



## LOCAL PENSION BOARD OF LINCOLNSHIRE COUNTY COUNCIL

THURSDAY, 30 JULY 2015 at 10.00 AM

COMMITTEE ROOM TWO, COUNTY OFFICES, NEWLAND, LINCOLN LN1 1YL

### MEMBERS OF THE BOARD

**Independent Chair** (non-voting): Roger Buttery

**Employer Representatives** (voting): Councillor M S Jones and Kirsty McGauley

**Scheme Member Representatives** (voting): Ian Crowther and David Vickers

### AGENDA

Item	Title	Pages
1	<b>Apologies for Absence</b>	
2	<b>Terms of Reference and Terms of Office</b> <i>(To receive a report which invites the Board to consider and adopt its Terms of Reference and Terms of Office)</i>	3 - 16
3	<b>Code of Conduct and Conflict of Interest Policy</b> <i>(To receive a report which invites the Board to consider and adopt its Code of Conduct and Conflict of Interest Policy)</i>	17 - 28
4	<b>Knowledge and Training Policy</b> <i>(To receive a report which invites the Board to consider and adopt its Knowledge and Training Policy)</i>	29 - 42
5	<b>Reporting Breaches Procedure</b> <i>(To receive a report which invites the Board to consider and adopt its Reporting Breaches Procedure)</i>	43 - 56
6	<b>Work Programme 2015/16</b> <i>(To enable the Board to discuss and agree a programme of work for the coming year)</i>	Verbal Report

**7 Dates of Future Meetings**

Verbal  
Report

*(This item provides an opportunity to discuss, with the potential to set, the dates of future meetings of the Board)*

**Wednesday, 22 July 2015**

Should you have any queries on the arrangements for this meeting, please contact Catherine Wilman via telephone 01522 553788 or alternatively via email at [catherine.wilman@lincolnshire.gov.uk](mailto:catherine.wilman@lincolnshire.gov.uk)

# Agenda Item 2



## Regulatory and Other Committee

<b>Open Report on behalf of Executive Director of Finance and Public Protection</b>
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Report to:	<b>Lincolnshire Pension Board</b>
Date:	<b>30 July 2015</b>
Subject:	<b>Terms of Reference and Terms of Office</b>

### Summary:

This paper presents the Terms of Reference for the newly created Lincolnshire Pension Board to be adopted, and the initial terms of office for individual Board members to be agreed.

### Recommendation(s):

That the Board:

- 1) Adopt the Terms of Reference
- 2) Agree initial terms of office for all Board members

### Background

1. Regulation 5 of the Public Services Pensions Act 2013 requires that each Public Sector Pension Scheme must establish a Local Pension Board by 1<sup>st</sup> April 2015. The role of the Board is to assist the scheme manager to:
  - a. secure compliance with the scheme and other legislation relating to the governance and administration of the scheme
  - b. secure compliance with requirements imposed in relation to the scheme and by the Pensions Regulator;
  - c. such other matters as the scheme may specify.
2. This was translated for Local Authority Pension Funds through the Local Government Pension Scheme (LGPS) regulations 2013, regulation 106 which states:

**106.** - (1) Each administering authority shall no later than 1st April 2015 establish a pension board ("a local pension board") responsible for assisting it -

  - a. to secure compliance with –
    - i. these Regulations,

- ii. any other legislation relating to the governance and administration of the Scheme and any connected scheme(a), and
    - iii. any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme; and
  - b. to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.
3. In accordance with the regulations, Lincolnshire County Council, as the Administering Authority and Scheme Manager, established its Local Pension Board by 1<sup>st</sup> April 2015, and agreed Terms of Reference, subject to the first meeting of the Board adopting them. This paper brings these Terms of Reference (appendix A) to the newly appointed Lincolnshire Pension Board to be adopted.
4. Within the Terms of Reference, Terms of Office for Board members have been set at four years. However, initial Board members' terms of office will be staggered to allow for continuity. The Board are required to agree the initial Term of Office for each Board member, up to a period of four years.

## Conclusion

5. The Lincolnshire Pension Board has been established as required under the Public Service Pensions Act 2013 and the LGPS Regulations 2013. At this first meeting of the Board, they are required to adopt the Terms of Reference agreed by the Scheme Manager, and to agree initial Terms of Office for each Board member.

## Consultation

### a) Policy Proofing Actions Required

n/a

## Appendices

These are listed below and attached at the back of the report	
Appendix A	Lincolnshire Pension Board Terms of Reference

## Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Jo Ray, who can be contacted on 01522 553656 or jo.ray@lincolnshire.gov.uk.

**LOCAL PENSION BOARD OF LINCOLNSHIRE COUNTY COUNCIL  
TERMS OF REFERENCE**

**Introduction**

1. This document sets out the terms of reference of the Local Pension Board of Lincolnshire County Council (the 'Administering Authority') a scheme manager as defined under Section 4 of the Public Service Pensions Act 2013. The Local Pension Board (hereafter referred to as 'the Board') is established in accordance with Section 5 of that Act and under regulation 106 of the Local Government Pension Scheme Regulations 2013 (as amended).
2. The Board is established by the Administering Authority and operates independently of the Committee. Relevant information about its creation and operation are contained in these Terms of Reference.
3. The Board is not a committee constituted under Section 101 of the Local Government Act 1972 and therefore no general duties, responsibilities or powers assigned to such committees or to any sub-committees or officers under the constitution, standing orders or scheme of delegation of the Administering Authority apply to the Board unless expressly included in this document.
4. Except where approval has been granted under regulation 106(2) of the Regulations the Board shall be constituted separately from any committee or sub-committee constituted under Section 101 of the Local Government Act 1972 with delegated authority to execute the function of the Administering Authority.

**Interpretation**

5. The following terms have the meanings as outlined below:

<b>'the Act'</b>	The Public Service Pensions Act 2013.
<b>'the Code'</b>	means the Pension Regulator's Code of Practice No 14 governance and administration of public service pension schemes.
<b>'the Committee'</b>	means the committee who has delegated decision making powers for the Fund in accordance with Section 101 of the Local Government Act 1972.

<b>'the Fund'</b>	means the Fund managed and administered by the Administering Authority.
<b>'the Guidance'</b>	means the guidance on the creation and operation of local pension boards issued by the Shadow Scheme Advisory Board.
<b>'the Regulations'</b>	means the Local Government Pension Scheme Regulations 2013 (as amended from time to time), the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (as amended from time to time) including any earlier regulations as defined in these regulations to the extent they remain applicable and the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009 (as amended from time to time).
<b>'Relevant legislation'</b>	means relevant overriding legislation as well as the Pension Regulator's Codes of Practice as they apply to the Administering Authority and the Board notwithstanding that the Codes of Practice are not legislation.
<b>'the Scheme'</b>	means the Local Government Pension Scheme in England and Wales.

### **Statement of purpose**

6. The purpose of the Board is to assist<sup>1</sup> the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:
  - (a) secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and;
  - (b) to ensure the effective and efficient governance and administration of the Scheme.

### **Duties of the Board**

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<sup>1</sup> Please see paragraph 3.28 of the Guidance for more information on what assisting the Administering Authority means.

7. The Board should at all times act in a reasonable manner in the conduct of its purpose. In support of this duty Board members should be subject to and abide by the code of conduct for Board members<sup>2</sup>.

### **Establishment**

8. The Board is established on 31<sup>st</sup> March 2015, subsequent to approval by Lincolnshire County Council on 20<sup>th</sup> February 2015 of the recommendation to establish contained in agenda item 13 - Local Pension Board for Lincolnshire Pension Fund. Subsequent to its establishment, the Board may establish sub-committees.

### **Membership**

9. The Board shall consist of four voting members, as follows:  
  
two Member Representatives; and  
  
two Employer Representatives.
10. There shall be an equal number of Member and Employer Representatives.
11. There shall also be one additional member, an Independent Chair, who is not entitled to vote.

### ***Member representatives***

12. Member representatives shall either be scheme members<sup>3</sup> or have capacity to represent scheme members of the Fund.
13. Member representatives should be able to demonstrate their capacity<sup>4</sup> to attend and complete the necessary preparation for meetings and participate in training as required.
14. Substitutes shall not be appointed.
15. A total of two member representatives shall be appointed following a transparent recruitment process which should be open to all Fund members and be approved by the Administering Authority.

### ***Employer representatives***

16. Employer representatives shall be office holders or senior employees of employers in the Fund or have experience of representing scheme employers

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<sup>2</sup> See paragraphs 7.9 to 7.11 of the Guidance for more information on a Code of Conduct for Boards.

<sup>3</sup> Active, deferred or pensioner members

<sup>4</sup> See paragraphs 5.16 to 5.20 of the Guidance which outlines what 'capacity' in this context means.

in a similar capacity. No officer or elected member of the Administering Authority who is responsible for the discharge of any function of the Administering Authority under the Regulations may serve as a member of the Board.

