

Clwyd Pension Fund

Procedure for Recording and Reporting Breaches of the Law / Late Payment of Contributions by an Employer

February 2025



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Introduction

This document sets out the procedures to be followed by certain persons involved with the Clwyd Pension Fund (“the Fund”) in relation to identifying, recording and where required reporting breaches of the law or late contribution payments by employers to The Pensions Regulator.

Breaches can occur in relation to a wide variety of the tasks normally associated with the operational function of a scheme such as keeping records, internal controls, calculating benefits and making investment or investment-related decisions. The document assists officers in the procedures for recording and if necessary, reporting breaches to The Pensions Regulator as they are identified. However, the legal requirement to report breaches of the law to The Pensions Regulator falls on all those with responsibilities for the governance and management of the Fund who may identify or become aware of breaches which could be considered significant to the Regulator, such as those of a more serious nature involving dishonesty and fraud. Therefore this Procedure also assists Pension Fund Committee, Board and others identified in the Procedure on the process to follow in these hopefully rare circumstances. It has also been developed to assist Flintshire County Council, in its role as Administering Authority (also referred to Scheme Manager and Governing Body in various regulations and guidance), in ensuring it is aware of all breaches of the law in relation to the Clwyd Pension Fund and that these are appropriately recorded and then dealt with.

To whom this Procedure applies

Flintshire County Council, as Administering Authority, has delegated responsibility for day-to-day management of the Clwyd Pension Fund to the Head of Clwyd Pension Fund, and therefore they are also responsible for ensuring this Procedure is implemented.

The following persons, or any other person who has responsibility to report breaches of the law in relation to the Clwyd Pension Fund, are strongly encouraged to follow this Procedure should they identify such a breach. This Procedure applies to you if you are:

- a member of the Pension Fund Committee or the Pension Board.
- an officer involved in the management or administration of the Pension Fund, including a staff member in the Clwyd Pension Fund Team, the Chief Finance Office (Section 151 Officer) and the Corporate Manager, People and Organisational Development.
- a professional adviser for the Fund, including external auditor, actuary, legal adviser, fund manager, investment consultant, independent adviser, governance consultant and benefits consultant¹.

¹ However, these advisors should note that the application of this Procedure relates to the reporting of legal breaches relating to the administration of the Pension Fund, rather than any breaches relating to their role and responsibilities that do not affect the administration of the Fund. For example, if a fund manager has breached the investment association guidelines, then this would not be reportable under this Clwyd Pension Fund Procedure for Reporting Breaches (albeit the Administering Authority would still expect this information to be recorded separately and notified to Flintshire County Council).

- an officer of an employer participating in the Clwyd Pension Fund who is responsible for pension matters.
- any other person otherwise involved in advising the managers of the Fund, including the Flintshire County Council's Monitoring Officer and a staff member of the Internal Audit function.

Throughout this Procedure, references to “you” are directed at any person to whom this Procedure applies.

The next section clarifies the legal and Code of Practice requirements relating to reporting breaches of the law and contribution payment failures.

Legislative and Code of Practice Requirements

Pensions Act 2004: Duty to report breaches of the law

Section 70 of the Pensions Act 2004 (the Act) imposes a requirement on the following persons:

- 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
- a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme
- a scheme strategist or scheme funder of a Master Trust scheme

to report a matter to The Pensions Regulator as soon as is reasonably practicable where any person (listed above) 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.

Pensions Act 2004: Duty to report late payment of employer contributions

Section 70A of the Act imposes a requirement on the scheme manager² to report the matter to The Pensions Regulator as soon as is reasonably practicable where:

² For Clwyd Pension Fund, the scheme manager is Flintshire County Council (as the Administering Authority), albeit their responsibilities have been delegated to the Clwyd Pension Fund Committee and the Head of Clwyd Pension Fund.

- (a) any contributions payable to a public service pension scheme by or on behalf of an employer are not paid on or before their due date, and
- (b) the scheme manager has reasonable cause to believe that the failure is likely to be of material significance to the Regulator.

