

Report to: **Pension Board**

Date: **8 February 2018**

By: **Chief Finance Officer**

Title of report: **Reporting Breaches Policy**

Purpose of report: **To provide an update to the Board on Reporting Breaches Policy, this provides a framework for reporting breaches of the law applying to the management and administration of the Fund.**

---

## **RECOMMENDATION-**

**The Board is recommended to note the attached reporting breaches policy and the updated breaches log.**

---

### **1. Background**

1.1 Under the Pensions Act, there is a legal requirement on all Pension Committee Members, Pension Board Members, officers of the Fund, employers, and advisers to report any significant breaches of the law to the Pensions Regulator where they are likely to be of material significance. The Pensions Regulator Code of Practice no 14 (Governance and administration of public service pension schemes) states there should be a procedure in place within each Fund to identify and assess these breaches.

### **2. Supporting Information**

2.1 The Reporting Breaches Policy (Appendix 1) has been updated, and the document sets out Reporting Breaches responsibilities and provides a framework for the Fund to identify, manage and where necessary report breaches of the law applying to the management and administration of the Fund.

2.2 Where a breach has been identified by the Fund's administration function, the administrators must alert the Monitoring Officer and Section 151 officer immediately. The administrators must produce a preliminary report setting out an assessment of the breach, and the monitoring officer will determine whether any breach or likely breach is materially significant, having regard to the guidance.

2.3 The Pension Committee and the Pension Board will need to take all necessary steps to consider breaches and if necessary, report to the Pensions Regulator. It is stressed that, as set out in the breaches policy, only material breaches are required to be reported to the Pensions Regulator.

2.4 The Committee and Board are required to monitor all breaches and ensure that adequate resources are allocated to managing and administering this process. Officers will effectively be responsible for the management and execution of this policy and for ensuring that training is conducted for all relevant officers, elected members, Members of the Committee and Pension Board.

2.5 The Fund maintains a log of all breaches of the law as applicable to the management and administration of the Fund. It is necessary that all incidents of breaches identified are recorded in the Fund's breaches log attached as Appendix 2. This log will be reviewed on an on-going basis to determine any trends in the breaches log that might indicate any serious failings or fraudulent behaviour on an ongoing basis.

2.6 The identification, management and reporting of breaches is important. It is a requirement of the Pensions Act 2004 and Pensions Regulator's Code of Practice; failure to report a breach without "reasonable excuse" is a civil offence that can result in civil penalties. Details of significant breaches will be published in the Fund's Annual Report.

### **3. Conclusion and recommendations**

3.1 Where a breach has occurred and has been identified it should be recorded/logged, assessed and where necessary reported as soon as reasonably practicable. The Reporting Breaches Policy provides a framework to achieve this.

3.2 If any breach is considered significant or it is not clear as to whether it is significant, then it will be reported to Committee and the Pension Board to consider. The Monitoring officer will make the final determination as to whether it is materially significant having regard to the guidance set out in the Code and after consultation with the Council S151 Officer.

**IAN GUTSELL**  
**Chief Finance Officer**

Contact Officer: Ola Owolabi, Head of Pensions  
Tel. No. 01273 482017  
Email: [Ola.Owolabi@eastsussex.gov.uk](mailto:Ola.Owolabi@eastsussex.gov.uk)

Local Member(s): All  
Background Documents  
None