17. Employer representatives should be able to demonstrate their capacity<sup>5</sup> to attend and complete the necessary preparation for meetings and participate in training as required.
18. Substitutes shall not be appointed.
19. A total of two employer representatives shall be appointed<sup>6</sup> to the Board by the Administering Authority.
20. One place will be taken by Lincolnshire County Council, as the employer with the highest number of active, pensioner and deferred members.
21. All other employers will have been asked to submit their interest in undertaking the other role of employer representative on the Board.

### ***Other members***<sup>7</sup>

22. One other member shall be appointed to the Board by the agreement of both the Administering Authority and the Board.
23. Other members do not have voting rights on the Board.

### **Appointment of chair**<sup>8</sup>

24. Subject to the meeting arrangements in paragraphs 35 to 37 below, a chair shall be appointed for the Board by the Administering Authority but shall count as an 'other' member under paragraphs 22-23 above. In this respect the term independent means having no pre-existing employment, financial or other material interest in either the Administering Authority or any scheme employer in the Fund or not being a member of the Fund. The appointment of the chair shall be subject to the passing of a motion to confirm by a majority of the employer and member representatives of the Board.

### **Duties of chair**

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<sup>5</sup> See paragraphs 5.16 to 5.20 of the Guidance which outlines what 'capacity' in this context means.

<sup>6</sup> See paragraphs 5.25 to 5.28 of the Guidance for further information on the process for appointing employer representatives.

<sup>7</sup> When considering whether to have other members on the Board regard should be given to the advice provided in paragraphs 5.21 to 5.24 of the Guidance.

<sup>8</sup> This is not a regulatory requirement under the LGPS Regulations 2013 as amended. The appointment of a Chair is a decision to be made locally, where a Chair is appointed this section should be amended as appropriately. For more information see paragraphs 5.37 to 5.40 in the Guidance.

25. The chair of the Board:

- (a) Shall ensure the Board delivers its purpose as set out in these Terms of Reference,
- (b) Shall ensure that meetings are productive and effective and that opportunity is provided for the views of all members to be expressed and considered, and
- (c) Shall seek to reach consensus and ensure that decisions are properly put to a vote when it cannot be reached. Instances of a failure to reach a consensus position will be recorded and published.

### **Notification of appointments**

26. When appointments to the Board have been made the Administering Authority shall publish the name of Board members, the process followed in the appointment together with the way in which the appointments support the effective delivery of the purpose of the Board.

### **Terms of Office<sup>9</sup>**

27. The term of office for Board members is four years. The initial Board members will be given staggered terms to allow for continuity.

28. Extensions to terms of office may be made by the Administering Authority with the agreement of the Board.

29. A Board member may be appointed for further terms of office using the methods set out in paragraphs 15 and 19.

30. Board membership may be terminated prior to the end of the term of office due to:

- (a) A member representative appointed on the basis of their membership of the scheme no longer being a scheme member in the Fund<sup>10</sup>.
- (b) A member representative no longer being a scheme member or a representative of the body on which their appointment relied.
- (c) An employer representative no longer holding the office or employment or being a member of the body on which their appointment relied.
- (d) A Board member no longer being able to demonstrate to Lincolnshire County Council their capacity to attend and prepare for meetings or to participate in required training.
- (e) The representative being withdrawn by the nominating body and a replacement identified.

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<sup>9</sup> See paragraphs 5.29 and 5.30 of the Guidance which outlines points to consider when setting out the term of office for Board members. In particular consideration should be given to allowing members to retire on a rolling basis to ensure experience is retained.

<sup>10</sup> This includes active, deferred and pensioner members.

- (f) A Board member has a conflict of interest which cannot be managed in accordance with the Board's conflict policy.
- (g) A Board member who is an elected member becomes a member of the Committee.
- (h) A Board member who is an officer of the Administering Authority becomes responsible for the discharge of any function of the Administering Authority under the Regulations.

### **Conflicts of interest<sup>11</sup>**

- 31. All members of the Board must declare to the Administering Authority on appointment and at any such time as their circumstances change, any potential conflict of interest arising as a result of their position on the Board.
- 32. A conflict of interest is defined as a financial or other interest which is likely to prejudice a person's exercise of functions as a member of the Board. It does not include a financial or other interest arising merely by virtue of that person being a member of the Scheme.
- 33. On appointment to the Board and following any subsequent declaration of potential conflict by a Board member, the Administering Authority shall ensure that any potential conflict is effectively managed in line with both the internal procedures of the Board's conflicts policy and the requirements of the Code.

### **Knowledge and understanding (including Training)<sup>12</sup>**

- 34. Knowledge and understanding must be considered in light of the role of the Board to assist the Administering Authority in line with the requirements outlined in paragraph 6 above. The Board shall establish and maintain a Knowledge and Understanding Policy and Framework to address the knowledge and understanding requirements that apply to Board members under the Act. That policy and framework shall set out the degree of knowledge and understanding required as well as how knowledge and understanding is acquired, reviewed and updated.
- 35. Board members shall attend and participate in training arranged in order to meet and maintain the requirements set out in the Board's knowledge and understanding policy and framework.
- 36. Board members shall participate in such personal training needs analysis or other processes that are put in place in order to ensure that they maintain the required level of knowledge and understanding to carry out their role on the Board.

### **Meetings**

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<sup>11</sup> See section 7 of the Guidance for more information on Conflicts of Interest.

<sup>12</sup> See section 6 of the Guidance for more information on Knowledge and Understanding.

37. The Board shall as a minimum meet four times<sup>13</sup> each year.
38. Meetings shall normally take place between the hours of 10am and 1pm at County Offices, Newland, Lincoln, LN1 1YG.
39. The chair of the Board with the consent of the Board membership may call additional meetings. Urgent business of the Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Board including telephone conferencing and e-mails.

### **Quorum**

40. A meeting is only quorate when at least 50% of both member and employer representatives are present (i.e. one of each side).
41. A meeting that becomes inquorate may continue but any decisions will be non-binding.

### **Board administration**

42. The Chair shall agree with the Pensions & Treasury Manager (the 'Board Secretary') an agenda prior to each Board meeting.
43. The agenda and supporting papers will be issued at least five working days (where practicable) in advance of the meeting except in the case of matters of urgency.
44. Draft minutes of each meeting including all actions and agreements will be recorded and circulated to all Board members within ten working days after the meeting. These draft minutes will be subject to formal agreement by the Board at their next meeting. Any decisions made by the Board should be noted in the minutes and in addition where the Board was unable to reach a decision such occasions should also be noted in the minutes.
45. The minutes may, with the agreement of the Board, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.
46. The Board Secretary shall ensure that Board members meet and maintain the knowledge and understanding as determined in the Board's Knowledge and Understanding Policy and Framework and other guidance or legislation.

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<sup>13</sup> See 5.35.11 in Guidance for more advice on the number of meetings to hold each year.

47. The Board Secretary shall arrange such advice as is required by the Board subject to such conditions as are listed in these Terms of Reference for the use of the budget set for the Board.
48. The Board Secretary shall ensure an attendance record is maintained along with advising the Administering Authority on allowances and expenses to be paid under these terms.
49. The Board Secretary shall liaise with the Administering Authority on the requirements of the Board, including advanced notice for officers to attend and arranging dates and times of Board meetings.

### **Public access to Board meetings and information**

50. The Board meetings will be open to the general public (unless there is an exemption under relevant legislation which would preclude part (or all) of the meeting from being open to the general public).
51. The following will be entitled to attend Board meetings in an observer capacity:
  - (a) Members of the Committee,
  - (b) Any person requested to attend by the Board.

Any such attendees will be permitted to speak at the discretion of the Chair.
52. In accordance with the Act the Administering Authority shall publish information about the Board to include:
  - (a) The names of Board members and their contact details.
  - (b) The representation of employers and members on the Board.
  - (c) The role of the Board.
  - (d) These Terms of Reference.
53. The Administering Authority shall also publish other information about the Board including:
  - (a) Agendas and minutes
  - (b) Training and attendance logs
  - (c) An annual report on the work of the Board to be included in the Fund's own annual report.
54. All or some of this information may be published using the following means or other means as considered appropriate from time to time:
  - (a) On the Fund's website.
  - (b) As part of the Fund's Annual Report.
  - (c) As part of the Governance Compliance Statement.

55. Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the Data Protection Act 1998.

### **Expenses and allowances<sup>14</sup>**

56. The Administering Authority shall meet the expenses of Board members in line with the Administering Authority's policy on expenses as set out in the Council's Scheme of Allowances (part 6 of the Constitution).

57. The Administering Authority shall pay allowances for member and employer representatives in line with the co-opted members allowance in the Council's Scheme of Allowances.