In relation to both of these provisions the duty to report breaches or late payment of employer contributions 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.

The Act states that a person can be subject to a civil penalty if they fail to comply with these requirements without a reasonable excuse.

As explained later in this Procedure, you are encouraged to report any such matter to the Head of Clwyd Pension Fund (or another officer or a member of the Pension Fund Committee or Board) for their assistance in the first instance.

The Pension Regulator's General Code of Practice³

Practical guidance in relation to these legal requirements is provided in The Pension Regulator's Code of Practice, within the section "**Reporting to TPR: Whistleblowing - reporting breaches of the law**". The requirements are covered in the following four modules:

- Who must report: details of who has a duty to report breaches of the law.
- Decision to report: the factors that reporters should consider when deciding whether to tell The Pensions Regulator about breaches of the law.
- How to report: details of the information to include when reporting a breach of the law and how to send this to The Pensions Regulator.
- Reporting payment failures: where there has been a material payment failure, you need to report it within a reasonable period.

It is important to note that even though these requirements are focussed on **reporting** a breach or contribution payment failure, the Code of Practice does make it clear that the governing body must have a Procedure to **record** breaches of the law, and therefore this Procedure highlights how that is done for Clwyd Pension Fund.

Application to the Clwyd Pension Fund

We have developed this Procedure in relation to Clwyd Pension Fund. This document sets out how we will strive to achieve best practice through use of a formal reporting breaches procedure. It reflects the guidance contained in The Pension Regulator's Code of Practice.

³ Code in force: 28 March 2024

www.thepensionsregulator.gov.uk/en/document-library/code-of-practice

Training on reporting breaches and related statutory duties, and the use of this Procedure is provided to Pension Fund Committee members, Pension Board members and key officers involved with the management of the Clwyd Pension Fund on a regular basis. If this Procedure applies to you and you require training, please contact the Pensions Administration Manager (or the Pensions Operations Manager when that post is appointed to⁴) or the Governance Officer.

In particular, so you can understand your responsibilities in relation to reporting, you should refer to the section in the Code on “[Whistleblowing - reporting breaches of the law](#)”, and read the modules:

- Who must report
- Decision to report
- How to report
- Reporting payment failures

The Pensions Regulator also has further useful guidance “[Assess whether to report a breach of the law](#)”.

Other Administering Authority or Organisational Requirements

In addition to the requirements of this Procedure, there may be other policies and procedures which may be in place relating to areas such as fraud or whistleblowing that apply to you or other individuals covered by this Procedure. For example, Flintshire County Council has in place the following:

- Corporate Anti-fraud and Corruption Strategy: applies to all employees and members of Flintshire County Council, partner organisations, Council suppliers, contractors and consultants, and the general public and sets out the Council’s three stage process of deter, prevent and detect
- Fraud and Irregularity Response Plan: guidance for employees and management of Flintshire County Council
- Whistleblowing Policy: setting out how someone working with or within Flintshire County Council can raise an issue in confidence.

This Procedure should be followed in addition to any existing procedures or policies that may be in place and that apply to you, such as those listed above. In particular, you are reminded that there is a legal requirement to report breaches of the law in relation to the Clwyd Pension Fund that could be considered significant to The Pensions Regulator. The Council's Monitoring Officer (contact details at the end of this Procedure document) can assist if you are uncertain how to deal with the interaction between this Procedure and any other organisation's policy or procedure that may be in place.

⁴ All references to the Pensions Administration Manager in this document should be read as Pensions Operations Manager once that position is appointed to.

The Clwyd Pension Fund Breaches Procedure

The following Procedure details how you can identify, assess, record and report (if appropriate) a breach of law relating to the Clwyd Pension Fund. The procedure should also be used if you consider a late payment of contributions by a scheme employer should be reported by us.

