interest payments on the retirement lump sums under the	This was due to members not returning relevant documentation in a timely manner	.		

		retirement	2013 LGPS 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		Recommended move to monthly returns via i-Connect	
Jul - Aug 2017	Administration	32.71% 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 retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	This was due to members not returning relevant documentation in a timely manner	.	Communication to members regarding retirement options reviewed to ensure the importance of returning documents in a timely manner is emphasised	
Jul - Aug 2017	Contributions	2 Employers have not paid contributions within required timescale	Loss of investment income	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has	

						passed	
Sept – Nov 2017	Administration	52.28% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 6.60% was not paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	This was mainly due to members not returning relevant documentation in a timely manner		Communication to members regarding retirement options reviewed to ensure the importance of returning documents in a timely manner is emphasised	
Sept – Nov 2017	Contributions	2 Employers have not paid contributions within required timescale	Minimal loss of investment income	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Dec 17 – May 18	Administration	60.19% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 94.34% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	This was due to members not returning relevant documentation in a timely manner or deferred benefits coming into payment.		Communication to members regarding retirement options reviewed to ensure the importance of returning documents in a timely manner is emphasised	

Dec 17- May 18	Contributions	3 Employers have not paid contributions within required timescale	Loss of investment income	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Mar 18- May 18	Contributions	3 Employers have not paid contributions within required timescale	Loss of investment income	Employers are contacted once breach has occurred		An exercise will be undertaken in June 18 to remind all Employers of the deadline date for submission of contributions.	
30/04/2018	Administration	Ystalyfera Community Council have not submitted their annual return for year-end by 30/04/2018.	Delay in year-end reconciliation exercise and possibility of failure to issue Annual Benefit Statements to Ystalyfera members	Unable to contact employer by phone and no response to numerous emails.		Recommend face-to-face visit	
Jun – Aug 2018	Administration	45% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 81% was paid within 1 month of	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the	This was due to a high % of old deferred benefits coming into payment and members not returning relevant documentation in a timely manner		Members are reminded of the need to return pension options in a timely manner	

		receipt of member option return	2013 LGPS regulations				
Jun-Aug 18	Contributions	3 Employers have not paid contributions within required timescale	Loss of investment income	Employers are contacted once breach has occurred		An exercise was be undertaken in June 18 to remind all Employers of the deadline date for submission of contributions.	
Sep – Nov 2018	Administration	77.69% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 98.48% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	The abnormally high % due to the introduction of the Amendment Regs re deferred benefit members with pre 2014 membership (change to earliest retirement age) with a high number of members failing either to return the pension election forms within a timely manner or providing a current address		Member coms highlight the necessity of notification of a change of address	✓

Sep-Nov 2018	Contributions	4 Employers have not paid contributions within required timescale	Loss of investment income	Employers are contacted once breach has occurred		An exercise was undertaken in June 18 to remind all Employers of the deadline date for submission of contributions.	✓
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*New breaches since the previous meeting should be highlighted