58. The allowance for the Independent Chair shall be set by the Executive Director of Finance and Public Protection, and will be based on skills and experience of the Independent Chair and prevailing market conditions.

### **Budget**

59. The Board is to be provided with adequate resources to fulfil its role. The Board will seek approval from the County Finance Officer for any expenditure it wishes to make.

### **Core functions<sup>15</sup>**

60. The first core function of the Board is to assist<sup>16</sup> the Administering Authority in securing compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme. Within this extent of this core function the Board may determine the areas it wishes to consider including but not restricted to:

- a) Review regular compliance monitoring reports which shall include reports to and decisions made under the Regulations by the Committee.

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<sup>14</sup> Provision for the payment of expenses and allowances is a decision to be made locally by each Administering Authority. Full consideration should be given to information in Guidance - see section 9 and paragraphs 5.18 and 5.35.17 for more information. Administering authorities should aim to ensure that no Board member is either better or worse off as a result of fulfilling their duties as a member of the Board.

<sup>15</sup> In determining the role of the Board, further information can be found in paragraphs 3.27 to 3.29 of the Guidance.

<sup>16</sup> Please see paragraph 3.28 of the Guidance for more information on what assisting the Administering Authority means.

- b) Review management, administrative and governance processes and procedures in order to ensure they remain compliant with the Regulations, relevant legislation and in particular the Code.
- c) Review the compliance of scheme employers with their duties under the Regulations and relevant legislation.
- d) Assist with the development of and continually review such documentation as is required by the Regulations including Governance Compliance Statement, Funding Strategy Statement and Statement of Investment Principles.
- e) Assist with the development of and continually review scheme member and employer communications as required by the Regulations and relevant legislation.
- f) Monitor complaints and performance on the administration and governance of the scheme.
- g) Review the complete and proper exercise of Pensions Ombudsman cases.
- h) Review the implementation of revised policies and procedures following changes to the Scheme.
- i) Review the arrangements for the training of Board members and those elected members and officers with delegated responsibilities for the management and administration of the Scheme.
- j) Review the complete and proper exercise of employer and administering authority discretions.
- k) Review the outcome of internal and external audit reports.
- l) Review draft accounts and Fund annual report.
- m) Review the compliance of particular cases, projects or process on request of the Committee.
- n) Any other area within the statement of purpose (i.e. assisting the Administering Authority) the Board deems appropriate.

61. The second core function of the Board is to ensure the effective and efficient governance and administration of the Scheme. Within this core function, the Board may determine the areas it wishes to consider including but not restricted to:

- a) Monitor performance of administration, governance and investments against key performance targets and indicators.
- b) Review the effectiveness of processes for the appointment of advisors and suppliers to the Administering Authority.
- c) Monitor internal and external audit reports.
- d) Review the risk register as it relates to the scheme manager function of the authority.
- e) Assist with the development of improved management, administration and governance structures and policies.
- f) Review the outcome of actuarial reporting and valuations.
- g) Assist in the development and monitoring of process improvements at the request of the Committee.

- h) Assist in the development of asset voting and engagement processes and compliance with the UK Stewardship Code.
  - i) Any other area within the statement of purpose (i.e. ensuring effective and efficient governance of the scheme) the Board deems appropriate.
62. In support of its core functions the Board may make a request for information to the Committee with regard to any aspect of the Administering Authority's function. Any such request should be reasonably complied with in both scope and timing.
63. In support of its core functions the Board may make recommendations to the Committee which should be considered and a response made to the Board on the outcome within a reasonable period of time.

### **Reporting<sup>17</sup>**

64. The Board should in the first instance report its requests, recommendations or concerns to the Committee. In support of this any member of the Board may attend a Committee meeting as an observer.
65. Requests and recommendations should be reported under the provisions of paragraphs 59 and 60 above.
66. The Board should report any concerns over a decision made by the Committee to the Committee subject to the agreement of at least 50% of voting Board members, provided that all voting members are present. If not all voting members are present then the agreement should be of all voting members who are present, where the meeting remains quorate.
67. On receipt of a report under paragraph 63 above the Committee should, within a reasonable period, consider and respond to the Board.
68. Where the Board is not satisfied with the response received it may request that a notice of its concern be placed on the website and in the Fund's annual report.
69. Where the Board is satisfied that there has been a breach of regulation which has been reported to the Committee under paragraph 63 and has not been rectified within a reasonable period of time it is under an obligation to escalate the breach.
70. The appropriate internal route for escalation is to the Monitoring Officer and/or the Section 151 Officer (as appropriate).

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<sup>17</sup> See section 8 of the Guidance for more information on Reporting.

71. The Board may report concerns to the LGPS Scheme Advisory Board for consideration subsequent to, but not instead of, using the appropriate internal route for escalation.

72. Board members are also subject to the requirements to report breaches of law under the Act and the Code and the whistleblowing provisions set out in the Administering Authority's whistle blowing policy.

**Review of terms of reference**

73. These Terms of Reference shall be reviewed on each material change to those parts of the Regulations covering local pension boards and at least every three years.

74. These Terms of Reference were adopted/last reviewed on .....

.....  
**Signed on behalf of the Administering Authority**

.....  
**Date**

.....  
**Signed on behalf of the Board**

.....  
**Date**

## Regulatory and Other Committee

<b>Open Report on behalf of Executive Director of Finance and Public Protection</b>
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Report to:	<b>Lincolnshire Pension Board</b>
Date:	<b>30 July 2015</b>
Subject:	<b>Code of Conduct and Conflict of Interest Policy</b>

**Summary:**

This paper presents the draft Code of Conduct and Conflict of Interest Policy for the newly created Lincolnshire Pension Board to be adopted.

**Recommendation(s):**

That the Board adopt the Code of Conduct and Conflict of Interest Policy

### Background

1. Regulation 5 of the Public Services Pensions Act 2013 requires that each Public Sector Pension Scheme must establish a Local Pension Board by 1<sup>st</sup> April 2015. The role of the Board is to assist the scheme manager to:
  - a. secure compliance with the scheme and other legislation relating to the governance and administration of the scheme
  - b. secure compliance with requirements imposed in relation to the scheme and by the Pensions Regulator;
  - c. such other matters as the scheme may specify.
2. This was translated for Local Authority Pension Funds through the Local Government Pension Scheme (LGPS) regulations 2013, regulation 106 which states:

**106.** - (1) Each administering authority shall no later than 1st April 2015 establish a pension board ("a local pension board") responsible for assisting it -

  - a. to secure compliance with –
    - i. these Regulations,
    - ii. any other legislation relating to the governance and administration of the Scheme and any connected scheme(a), and
    - iii. any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme; and

- b. to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.
3. In accordance with the regulations, Lincolnshire County Council, as the Administering Authority and Scheme Manager, established its Local Pension Board by 1<sup>st</sup> April 2015, and agreed Terms of Reference, subject to the first meeting of the Board adopting them. Within guidance issued by the Secretary of State, each Board is required to have a Code of Conduct and Conflict of Interest Policy.
  4. This paper brings the draft Code of Conduct and Conflict of Interest Policy (appendix A) to the newly appointed Lincolnshire Pension Board to be adopted.

**Conclusion**

5. The Lincolnshire Pension Board has been established as required under the Public Service Pensions Act 2013 and the LGPS Regulations 2013. At this first meeting of the Board, they are required to adopt the Code of Conduct and Conflict of Interest Policy.

**Consultation**

**a) Policy Proofing Actions Required**

n/a

**Appendices**

These are listed below and attached at the back of the report	
Appendix A	Lincolnshire Pension Board Code of Conduct and Conflict of Interest Policy

**Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Jo Ray, who can be contacted on 01522 553656 or jo.ray@lincolnshire.gov.uk.

# LINCOLNSHIRE PENSION BOARD

## CODE OF CONDUCT & CONFLICT OF INTEREST POLICY

### 1. Code of conduct

1.1 As members of a publicly funded body with a responsibility to discharge public business, members the Lincolnshire Pension Board should have the highest standards of conduct.

1.2 Pension Board members should have regard to the Seven Principles of Public life:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

1.3 All Lincolnshire Pension Board members must undertake to act in accordance with the following:

- You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- You must make all choices on merit and must be impartial and seen to be impartial, when carrying out your public duties.
- You must co-operate fully with whatever scrutiny is appropriate to your role.
- You will on occasions be privy to confidential and sensitive information, such as personal information about someone, or commercially sensitive information which, if disclosed, might harm the commercial

interests of the Council or another person or organisation. This information must not be revealed without proper authority.

- You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
- You will sign adherence to the Conflict of Interest Declaration and declare any further potential conflicts of interest that may arise once appointed as a member.
- You should comply with the Lincolnshire Pension Board Code in addition to existing compliance with the Member or Officer Code of Conduct.