The Procedure aims to ensure you are able to meet your legal obligations and avoid placing any reliance on others to report. The Procedure will also assist in providing an early warning of possible malpractice and reduce risk. There are various key elements in this Procedure:

1. Understanding the law and what is a suspected breach
2. Understanding the facts around a suspected breach to determine whether it is an actual breach
3. Determining whether a breach is likely to be of material significance to The Pensions Regulator
4. Following our referral process to the right level of seniority, so decisions can be made about whether to report to The Pensions Regulator
5. How to deal with difficult cases
6. The timeframe for the procedure to take place to ensure any report can be made as soon as reasonably practicable
7. Ensuring breaches are recorded, even if they are not reported to The Pensions Regulator
8. How we review our reporting procedures following any important changes to the Fund's governance arrangements

These are explained below:

1. Understanding the law and what is a suspected breach

A breach of the law can include any act of breaking or failing to comply with a legal requirement. Although the Pensions Act specifically refers to “a duty which is relevant to the administration of the scheme”, The Pensions Regulator’s General Code does clarify that they interpret ‘administration’ broader than day to day administrative tasks. In the context of the Local Government Pension Scheme (which Clwyd Pension Fund is part of) it can encompass many aspects of the management and administration of the scheme given the wider legal framework that applies to the scheme. This could include breaches of the law including but not limited to any of the following areas:

- record-keeping
- dealing with membership movements
- calculating benefits
- preparing accounts
- investment policy
- investment management
- the custody of invested assets

- scheme funding

Some examples of potential breaches are also included in Appendix A.

You may need to refer to regulations and guidance when considering whether or not there has been a breach of the law. Some of the key provisions are shown below:

- Sections 70 and 71 of the Pensions Act 2004:
www.legislation.gov.uk/ukpga/2004/35/contents
- Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (Disclosure Regulations):
www.legislation.gov.uk/uksi/2013/2734/contents/made
- Public Service Pension Schemes Act 2013:
www.legislation.gov.uk/ukpga/2013/25/contents
- Local Government Pension Scheme Regulations ("LGPS") (various):
www.lgpsregs.org/timelineregs/Default.html (pre 2014 schemes)
www.lgpsregs.org/index.php/regs-legislation (2014 scheme)
- The Pensions Regulator General code of practice:
www.thepensionsregulator.gov.uk/en/document-library/code-of-practice

If you need further guidance and assistance, please contact the Head of Clwyd Pension Fund or Pensions Administration Manager, provided that requesting this assistance will not result in alerting them if you believe they may be responsible for a serious offence (where the breach you are investigating is in relation to that offence).

2. Understanding the facts around a suspected breach to determine whether it is an actual breach

When considering whether to report a breach, you will need to have reasonable cause to believe that a breach of the relevant legal provision has actually occurred, not just a suspicion. Where a breach is suspected you should carry out further checks to confirm if a breach has occurred.

Where you do not know the facts or events, it will usually be appropriate to check with the Head of Clwyd Pension Fund or Pensions Administration Manager who will hopefully be able to explain what has happened. You can of course also reach out to others who are involved in the management of the Fund, such as a member of the Pension Fund Committee or Pension Board, an adviser or another senior officer. However there are some instances where it would not be appropriate to make further checks, for example, if you become aware of theft, suspected fraud or another serious offence and you are also aware that by making further checks there is a risk of either alerting those involved or hampering the actions of the police or a regulatory authority. This is considered later in this Procedure.

3. Determining whether a breach is likely to be of material significance to The Pensions Regulator

Should you have reasonable cause to believe that a breach of the law has occurred, you must decide whether that breach is likely to be of material significance to The Pensions Regulator in carrying out their functions, meaning it therefore should be reported to The Pensions Regulator. To do this, an individual should consider the following, both separately and collectively:

- cause of the breach (what made it happen)
- effect of the breach (the consequence(s) of the breach)
- reaction to the breach
- wider implications of the breach.

Further details on the above four considerations are provided in The Pension Regulator's Code of Practice so you should refer to this when considering whether a breach is likely to be of material significance: [Decision to report breaches TPR code module | The Pensions Regulator](#).

You can also request the most recent breaches report from the Pensions Administration Manager or Governance Officer, as it may include details on other breaches which may provide a useful precedent on the appropriate action to take.

