

Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 22 September 2020

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Subject: Register of Breaches of Law

Summary statement:

In accordance with the Public Service Pensions Act 2013, from April 2015 all Public Service Pension Schemes come under the remit of the Pensions Regulator.

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement to report a matter to The Pensions Regulator as soon as is reasonably practicable where that person has reasonable cause to believe that:

- (a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- (b) the failure to comply is likely to be of material significance to The Pensions Regulator in the exercise of any of its functions.

A Register of Breaches of Law is therefore maintained in accordance with the Pensions Regulators requirements and WYPF Breaches procedure.

Recommendation

It is recommended that the Local Pension Board note the entries on the Register of Breaches of Law.

Rodney Barton
Director

Portfolio

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Overview & Scrutiny Area

1. **Background**

1.1 Section 70 of the Pensions Act 2004 (the Act) imposes a requirement to report a matter to the Pensions Regulator as soon as reasonably practicable where a person has reasonable cause to believe that:

- (a) a legal duty relating to the administration of the scheme has not been or is not being complied with, and
- (b) the failure to comply is likely to be of material significance to The Pensions Regulator in the exercise of any of its functions.

1.1 This requirement applies to:

- a trustee or manager of an occupational or personal pension scheme;
- a member of the pension board of a public service pension scheme;
- a person who is otherwise involved in the administration of an occupational or personal pension scheme;
- the employer in relation to an occupational pension scheme;
- a professional adviser in relation to such a scheme; and
- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.

1.2 The Act states that a person can be subject to a civil penalty if he or she fails to comply with this requirement without a reasonable excuse. The duty to report breaches under the Act overrides any other duties the individuals listed above may have. However, the duty to report does not override 'legal privilege'. This means that, generally, communications between a professional legal adviser and their client, or a person representing their client, in connection with legal advice being given to the client, do not have to be disclosed.

2. **Reporting Breaches Procedure**

2.1 A record of past breaches may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). WYPF maintains a record of all reported or unreported breaches.

2.2 The Register of Breaches of Law (reported or otherwise) is provided to each Joint Advisory Group meeting, and this will also be shared with the Pension Board.

4 Breaches from April 2020

- 4.1 The entries on the Register of Breaches for 2020/210 relate to the late payment of contributions.

5. Employer Contribution Payment Deferral Policy

- 5.1 As a result of the current COVID 19 pandemic the Fund has updated its approach relating to the payment of employers' contributions during the coronavirus emergency, including requests for deferral of payments.
- 5.2 A copy of the Employer Contribution Payment Deferral Policy can be found at Appendix B.
- 5.3 Until the beginning of June, the Fund had received a number of enquiries regarding deferment of employer contributions policy however, no formal applications have been received.

6. Recommendations

It is recommended that the Local Pension Board note:

- the entries and action taken on the Register of Breaches.
- the Employer Contribution Deferral policy

6 Appendix

- Appendix A – Register of Breaches 2020/21
- Appendix B – Employer Contributions Deferral Policy