## **2. Conflict of interest**

- 2.1 The Public Service Pensions Act 2013, Section 5(4) requires that any member of a Pension Board must not have a “conflict of interest”, which is defined in Section 5(5) as a “financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board, but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme.”
- 2.2 A conflict of interest exists where there is a divergence between the individual interests of a person and their responsibility towards the Lincolnshire Pension Board, such that it might be reasonably questioned whether the actions or decisions of that person are influenced by their own interests. A conflict of interest would prejudice an individual’s ability to perform their duties and responsibilities towards the Pension Board in an objective way. Examples of potential conflicts of interest, not only for the Board but also for all those involved in managing the Pension Fund, are listed at appendix A.
- 2.4 All prospective Pension Board members are required to complete the Lincolnshire Pension Board Conflict of interest declaration before they are appointed to the Pension Board, attached at appendix B.

- 2.5 All appointments to the Pension Board should be kept under review by the Executive Director of Finance and Public Protection.
- 2.5 It is the duty of any appointed Pension Board member to declare any potential conflict of interest. This declaration should be made to the Chair of the Lincolnshire Pension Board in the first instance or to the Scheme Manager, and recorded in a register of interests.
- 2.7 The Pension Board shall identify and monitor any potential conflict of interests in a register of interests (attached at appendix C). The register of interests should be circulated to the Lincolnshire Pension Board and Scheme Manager for review and publication.
- 2.8 If the Pension Board suspects any conflict of interest it should report its concerns to the Scheme Manager.
- 2.9 When seeking to prevent a potential conflict of interest becoming detrimental to the conduct and decisions of the Pension Board, the Lincolnshire Pension Board should consider obtaining legal advice when assessing its course of action and response. The Lincolnshire Pension Board may wish to consult the Chief Legal Officer in the first instance.
- 2.10 Education on identifying and dealing with conflicts of interest will be included as part of the training requirement in the Knowledge and Understanding policy.

### **3. Alleged breaches of the Code of Conduct and conflict of interest policy**

- 3.1 A process for dealing with the consideration of any alleged breaches, to include any sanctions to be applied, will be agreed by the Scheme Manager and the Lincolnshire Pension Board.

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**Examples of Potential Conflicts of Interest**

- a) An elected member on the Pension Committee is asked to provide views on a funding strategy which could result in an increase in the employer contributions required from the employer he or she represents.
- b) A member of the Pension Committee is on the board of a Fund Manager that the Committee is considering appointing.
- c) An officer of the Fund or member of the Pension Committee accepts a dinner invitation from a Fund Manager who has submitted a bid as part of a tender process.
- d) An employer representative on the Pension Board is employed by a company to which the administering authority has outsourced its pension administration services and the Local Pension Board is reviewing the standards of service provided by that company.
- e) The person appointed to consider internal disputes is asked to review a case relating to a close friend or relative.
- f) An officer of the Fund is asked to provide guidance to the Local Pension Board on the background to an item considered at the Pension Committee. This could be a potential conflict as the officer could consciously or sub-consciously avoid providing full details, resulting in the Board not having full information and not being able to provide a complete view on the appropriateness or otherwise of that Pension Committee item.
- g) The administering authority is considering buying its own payroll system for paying pensioners, rather than using the payroll system used for all employees of the Council. The Executive Director of Finance and Public Protection, who has responsibility for the Council budget, is expected to approve the report to go to the Pension Committee, which, if agreed, would result in a material reduction in the recharges to the Council from the Fund.
- h) Officers of the Fund are asked to provide a report to the Pension Board or Pension Committee on whether the administration services should be outsourced which, if it were to happen, could result in a change of employer or job insecurity for the officers.
- i) An employer representative employed by the administering authority and appointed to the Pension Board to represent employers generally could be conflicted if he or she only acts in the interests of the administering authority, rather than those of all participating employers. Equally, a member representative, who is also a trade union representative, appointed to the pension board to represent the entire scheme membership could be conflicted

if he or she only acts in the interests of their union and union membership, rather than all scheme members.

- j) A Fund adviser is party to the development of a strategy which could result in additional work for their firm, for example, delegated consulting of fund monies or providing assistance with monitoring the covenant of employers.
- k) An employer representative has access to information by virtue of his or her employment, which could influence or inform the considerations or decisions of the Pension Committee or Local Pension Board. He or she has to consider whether to share this information in light of their duty of confidentiality to their employer. Their knowledge of this information will put them in a position of conflict if it is likely to prejudice their ability to carry out their functions as a member of the Pension Board.

## Declaration of Interests relating to the management of Lincolnshire Pension Fund administered by Lincolnshire County Council

I, .....[insert full name], am:

*Tick as appropriate*

- an officer involved in the management
- Pension Board Member

of Lincolnshire Pension Fund and I set out below under the appropriate headings my interests, which I am required to declare under Lincolnshire Pension Fund Conflicts of Interest Policy. I have put "none" where I have no such interests under any heading.

**Responsibilities or other interests that could result in a conflict of interest** (please list and continue overleaf if necessary):

*A) Relating to me*

*B) Relating to family members or close colleagues*

**Undertaking:** I declare that I understand my responsibilities under the Lincolnshire Pension Fund Conflicts of Interest Policy. I undertake to notify the Pensions and Treasury Manager of any changes in the information set out above.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Name (CAPITAL LETTERS) \_\_\_\_\_

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# Lincolnshire Pension Board - Register of Potential and Actual Conflicts of Interest

All reported conflicts of interest will be recorded in the minutes and a register of conflicts will be maintained and reviewed annually by Lincolnshire County Council, the Administering Authority.

Date identified	Name of Person	Role of Person	Details of Conflict	Actual or Potential	How notified? (1)	Action taken (2)	Follow up Required	Date Resolved

(1) E.g. Verbal declaration at meeting, written conflicts declaration, etc.

(2) E.g. Withdrawing from a decision making process, left meeting, etc.

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## Regulatory and Other Committee

<b>Open Report on behalf of Executive Director of Finance and Public Protection</b>
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Report to:	<b>Lincolnshire Pension Board</b>
Date:	<b>30 July 2015</b>
Subject:	<b>Knowledge and Training Policy</b>

**Summary:**

This paper presents the draft Knowledge and Training Policy for the newly created Lincolnshire Pension Board to be adopted.

**Recommendation(s):**

That the Board adopt the Knowledge and Training Policy

### Background

1. Regulation 5 of the Public Services Pensions Act 2013 requires that each Public Sector Pension Scheme must establish a Local Pension Board by 1<sup>st</sup> April 2015. The role of the Board is to assist the scheme manager to:
  - a. secure compliance with the scheme and other legislation relating to the governance and administration of the scheme
  - b. secure compliance with requirements imposed in relation to the scheme and by the Pensions Regulator;
  - c. such other matters as the scheme may specify.
2. This was translated for Local Authority Pension Funds through the Local Government Pension Scheme (LGPS) regulations 2013, regulation 106 which states:

**106.** - (1) Each administering authority shall no later than 1st April 2015 establish a pension board ("a local pension board") responsible for assisting it -

  - a. to secure compliance with –
    - i. these Regulations,
    - ii. any other legislation relating to the governance and administration of the Scheme and any connected scheme(a), and
    - iii. any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme; and

- b. to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.
3. In accordance with the regulations, Lincolnshire County Council, as the Administering Authority and Scheme Manager, established its Local Pension Board by 1<sup>st</sup> April 2015, and agreed Terms of Reference, subject to the first meeting of the Board adopting them. Within guidance issued by the Secretary of State, each Board is required to have a Knowledge and Training Policy.
  4. This paper brings the draft Knowledge and Training Policy (appendix A) to the newly appointed Lincolnshire Pension Board to be adopted.

**Conclusion**

5. The Lincolnshire Pension Board has been established as required under the Public Service Pensions Act 2013 and the LGPS Regulations 2013. At this first meeting of the Board, they are required to adopt the Knowledge and Training Policy.

**Consultation**

**a) Policy Proofing Actions Required**

n/a

**Appendices**

These are listed below and attached at the back of the report	
Appendix A	Lincolnshire Pension Board Knowledge and Training Policy

**Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Jo Ray, who can be contacted on 01522 553656 or jo.ray@lincolnshire.gov.uk.