It should be noted that the Pensions Regulator's role is in relation to requirements under the Pensions Act 2004. As such, it is possible that some breaches of the law do not fall within the Regulator's remit. However, given the complex nature of the law, including the wide-ranging responsibilities covered by the Pensions Act 2004, we encourage reporting of any breach in relation to the Clwyd Pension Fund that is considered to be materially significant regardless of the specific area of the law that has been breached. The Pensions Regulator can then determine whether it is a matter they have jurisdiction over or not.

Late payment of scheme member and/or employer contributions by an employer

If your role includes acting as the scheme manager (i.e. Administering Authority) for Clwyd Pension Fund, you have a legal requirement to report where you believe failure to pay contributions by an employer is likely to be of material significance to The Pensions Regulator. Further details for contribution payment failures are provided in Pension Regulator's Code of Practice so you should refer to this when considering whether a breach is likely to be of material significance [Reporting payment failures TPR code module | The Pensions Regulator](#).

4. Following our referral process to the right level of seniority, so decisions can be made about whether to report to The Pensions Regulator

We have designated the Head of Clwyd Pension Fund as responsible for ensuring this Procedure is implemented. You can contact them or the Pensions Administration Manager

to assist with following this Procedure. They are both considered to have appropriate experience:

- to help investigate whether there is reasonable cause to believe a breach has occurred
- to check the law and facts of the case
- to determine whether it is likely to be of material significance to The Pensions Regulator (and therefore reported)
- to maintain records of all breaches and
- to assist in any reporting to The Pensions Regulator, where appropriate.

However, they may involve the Fund's Independent Adviser if they need a further opinion on the matter, such as whether the matter is significant enough to be reported to The Pensions Regulator.

You must bear in mind, however, that the involvement of the Head of Clwyd Pension Fund or Pensions Administration Manager is to help clarify your thought process and to ensure this Procedure is followed. You remain responsible for the final decision as to whether a matter should be reported to The Pensions Regulator and for completing the reporting procedure to The Pensions Regulator.

The matter should **not** be referred to the Head of Clwyd Pension Fund and/or Pensions Administration Manager if doing so would alert any person responsible for a possible serious offence to the investigation, for example where there has been dishonesty. If that is the case, you may instead refer the matter to Flintshire County Council's Monitoring Officer. Otherwise, you should report the matter to The Pensions Regulator setting out the reasons for reporting, including any uncertainty.

5. How to deal with difficult cases

The Head of Clwyd Pension Fund and Pensions Administration Manager may be able to provide you with guidance if your case is particularly difficult or complex. You can also ask for information relating to previous cases which may be useful to refer. Information may also be available from national resources such as the Scheme Advisory Board (www.lgpsboard.org), the Local Government Association (www.lgpsregs.org) or the Pensions Ombudsman's previous decisions (<https://www.pensions-ombudsman.org.uk/decisions>).

If timescales allow, you may be able to request legal advice or other professional advice, or you could ask for the case to be discussed at the next Committee or Board meeting.

6. The timeframe for the procedure to take place to ensure any report can be made as soon as reasonably practicable

The Pensions Act and The Pension Regulator's Code require that, if you decide to report a breach, the report must be made in writing as soon as reasonably practicable. The Pensions Regulator suggests that in most cases, this should be within 10 working days of the breach

being identified. However, they do state that you should use your judgement and apply 'reasonably practicable' to your own circumstances. Factors such as the seriousness of the potential breach and its consequences should be considered. Where you decide a longer reporting time is reasonable, you should record the reasons for this and any evidence in case they need to show this in future.

That being said, if you believe you have discovered an urgent breach that is likely to have an immediate or damaging effect for the Fund or scheme members, you should notify The Pensions Regulator by telephone before submitting your report. In this scenario, it is not necessary for you to check whether any proposed solutions are likely to be effective before contacting The Pensions Regulator.

