

PENSION FUND COMMITTEE – 9 JUNE 2023

REVIEW OF BREACHES POLICY

Report by the Director of Finance

RECOMMENDATION

1. **The Committee is RECOMMENDED to**
 - a) **approve the revised draft Breaches Policy attached at Appendix 1.**
 - b) **Determine what further information they wish to receive on a quarterly basis to enable them to meet their statutory duties in respect of actual breaches, and mitigate the risks of potential breaches.**

Introduction

1. There are various legislative and regulatory requirements for Pension Funds regarding breaches:
 - i) Under the Pensions Act 2004, the Fund must report breaches of the law relating to the administration of the Pension Fund to the Pension Regulator and where data breaches occur to the Information Commissioner;
 - ii) The UK General Data Protection Regulation (UK GDPR) apply to the processing of personal data;
 - iii) The Pension Regulator's Code of Practice 14 provides practical guidance in relation to this legal requirement to Pension Funds. (N.B. This will shortly be superseded by the new General Code of Practice).
3. The Pension Regulator's Code of Practice 14 covers the following areas:
 - Implementing adequate procedures;
 - Judging whether a breach must be reported;
 - Submitting a report to The Pensions Regulator;
 - Whistleblowing protection and confidentiality;
4. The breaches policy was last reviewed at the June 2019 Pension Fund Committee Meeting.
5. The main updates to Breaches Policy includes:
 - Inclusion of the requirements of the UK General Data Protection Regulation (UK GDPR);

- Inclusion of a new section on 'Types of Breaches' which outlines the two types of breaches which can occur, namely data breaches and code of practice breaches;
 - A new section on 'Internal Procedures' which provides a step by step procedures which need to be followed once a breach has been identified;
 - A new section on 'Reporting a Data Breach to the Information Commission (ICO)'.
5. The Policy includes a section on reporting requirements which includes a quarterly report to this Committee which sets out the details of any breaches incurred, including the number and type of breaches, plus the action taken. The Policy also outlines the need for an escalation policy on breaches of regulations in respect of the payment of contributions, which is currently being developed.
 6. The Committee should note that when we previously reported a material breach of regulations to the Pension Regulator in respect of the failure to issue Annual Benefit Statements, the Pension Regulator focused on the role of the Committee. In particular, they wanted to know what information the Committee had received both in advance of the breach and in respect of the breach itself, and what actions the Committee had taken. It was clear that the Pension Regulator saw the Committee as the responsible body.
 7. The Committee should therefore consider whether they are currently getting sufficient information which highlights the risk of a potential breach of regulations in sufficient for them to take remedial action, and whether they are getting sufficient information on actual breaches and the impact of the actions being taken to mitigate the risk in future.

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June 2023