# LINCOLNSHIRE PENSION BOARD

## KNOWLEDGE AND UNDERSTANDING POLICY

1. Legislative requirements
  - 1.1 In accordance with the Pensions Act 2004, every member of the Lincolnshire Pension Board must be conversant with:
    - The rules of the Local Government Pension Scheme (LGPS) (the LGPS Regulations);
    - Any document recording policy about the administration of the Lincolnshire Pension Fund which is for the time being adopted in relation to the Fund.
  - 1.2 Pension Board members should also have knowledge and understanding of:
    - The law relating to pensions;
    - Such other matters as may be prescribed.
  - 1.3 Members of the Pension Board should be aware that their individual legal responsibility begins from the date they take up their role on the Board.
  - 1.4 It is for individual Pension Board members to ensure they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Local Pension Board.
  - 1.5 Pension board members' breadth of knowledge and understanding should be sufficient to allow them to understand fully and challenge any information or advice they are given. They should understand how that information or advice impacts on any issue or decision relevant to their responsibilities and duties.
  - 1.6 Pension board members should also ensure that they have the appropriate degree of knowledge and understanding of funding and investment matters relating to their scheme, to enable them to effectively carry out their role. This includes having a working knowledge of provisions in their scheme regulations and administration policies that relate to funding and investment, as well as knowledge and understanding of relevant law relating to pensions.
  - 1.7 All board members should attain appropriate knowledge so that they are able to understand the relevant law in relation to their scheme and role. The degree of knowledge and understanding required of pension board members may vary according to the role of the board member, as well as the expertise of the board member. For example, a board member who is also a pensions

law expert (for instance, as a result of their day job) should have a greater level of knowledge than that considered appropriate for board members without this background.

1.8 Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. The Scheme Manager is required to maintain a written record of relevant training and development.

1.9 Pension Board members will comply with this knowledge and understanding policy.

## **2 Key areas of knowledge and understanding of the law relating to pensions**

2.1 Examples of knowledge and understanding of the law relating to pensions (more detail is included at appendix A):

- Background and understanding of the legislative framework of the LGPS;
- General pension legislation applicable to the LGPS;
- Role and responsibilities of the Local Pension Board;
- Role and responsibilities of the Administering Authority;
- Funding and investment;
- Role and responsibilities of Scheme Employers;
- Tax and contracting out;
- Role of advisors and key persons;
- Key bodies connected to the LGPS.

## **3. Induction training**

3.1 Local Pension Board members are expected to complete induction training within the first six months of their appointment. This consists of attendance at a training session held at County Offices, Lincoln, and the online training courses provided in a Public Sector Trustee Toolkit by the Pensions Regulator (TPR).

## **4 TPR Trustee toolkit**

4.1 The TPR Trustee toolkit provides a guide to learning development and assessment of learning needs and includes a series of online learning modules and downloadable resources developed to help Pension Board members meet the minimum level of knowledge and understanding introduced in the Pensions Act 2004.

- 4.2 The toolkit includes nine Essential learning for trustee compulsory modules and seven Public Sector Toolkit compulsory online learning modules that must be completed successfully to pass the induction training.
- 4.3 The nine Essential learning for trustee compulsory modules test Local Pension Board member knowledge in the following key areas:
- Introducing pension schemes;
  - The trustee's role;
  - Running a scheme;
  - Pensions law;
  - An introduction to investment;
  - How a defined benefit scheme works;
  - Funding your defined benefit scheme;
  - Defined benefit recovery plans, contributions and funding principles;
  - Investment in a defined benefit schemes.
- 4.4 The seven Public Sector Toolkit compulsory modules test Local Pension Board member knowledge in the following key areas:
- Conflicts of interest;
  - Managing risk and internal controls;
  - Maintaining accurate member data;
  - Maintaining member contributions;
  - Providing information to members and others;
  - Resolving internal disputes;
  - Reporting breaches of the law.
- 4.5 The Pension Regulator website is available at:  
<https://trusteetoolkit.thepensionsregulator.gov.uk/>
- 4.6 The Pensions and Treasury Manager will use the TPR Trustee Toolkit assessments that the Local Pension Board members complete as a basis for agreeing an appropriate training programme with each individual Board member.
- 5. Ongoing training and development to meet knowledge and understanding requirements**
- 5.1 In addition to the Pension Regulator's Toolkit, Lincolnshire Pension Board members will be invited to undertake the same knowledge and understanding framework which is currently provided to members of the Lincolnshire Pensions Committee through the CIPFA Knowledge and Skills Framework.

- 5.2 The Pensions Committee produce an annual training plan and the Pension Board will be invited to attend the training offered to Committee members.
- 5.3 It is suggested that there are four main ways in which knowledge and skill levels can be increased:
- Use of the web-based packages and CIPFA repository when developed;
  - Manager or actuary led training sessions or specific training as part of the Board meeting agenda;
  - An induction training package for new Board members;
  - Courses and seminars organised by managers, actuaries, NAPF and other experts, details of which can be circulated to Pension Board members as they arise.

## **6 CIPFA Knowledge and Skills Framework**

- 6.1 In an attempt to determine the right skill set for quasi trustees involved in decision making, CIPFA has developed, with the assistance of expert practitioners, a technical knowledge and skills framework.
- 6.2 The framework is intended to have two primary uses:
- As a tool for organisations to determine whether they have the right skill mix to meet their scheme financial management needs;
  - As an assessment tool for individuals to measure their progress and plan their development.
- 6.3 The framework has been designed so that organisations and individuals can tailor it to their own particular circumstances. Pension Board members may already have some of the required skills.
- 6.4 In total there are six areas of knowledge and skills identified as the core technical requirements for those working in public sector pensions. They are summarised below and detail is attached at appendix B:
- Pensions legislative and governance context;
  - Pensions accounting and auditing standards;
  - Financial services procurement and relationship management;
  - Investment performance and risk management;
  - Financial markets and products knowledge;
  - Actuarial methods, standards and practices.

**Examples of areas of knowledge and understanding:**

**1. Background and Understanding of the Legislative Framework of the LGPS**

- Differences between public service pension schemes like the LGPS and private sector trust-based schemes
- Role of the IPSPC and its recommendations
- Key provisions of the 2013 Act
- The structure of the LGPS and the main bodies involved including the Responsible Authority, the Administering Authority, the Scheme Advisory Board, the Local Pension Board and the LGPS employers
- An overview of local authority law and how Administering Authorities are constituted and operate
- LGPS rules overview (including the Regulations, the Transitional Regulations and the Investment Regulations)

**2. General pensions legislation applicable to the LGPS**

An overview of wider legislation relevant to the LGPS including:

- Automatic Enrolment (Pensions Act 2008)
- Contracting out (Pension Schemes Act 1993)
- Data protection (Data Protection Act 1998)
- Employment legislation including anti-discrimination, equal treatment, family related leave and redundancy rights
- Freedom of Information (Freedom of Information Act 2000)
- Pensions sharing on divorce (Welfare Reform and Pensions Act 1999)
- Tax (Finance Act 2004)
- IORP Directive

**3. Role and responsibilities of the Local Pension Board**

- Role of the Local Pension Board
- Conduct and conflicts
- Reporting of breaches
- Knowledge and understanding
- Data protection

**4. Role and responsibilities of the Administering Authority**

- Membership and eligibility
- Benefits and the payment of benefits
- Decisions and discretions
- Disclosure of information

- Record keeping
- Internal controls
- Internal dispute resolution
- Reporting of breaches
- Statements, reports and accounts

## **5. Funding and Investment**

- Requirement for triennial and other valuations
- Rates and adjustments certificate
- Funding strategy statement
- Bulk transfers
- Permitted investments
- Restrictions on investments
- Statement of investment principles
- CIPFA guidance
- Appointment of investment managers
- Role of the custodian

## **6. Role and responsibilities of Scheme Employers**

- Explanation of different types of employers
- Additional requirements for admission bodies
- Automatic Enrolment
- Deduction and payment of contributions
- Special contributions
- Employer decisions and discretions
- Redundancies and restructuring (including the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006)
- TUPE and outsourcing (including Fair Deal and the Best Value Authorities Staff Transfers (Pensions) Direction 2007)

## **7. Tax and Contracting Out**

- Finance Act 2004
- Role of HMRC
- Registration
- Role of 'scheme administrator'
- Tax relief on contributions
- Taxation of benefits

- Annual and lifetime allowances
- Member protections
- National Insurance
- Contracting out (Pensions Scheme Act 1993)
- Impact of abolition of contracting out in 2016
- VAT and investments

## **8. Role of advisors and key persons**

- Officers of the Administering Authority
- Fund actuary
- Auditor
- Lawyers
- Investment managers
- Custodians
- Administrators – in house v. third party
- Procurement of services
- Contracts with third parties

## **9. Key Bodies connected to the LGPS**

An understanding of the roles and powers of:

- Courts
- Financial Services Authority
- HMRC
- Information Commissioner
- Pensions Advisory Service
- Pensions Ombudsman
- The Pensions Regulator (including powers in relation to Local Pension Boards)

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# Pensions Knowledge and Skills Framework for Elected Representatives and Non-executives