Late payment of scheme member and/or employer contributions by an employer

As mentioned previously, if your role includes acting as the scheme manager (i.e. Administering Authority) for Clwyd Pension Fund, you have a legal requirement to report where you believe failure to pay contributions by an employer is likely to be of material significance to The Pensions Regulator. In this circumstance, the report should be made within 14 days of you having reasonable cause to believe that a material payment failure exists.

In this scenario, you also have a responsibility to notify scheme members of the situation within 30 days of the report to The Pensions Regulator.

7. Ensuring breaches are recorded, even if they are not reported to The Pensions Regulator

We keep a log of all breaches of the law as they are identified. A key purpose of the breaches log is to ensure there is a clear record of what action has been taken to resolve a breach but also to ensure that the necessary controls have been put in place to mitigate the risk of the breach reoccurring.

The record of past breaches may also be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). Therefore, you should provide the following information to the Head of Clwyd Pension Fund or Pensions Administration Manager so that all identified breaches can be recorded on our breaches log:

- copies of reports submitted to The Pensions Regulator
- copies of information relating to any other breach you have identified.

The information should be provided to the Head of Clwyd Pension Fund as soon as reasonably practicable and certainly no later than within 20 working days of the decision made to report or not. The record of all breaches (reported or otherwise) will be included in the Governance Update Report at each Pension Fund Committee meeting, and this will also be shared with the Pension Board.

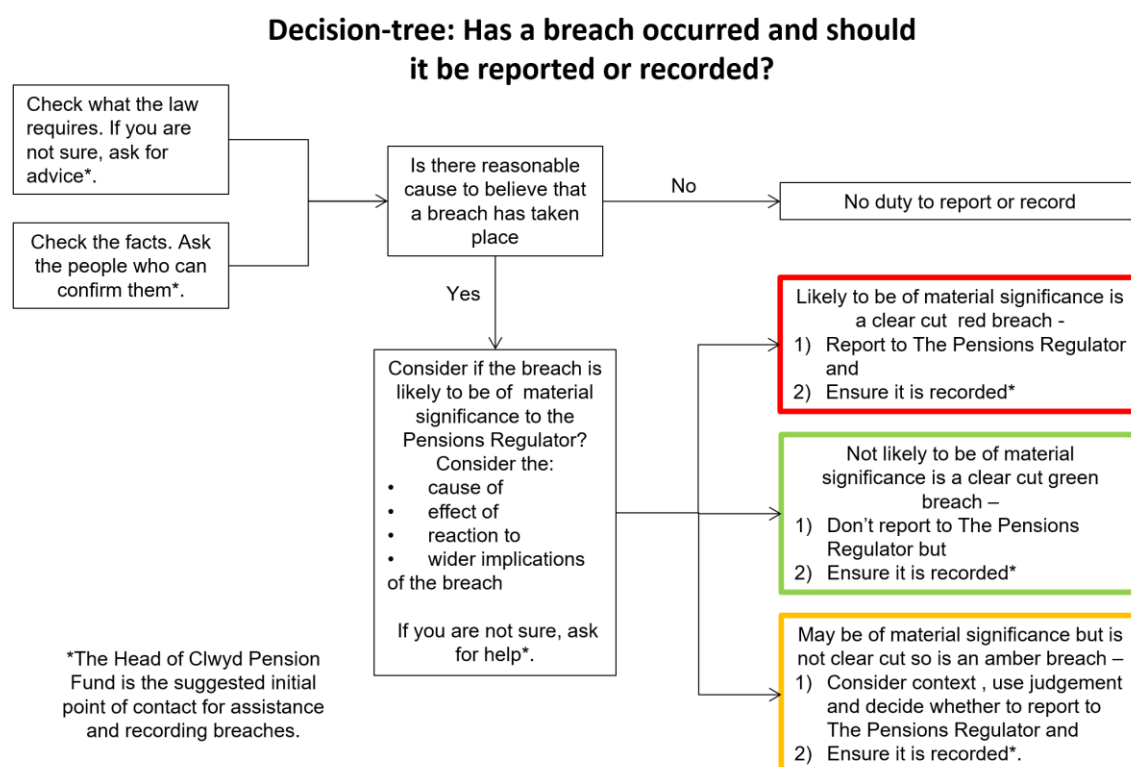
8. How we review our reporting procedures following any important changes to the Fund's governance arrangements

As with all of our key policies, strategies and procedures, we regularly review them. This Procedure is reviewed at least every three years, but we will review it earlier if there are any major changes in the Fund's governance arrangements. As part of our internal control arrangements, all key documents are also considered by our officers annually to ensure they remain fit for purpose. As part of our ongoing oversight of our governance arrangements, the Pension Fund Committee, Pension Board and Advisory Panel (and its sub-groups) all consider our ongoing breaches recording and reporting, and so can highlight at any point the need to review this Procedure. Our Independent Adviser also carries out an annual review of our governance arrangements and will highlight if they consider this Procedure requires to be reviewed.

Any changes to this Procedure must be agreed by the Pension Fund Committee.

Assistance for individuals in following this Procedure

A decision tree is provided below which summarises the process for deciding whether or not a breach has taken place, whether it is materially significant to The Pensions Regulator and therefore needs to be reported, and then ensuring it is recorded.



The Pensions Regulator has produced guidance to assist in assessing whether to report a breach of the law and we recommend you refer to it when working through this procedure. It includes a traffic light framework (aligned to the decision tree above) and examples of

red, amber and green breaches. The guidance can be found here [Assess whether to report a breach of pensions law | The Pensions Regulator](#).

Reporting a breach to The Pensions Regulator

If you decide to submit a report of a breach to The Pensions Regulator, you can do this either by using The Pensions Regulator's online system at login.thepensionsregulator.gov.uk or by email or post. You should mark your report urgent if appropriate, highlighting any matters you believe are particularly serious. The Pensions Regulator does not generally accept reports via telephone but if you discover an urgent breach which is likely to have immediate and damaging effect for scheme members, notification by telephone is permitted but it should be followed by your written report.

You should ensure you receive an acknowledgement for any report you send to The Pensions Regulator. The Pensions Regulator will acknowledge receipt of all reports within five working days and may contact you to request further information. You will not usually be informed of any actions taken by The Pensions Regulator due to restrictions on the disclosure of information.

When making your report, as a minimum, you should provide:

- full scheme name (Clwyd Pension Fund)
- description of breach(es)
- any relevant dates
- name of scheme manager (Flintshire County Council)
- your name, position and contact details
- your role in connection to the scheme
- the reason why you believe the breach is of material significance to The Pensions Regulator
- scheme address (provided at the end of this Procedures document)
- scheme manager contact details (provided at the end of this Procedures document)
- type of scheme (public service)
- pension scheme registration number (PSR: 00329655RN)
- whether the breach has been reported before if known (and if multiple reporters are submitting a collective report).

You should provide further information or reports of further breaches if this may help The Pensions Regulator in the exercise of its functions.

Although more than one person may have legal responsibility for submitting a report, you should not rely on another person to report a breach. However The Pensions Regulator does ask that the making of duplicate reports are avoided where possible.

Confidentiality

If requested, The Pensions Regulator will do its best to protect the identity of an individual who has reported a breach and will not disclose information except where it is lawfully required to do so.

An employee may also have protection under the Employment Rights Act 1996 if they make a report in good faith in relation to their employer.

Ongoing consideration and reporting of the Fund's breaches

We provide a report to the Pension Fund Committee on a quarterly basis setting out:

- all current breaches and all breaches resolved since the last meeting
- whether or not they have been reported to The Pensions Regulator, with the associated dates
- in relation to each breach, a description, cause, possible effect and wider implications
- details of what action has been taken and the result of this
- any outstanding actions for the prevention of the breach in question being repeated
- assessment of breach (Red, Amber or Green) including the rationale

This report is part of the Committee's public documents, excluding sensitive/confidential where necessary. An example of the information we include in the quarterly reports is provided in Appendix B to this procedure.