Pensions legislative and governance context	Pensions accounting and auditing standards	Financial services procurement and relationship management	Investment performance and risk management	Financial markets and products knowledge	Actuarial methods, standards and practices
<p><b>General pensions framework</b></p> <p>A general awareness of the pensions legislative framework in the UK.</p> <p><b>Scheme-specific legislation</b></p> <p>An overall understanding of the legislation specific to the scheme and the main features relating to benefits, administration and investment.</p> <p>An awareness of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and Local Government Pension Scheme (Administration) Regulations 2008 and their main features.</p> <p>An appreciation of LGPS discretions and how the formulation of the discretionary policies impacts on the pension fund, employers and local taxpayers.</p>	<p><b>Awareness of the Accounts and Audit Regulations and legislative requirements relating to the role of the committee and individual members in considering and signing off the accounts and annual report.</b></p> <p><b>Awareness of the role of both internal and external audit in the governance and assurance process.</b></p>	<p><b>Understanding public procurement</b></p> <p>Understanding of the background to current public procurement policy and procedures, and of the values and scope of public procurement and the roles of key decision makers and organisations.</p> <p>A general understanding of the main public procurement requirements of UK and EU legislation.</p> <p><b>Supplier risk management</b></p> <p>Awareness of the nature and scope of risks for the pension fund and of the importance of considering risk factors when selecting third parties.</p>	<p><b>Total fund</b></p> <p>Understanding of the importance of monitoring asset returns relative to the liabilities and a broad understanding of ways of assessing long-term risks.</p> <p><b>Performance of advisors</b></p> <p>Awareness of the MyNers principles of performance management and the approach adopted by the committee.</p> <p><b>Performance of the committee</b></p> <p>Awareness of the MyNers principles and the need to set targets for the committee and to report against them.</p> <p><b>Performance of support services</b></p> <p>Awareness of the range of support services, who supplies them and the nature of the performance monitoring regime.</p>	<p><b>Investment strategy</b></p> <p>Awareness of the risk and return characteristics of the main asset classes (equities, bonds, property).</p> <p>Understanding of the role of these asset classes in long-term pension fund investing.</p> <p><b>Financial markets</b></p> <p>Understanding of the primary importance of the investment strategy decision.</p> <p>A broad understanding of the workings of the financial markets and of the investment vehicles available to the pension fund and the nature of the associated risks.</p> <p>An awareness of the limits placed by regulation on the investment activities of local government pension funds.</p>	<p><b>Valuations</b></p> <p>Knowledge of the valuation process, including developing the funding strategy in conjunction with the fund actuary, and inter-valuation monitoring.</p> <p>Awareness of the importance of monitoring early and ill health retirement strain costs.</p> <p>A broad understanding of the implications of including new employers into the fund and of the cessation of existing employers.</p> <p><b>Outsourcing</b></p> <p>A general awareness of the relevant considerations in relation to outsourcing and bulk transfers.</p>

Pensions legislative and governance context	Pensions accounting and auditing standards	Financial services procurement and relationship management	Investment performance and risk management	Financial markets and products knowledge	Actuarial methods, standards and practices
<p>A regularly updated appreciation of the latest changes to the scheme rules.</p> <p>Knowledge of the role of the administering authority in relation to the LGPS.</p> <p>Pensions regulators and advisors</p> <p>An understanding of how the roles and powers of the Pensions Regulator, the Pensions Advisory Service and the Pensions Ombudsman relate to the workings of the scheme.</p> <p>General constitutional framework</p> <p>Broad understanding of the role of pension fund committees in relation to the fund, administering authority, employing authorities, scheme members and taxpayers.</p> <p>Awareness of the role and statutory responsibilities of the treasurer and monitoring officer.</p>					

Pensions legislative and governance context	Pensions accounting and auditing standards	Financial services procurement and relationship management	Investment performance and risk management	Financial markets and products knowledge	Actuarial methods, standards and practices
<p>Pension scheme governance</p> <p>An awareness of the LGPS main features.</p> <p>Knowledge of the MyNers principles and associated CIPFA and SOLACE guidance.</p> <p>A detailed knowledge of the duties and responsibilities of committee members.</p> <p>Knowledge of the stakeholders of the pension fund and the nature of their interests.</p> <p>Knowledge of consultation, communication and involvement options relevant to the stakeholders.</p>					



## Regulatory and Other Committee

### Open Report on behalf of Executive Director of Finance and Public Protection

Report to:	<b>Lincolnshire Pension Board</b>
Date:	<b>30 July 2015</b>
Subject:	<b>Reporting Breaches Procedure</b>

#### Summary:

This paper presents the draft Reporting Breaches Procedure for the newly created Lincolnshire Pension Board to be adopted.

#### Recommendation(s):

That the Board adopt the Reporting Breaches Procedure

#### Background

1. Regulation 5 of the Public Services Pensions Act 2013 requires that each Public Sector Pension Scheme must establish a Local Pension Board by 1<sup>st</sup> April 2015. The role of the Board is to assist the scheme manager to:
  - a. secure compliance with the scheme and other legislation relating to the governance and administration of the scheme
  - b. secure compliance with requirements imposed in relation to the scheme and by the Pensions Regulator;
  - c. such other matters as the scheme may specify.
2. This was translated for Local Authority Pension Funds through the Local Government Pension Scheme (LGPS) regulations 2013, regulation 106 which states:

**106.** - (1) Each administering authority shall no later than 1st April 2015 establish a pension board ("a local pension board") responsible for assisting it -

  - a. to secure compliance with –
    - i. these Regulations,
    - ii. any other legislation relating to the governance and administration of the Scheme and any connected scheme(a), and
    - iii. any requirements imposed by the Pensions Regulator in relation to the Scheme and any connected scheme; and

- b. to ensure the effective and efficient governance and administration of the Scheme and any connected scheme.
3. In accordance with the regulations, Lincolnshire County Council, as the Administering Authority and Scheme Manager, established its Local Pension Board by 1<sup>st</sup> April 2015, and agreed Terms of Reference, subject to the first meeting of the Board adopting them. Within guidance issued by the Secretary of State, each Board is required to have a procedure for reporting breaches to the Pensions Regulator.
  4. This paper brings the draft Reporting Breaches Procedure (appendix A) to the newly appointed Lincolnshire Pension Board to be adopted.

**Conclusion**

5. The Lincolnshire Pension Board has been established as required under the Public Service Pensions Act 2013 and the LGPS Regulations 2013. At this first meeting of the Board, they are required to adopt the Reporting Breaches Procedure.

**Consultation**

**a) Policy Proofing Actions Required**

n/a

**Appendices**

These are listed below and attached at the back of the report	
Appendix A	Lincolnshire Pension Board Reporting Breaches Procedure

**Background Papers**

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Jo Ray, who can be contacted on 01522 553656 or jo.ray@lincolnshire.gov.uk.

# LINCOLNSHIRE PENSION BOARD

## Reporting Breaches Procedure

### 1. Introduction

- 1.1 This document sets out the procedures to be followed by certain persons involved with the Lincolnshire Pension Fund, the Local Government Pension Scheme managed and administered by Lincolnshire County Council, in relation to reporting breaches of the law to the Pensions Regulator.
- 1.2 Breaches can occur in relation to a wide variety of the tasks normally associated with the administrative function of a scheme such as keeping records, internal controls, calculating benefits and making investment or investment-related decisions.
- 1.3 This Procedure document applies, in the main, to:
- all members of the Lincolnshire Pension Board;
  - all officers involved in the management of the Pension Fund ;
  - personnel of the shared service pensions administrator providing day to day administration services to the Fund, and any professional advisers including auditors, actuaries, legal advisers and fund managers; and
  - officers of employers participating in the Lincolnshire Pension Fund who are responsible for pension matters.

### 2. Requirements

- 2.1 This section clarifies the full extent of the legal requirements and to whom they apply.

#### 2.2 Pensions Act 2004

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 such a scheme 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, 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.

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.

### 2.3 **The Pension Regulator's Code of Practice**

Practical guidance in relation to this legal requirement is included in The Pension Regulator's Code of Practice including in the following areas:

- implementing adequate procedures.
- judging whether a breach must be reported.
- submitting a report to The Pensions Regulator.
- whistleblowing protection and confidentiality.

### 2.4 **Application to the Lincolnshire Pension Fund**

This procedure has been developed to reflect the guidance contained in The Pension Regulator's Code of Practice in relation to the Lincolnshire Pension Fund and this document sets out how the Board will strive to achieve best practice through use of a formal reporting breaches procedure.

## 3 **The Lincolnshire Pension Fund Reporting Breaches Procedure**

The following procedure details how individuals responsible for reporting and whistleblowing can identify, assess and report (or record if not reported) a breach of law relating to the Lincolnshire Pension Fund. It aims to ensure individuals responsible are able to meet their legal obligations, avoid placing any reliance on others to report. The procedure will also assist in providing an early warning of possible malpractice and reduce risk.

### 3.1 **Clarification of the law**

Individuals may need to refer to regulations and guidance when considering whether or not to report a possible breach. Some of the key provisions are shown below:

- Section 70(1) and 70(2) of the Pensions Act 2004:  
[www.legislation.gov.uk/ukpga/2004/35/contents](http://www.legislation.gov.uk/ukpga/2004/35/contents)
- Employment Rights Act 1996:  
[www.legislation.gov.uk/ukpga/1996/18/contents](http://www.legislation.gov.uk/ukpga/1996/18/contents)
- Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (Disclosure Regulations):  
[www.legislation.gov.uk/uksi/2013/2734/contents/made](http://www.legislation.gov.uk/uksi/2013/2734/contents/made)

- Public Service Pension Schemes Act 2013:  
[www.legislation.gov.uk/ukpga/2013/25/contents](http://www.legislation.gov.uk/ukpga/2013/25/contents)
- Local Government Pension Scheme Regulations (various):  
<http://www.lgpsregs.org/timelineregs/Default.html> (pre 2014 schemes)  
<http://www.lgpsregs.org/index.php/regs-legislation> (2014 scheme)
- The Pensions Regulator's Code of Practice:  
<http://www.thepensionsregulator.gov.uk/codes/code-governance-administration-publicservice-pension-schemes.aspx>  
In particular, individuals should refer to the section on 'Reporting breaches of the law', and for information about reporting late payments of employee or employer contributions, the section of the code on 'Maintaining contributions'.

Further guidance and assistance can be provided by the County Finance Officer and the Executive Director of Finance and Public Protection, provided that requesting this assistance will not result in alerting those responsible for any serious offence (where the breach is in relation to such an offence).

### 3.2 **Clarification when a breach is suspected**

Individuals need to have reasonable cause to believe that a breach has occurred, not just a suspicion. Where a breach is suspected the individual should carry out further checks to confirm the breach has occurred. Where the individual does not know the facts or events, it will usually be appropriate to check with the County Finance Officer, the Executive Director of Finance and Public Protection, a member of the Pensions Committee or Pension Board or others who are able to explain what has happened. However there are some instances where it would not be appropriate to make further checks, for example, if the individual has become aware of theft, suspected fraud or another serious offence and they 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. In these cases The Pensions Regulator should be contacted without delay.

### 3.3 **Determining whether the breach is likely to be of material significance**

To decide whether a breach is likely to be of material significance an individual should consider the following, both separately and collectively:

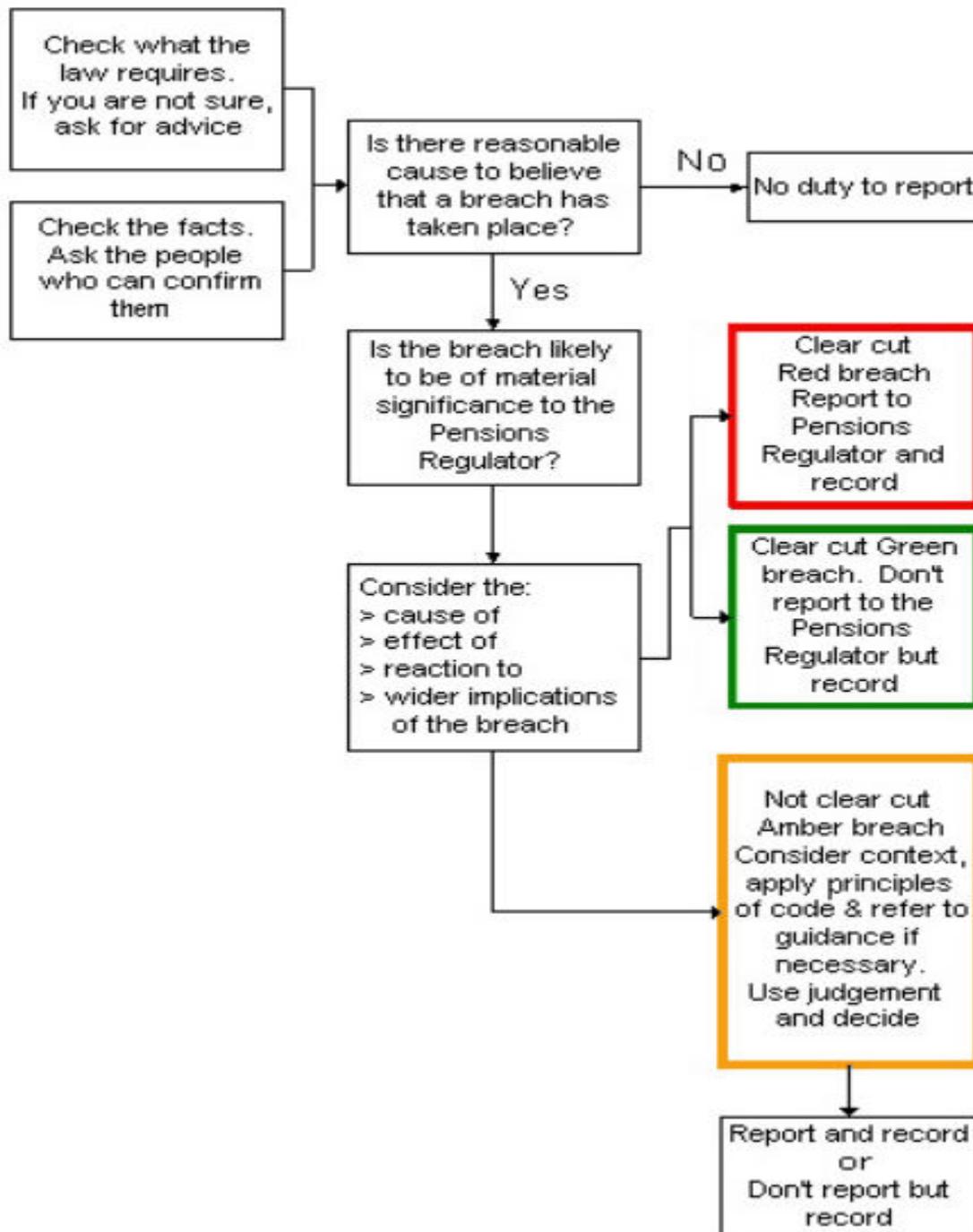
- cause of the breach (what made it happen);
- effect of the breach (the consequence(s) of the breach);
- reaction to the breach; and
- wider implications of the breach.

Further details on the above four considerations are provided in Appendix A to this procedure.

The individual should use the traffic light framework described in Appendix B to help assess the material significance of each breach and to formally support and document their decision.

- 3.4 A decision tree is provided below to show the process for deciding whether or not a breach has taken place and whether it is materially significant and therefore requires to be reported.

## Decision-tree: deciding whether to report



- 3.5 **Referral to a level of seniority for a decision to be made on whether to report**  
Lincolnshire County Council has a designated Monitoring Officer to ensure the County Council acts and operates within the law. They are 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 maintain records of all breaches and to assist in any reporting to The Pensions Regulator, where appropriate. If breaches relate to late or incorrect payment of contributions or pension benefits, the matter should be highlighted to the County Finance Officer or the Executive Director of Finance and Public Protection at the earliest opportunity to ensure the matter is resolved as a matter of urgency. Individuals must bear in mind, however, that the involvement of the Monitoring Officer is to help clarify the potential reporter's thought process and to ensure this procedure is followed. The reporter remains responsible for the final decision as to whether a matter should be reported to The Pensions Regulator.

The matter should not be referred to any of these officers if doing so will alert any person responsible for a possible serious offence to the investigation (as highlighted in section 2). If that is the case, the individual should report the matter to The Pensions Regulator setting out the reasons for reporting, including any uncertainty – a telephone call to the Regulator before the submission may be appropriate, particularly in more serious breaches.

### **3.6 Dealing with complex cases**

The County Finance Officer or the Executive Director of Finance and Public Protection may be able to provide guidance on particularly complex cases. Information may also be available from national resources such as the Scheme Advisory Board or the LGPC Secretariat (part of the LG Group - <http://www.lgpsregs.org/>). If timescales allow, legal advice or other professional advice can be sought and the case can be discussed at the next Board meeting.

### **3.7. Timescales for reporting**

The Pensions Act and Pension Regulators Code require that if an individual decides to report a breach, the report must be made in writing as soon as reasonably practicable. Individuals should not rely on waiting for others to report and nor is it necessary for a reporter to gather all the evidence which The Pensions Regulator may require before taking action. A delay in reporting may exacerbate or increase the risk of the breach. The time taken to reach the judgements on “reasonable cause to believe” and on “material significance” should be consistent with the speed implied by ‘as soon as reasonably practicable’. In particular, the time taken should reflect the seriousness of the suspected breach.