The members of the Pension Board also receive this information and breaches are considered as part of each Pension Board meeting.

Officers and advisers regularly review and consider our breaches log at management meetings. They evaluate any recurrent breaches to ensure patterns are identified and considered further. This is to minimise the risk of such breaches becoming more significant in the future.

Approval and Review

This version of the Procedure for Recording and Reporting Breaches of the Law was reviewed and approved at the Clwyd Pension Fund Committee on 19th February 2025. It will be kept under review and updated as considered appropriate and at least every three years. The latest version of the Procedure will be made available on the Fund's website [Strategies and Policies](#).

Further Information

If you require further information about reporting breaches or this Procedure or wish to discuss reporting a breach, please contact:

Philip Latham: Head of Clwyd Pension Fund

E-mail: philip.latham@flintshire.gov.uk

Telephone: 01352 702264

Or

Karen Williams: Pensions Administration Manager

E-mail: karen.williams@flintshire.gov.uk

Telephone: 01352 702963

Alternative designated officer contact details:

Gareth Owens: Monitoring Officer, Flintshire County Council

E-mail: gareth.legal@flintshire.gov.uk

Telephone: 01352 702344

Address: Clwyd Pension Fund, Tŷ Dewi Sant, St. Davids Park, Ewloe, CH5 3FF

Appendix A: Example breaches of the law

In this appendix we provide some examples of breaches of the law. This is not an exhaustive list given there are many sets of legislation that must be followed and some of these are extremely lengthy and complex. It should, however, provide a useful indication of the range of potential breaches that may arise. Further examples can be found within TPR's breach reporting guidance.⁵

Not consulting on the Funding Strategy Statement in line with LGPS Regulations and FSS guidance

Regulation 58 of the LGPS Regulations 2013, as amended, requires the administering authority to prepare, maintain and publish a statement setting out its funding strategy and, in doing so, to consult with such persons as it considers appropriate. In doing this, the Administering Authority must also have regard to the [Guidance for Preparing and maintaining a Funding Strategy Statement \(FSS\)](#) which was updated in January 2025 and clearly states employers should be consulted. The Funding Strategy impacts on the employers of the Fund and therefore a breach of the law by the Administering Authority is likely to have arisen if a statement was prepared which impacts on employers without first consulting with those employers.

Late notification of benefits

Various regulations dictate timescales for notifying scheme benefits, some of which are summarised below. Most of these requirements are included in more general pensions legislation i.e. not the LGPS Regulations. A breach would arise every time one of these timescales was not met. All of the breaches would relate to the Administering Authority apart from the last one which would be a breach by an employer in the Fund. However, the first five listed could have been a result of delayed or incorrect information from an employer, which could be a separate and additional breach of the law by that employer.

Process	Legal Requirement
To provide new starters with information about the scheme	Two months from date of joining (provide information about the scheme in this timeframe, or within one month of receiving jobholder information where the individual is being automatically enrolled / re-enrolled)
To inform members who leave the scheme of their leaver rights and options	As soon as is practicable, and no more than two months from date of initial notification (from employer or scheme member)

⁵ [Assess whether to report a breach of pensions law](#) | The Pensions Regulator

Process	Legal Requirement
To notify the amount of retirement benefits	One month from date of retirement if on or after Normal Pension Age Two months from date of retirement if before Normal Pension Age
To notify dependant(s) the amount of death benefits	As soon as possible but in any event no more than two months from date of becoming aware of the death, or from date of request
Provide annual benefit statements to active members	31st August in the same calendar year
Receipt of employee contributions from employers	19th of the month following their deduction or 22nd if paid electronically.

Errors in benefit calculations

The LGPS Regulations 2013, as amended, and previous LGPS legislation relating to historical service or leaves, dictate how benefits should be calculated. This includes elements such as what fraction of pay is used to calculate a pension and what counts as pay for LGPS purposes. A breach of the law by the Administering Authority would arise in the situation that any calculation was carried out that was not in accordance with those provisions.

Errors in deducting contributions

Regulation 20 of the LGPS Regulations 2013, as amended, states which elements of pay should be treated as pensionable and therefore should have pension contributions deducted from them and should be used for calculating benefits from 1st April 2014. Regulation 4 of the LGPS (Benefits, Membership and Contributions) Regulations 2007, as amended, is the equivalent provision for pre 1st April 2014 scheme membership and therefore it details how pensionable pay should be calculated by an employer for benefits accruing prior to 1st April 2014. Under these provisions, non-contractual overtime is pensionable from 1st April 2014 but not classed as pensionable for benefits accruing before 1st April 2014. A breach of the law by an employer would arise if any of the following happened:

- an employer **did not** deduct pension contributions from non-contractual overtime since 1st April 2014
- an employer **did not** include non-contractual overtime in the amount of any pensionable pay notified to the Administering Authority for membership from 1st April 2014
- an employer **did** include non-contractual overtime in the amount of final pay notified to the Administering Authority to be used to calculate benefits accrued prior to 1st April 2014.

Late notifications from year-end information by an employer

Regulation 80 of the LGPS Regulations 2013 require each employer to provide to the Administering Authority specific information for each scheme member, such as pensionable pay, by 30th June each year. A breach of the law by an employer would arise if they failed to provide this year end information to the administering authority by 30th June or if the information was incomplete or inaccurate.

Inadequate knowledge of a Pension Board member

Section 248A of the Pensions Act 2004 requires every Pension Board member to be conversant with the LGPS rules and Pension Fund policies as well having knowledge and understanding of pension matters at a degree appropriate for the purpose of them exercising their Pension Board functions. Where a Pension Board member has failed to attend training or demonstrate that they already have the required level of knowledge, it is possible that a breach of the law will have occurred by that Pension Board member.

Failure to connect to Pensions dashboards

The Department of Work and Pensions issued its 'Pensions dashboards: guidance on connection: the staged timetable' **Pensions dashboards: guidance on connection: the staged timetable - GOV.UK** guidance in March 2024. The staged connection timetable outlines that public service pension schemes must connect to pensions dashboards by 31st October 2025. It is a legal requirement for scheme managers to have regards to this guidance as part of meeting their obligations and not doing so would be a breach of this requirement. Furthermore, if scheme managers are unable to demonstrate how they have had regard to the guidance, it may result in enforcement action by the Pensions Regulator. Therefore, not connecting to pension dashboards by 31st October 2025 would constitute as a failure to meet the legal requirement.

Fraudulent investment instructions (fraudulent funds transfer)

The Fraud Act 2006 refers to the offence of fraud by false representation. Malign actors may exploit security weaknesses and use social engineering in an attempt to remove assets from the scheme.

A Clwyd Pension Fund officer receives an instruction to transfer documents of title or sale proceeds to a destination that does not appear to be the Fund's custodian, LGPS pool, or another known fund manager without a satisfactory explanation.

On checking the explanation, the Clwyd Pension Fund officer determines the cause is dishonesty, i.e. the instruction did not originate from Clwyd Pension Fund, as it appears a known email address has been spoofed.

Poor investment governance

LGPS Investment Regulations 2016 (7) states that an authority must, after taking proper advice, formulate an investment strategy which must be in accordance with guidance issued from time to time by the Secretary of State.

The Pension Fund Committee makes changes to their Investment Strategy Statement without seeking the required “proper advice”: the advice of a person whom the authority reasonably considers to be qualified by their ability in and practical experience of financial matters.

The cause may be a lack of understanding of the regulatory requirement. The effect of the absence of required advice may result in the statement being unsuitable.

Appendix B: Example Record of Breaches for Pension Fund Committee Reporting

Reference	Date entered in Register	Title of Breach	Owner of Breach	Party which caused the breach (if any)	Description and cause	Possible effect and wider implications	Category and number affected	Assessment of breach (red/amber/green) Brief summary of rationale	Reported to TPR Yes / No	Actions taken to rectify Breach	Outstanding actions (if any)



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