### **3.8 Early identification of very serious breaches**

In cases of immediate risk to the scheme, for instance, where there is any indication of dishonesty, The Pensions Regulator does not expect reporters to seek an explanation or to assess the effectiveness of proposed remedies. They should only make such immediate checks as are necessary. The more serious the potential breach and its consequences, the more urgently reporters should make these necessary checks. In cases of potential dishonesty the reporter should avoid, where possible, checks which might alert those implicated. In serious cases, reporters should use the quickest means possible to alert The Pensions Regulator to the breach.

### 3.9 **Recording all breaches even if they are not reported**

The record of past breaches may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue). Lincolnshire County Council will maintain a record of all breaches identified by individuals and reporters should therefore provide copies of reports to the County Finance Officer or the Executive Director of Finance and Public Protection. Records of unreported breaches should also be provided as soon as reasonably practicable and certainly no later than within 20 working days of the decision made not to report. These will be recorded alongside all reported breaches. The record of all breaches (reported or otherwise) will be included in the quarterly Monitoring Report at each Pension Committee, and this will also be shared with the Pension Board.

### 3.10 **Reporting a breach**

Reports must be submitted in writing via The Pensions Regulator's online system at [www.tpr.gov.uk/exchange](http://www.tpr.gov.uk/exchange), or by post, email or fax, and should be marked urgent if appropriate. If necessary, a written report can be preceded by a telephone call. Reporters should ensure they receive an acknowledgement for any report they send to The Pensions Regulator. The Pensions Regulator will acknowledge receipt of all reports within five working days and may contact reporters to request further information. Reporters will not usually be informed of any actions taken by The Pensions Regulator due to restrictions on the disclosure of information.

As a minimum, individuals reporting should provide:

- full scheme name (Lincolnshire Pension Fund);
- description of breach(es);
- any relevant dates;
- name, position and contact details;
- role in connection to the scheme; and
- employer name or name of scheme manager (the latter is Lincolnshire County Council).

If possible, reporters should also indicate:

- the reason why the breach is thought to be 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);
- pension scheme registry number (PSR – 00328911RN); and
- whether the breach has been reported before.

The reporter should provide further information or reports of further breaches if this may help The Pensions Regulator in the exercise of its functions. The Pensions Regulator may make contact to request further information.

### 3.11 Confidentiality

If requested, The Pensions Regulator will do its best to protect a reporter's identity and will not disclose information except where it is lawfully required to do so. If an individual's employer decides not to report and the individual employed by them disagrees with this and decides to report a breach themselves, they may have protection under the Employment Rights Act 1996 if they make an individual report in good faith.

### 3.12 Reporting to Pensions Committee and Pension Board

A report will be presented to the Pensions Committee and the Pension Board on a quarterly basis 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; and
- highlighting new breaches which have arisen in the last year/since the previous meeting.

This information will also be provided upon request by any other individual or organisation (excluding sensitive/confidential cases or ongoing cases where discussion may influence the proceedings). An example of the information to be included in the quarterly reports is provided in Appendix C to this procedure.

### 3.13 Review

This Reporting Breaches Procedure was originally developed in June 2015. It will be kept under review and updated as considered appropriate by the County Finance Officer or the Executive Director of Finance and Public Protection. It may be changed as a result of legal or regulatory changes, evolving best practice and ongoing review of the effectiveness of the procedure.

## Further Information

If you require further information about reporting breaches or this procedure, please contact:

Jo Ray - Pensions & Treasury Group Manager

Email: [jo.ray@lincolnshire.gov.uk](mailto:jo.ray@lincolnshire.gov.uk)

Telephone: 01522 553656

Lincolnshire Pension Fund, Lincolnshire County Council, Newland, Lincoln, LN1 1YL

Designated officer contact details:

1) County Finance Officer – David Forbes

Email: [david.forbes@lincolnshire.gov.uk](mailto:david.forbes@lincolnshire.gov.uk)

Telephone: 01522 553642

2) Executive Director of Finance and Public Protection – Pete Moore

Email: [pete.moore@lincolnshire.gov.uk](mailto:pete.moore@lincolnshire.gov.uk)

Telephone: 01522 553602

3) Monitoring Officer – Richard Wills

Email: [richard.wills@lincolnshire.gov.uk](mailto:richard.wills@lincolnshire.gov.uk)

Telephone: 01522 553000

### **Determining whether a breach is likely to be of material significance**

To decide whether a breach is likely to be of material significance individuals should consider the following elements, 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; and
- wider implications of the breach.

#### **The cause of the breach**

Examples of causes which are likely to be of concern to The Pensions Regulator are provided below:

- acting, or failing to act, in deliberate contravention of the law;
- dishonesty;
- incomplete or inaccurate advice;
- poor administration, i.e. failure to implement adequate administration procedures;
- poor governance; or
- slow or inappropriate decision-making practices.

When deciding whether a cause is likely to be of material significance individuals should also consider:

- whether the breach has been caused by an isolated incident such as a power outage, fire, flood or a genuine one-off mistake.
- whether there have been any other breaches (reported to The Pensions Regulator or not) which when taken together may become materially significant.

#### **The effect of the breach**

Examples of the possible effects (with possible causes) of breaches which are considered likely to be of material significance to The Pensions Regulator in the context of the LGPS are given below:

- Committee/Board members not having enough knowledge and understanding, resulting in pension boards not fulfilling their roles, the scheme not being properly governed and administered and/or scheme managers breaching other legal requirements.
- Conflicts of interest of Committee or Board members, resulting in them being prejudiced in the way in which they carry out their role and/or the ineffective governance and administration of the scheme and/or scheme managers breaching legal requirements.
- Poor internal controls, leading to schemes not being run in accordance with their scheme regulations and other legal requirements, risks not being

properly identified and managed and/or the right money not being paid to or by the scheme at the right time.

- Inaccurate or incomplete information about benefits and scheme information provided to members, resulting in members not being able to effectively plan or make decisions about their retirement.
- Poor member records held, resulting in member benefits being calculated incorrectly and/or not being paid to the right person at the right time.
- Misappropriation of assets, resulting in scheme assets not being safeguarded.
- Other breaches which result in the scheme being poorly governed, managed or administered.

#### **The reaction to the breach**

A breach is likely to be of concern and material significance to The Pensions Regulator where a breach has been identified and those involved:

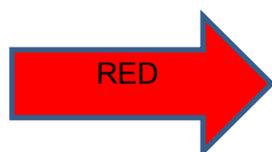
- do not take prompt and effective action to remedy the breach and identify and tackle its cause in order to minimise risk of recurrence;
- are not pursuing corrective action to a proper conclusion; or
- fail to notify affected scheme members where it would have been appropriate to do so.

#### **The wider implications of the breach**

Reporters should also consider the wider implications when deciding whether a breach must be reported. The breach is likely to be of material significance to The Pensions Regulator where the fact that a breach has occurred makes it more likely that further breaches will occur within the Fund or, if due to maladministration by a third party, further breaches will occur in other pension schemes.

## Traffic light framework for deciding whether or not to report

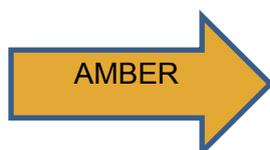
It is recommended that those responsible for reporting use the traffic light framework when deciding whether to report to The Pensions Regulator. This is illustrated below:



Where the cause, effect, reaction and wider implications of a breach, when considered together, are likely to be of material significance.

These must be reported to The Pensions Regulator.

Example: Several members' benefits have been calculated incorrectly. The errors have not been recognised and no action has been taken to identify and tackle the cause or to correct the errors.



Where the cause, effect, reaction and wider implications of a breach, when considered together, may be of material significance. They might consist of several failures of administration that, although not significant in themselves, have a cumulative significance because steps have not been taken to put things right. You will need to exercise your own judgement to determine whether the breach is likely to be of material significance and should be reported.

Example: Several members' benefits have been calculated incorrectly. The errors have been corrected, with no financial detriment to the members. However the breach was caused by a system error which may have wider implications for other public service schemes using the same system.



Where the cause, effect, reaction and wider implications of a breach, when considered together, are not likely to be of material significance. These should be recorded but do not need to be reported.

Example: A member's benefits have been calculated incorrectly. This was an isolated incident, which has been promptly identified and corrected, with no financial detriment to the member. Procedures have been put in place to mitigate against this happening again.

All breaches should be recorded even if the decision is not to report.

When using the traffic light framework individuals should consider the content of the red, amber and green sections for each of the cause, effect, reaction and wider implications of the breach, before you consider the four together. Some useful examples of this is framework is provided by The Pensions Regulator at the following link:

[http:// www.thepensionsregulator.gov.uk/codes/code-related-report-breaches.aspx](http://www.thepensionsregulator.gov.uk/codes/code-related-report-breaches.aspx)

