

Bath & North East Somerset Council		
MEETING:	LOCAL PENSION BOARD - AVON PENSION FUND	
MEETING DATE:	7 December 2023	AGENDA ITEM NUMBER
TITLE:	Breaches Report	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix 1 - Summary of Breaches Log Appendix 2 - Breaches Policy		

1. THE ISSUE

- 1.1. The purpose of this report is to update the Pension Board on the Fund's Breaches Policy, procedure for recording & reporting breaches, training carried out for Teams and breaches recorded in the last year.

2. RECOMMENDATION

- 2.1. That the Board notes:
- 2.1.1. The summary of the breaches log.
 - 2.1.2. Notes the changes to the breaches policy.

3. FINANCIAL IMPLICATIONS

- 3.1. There are no direct implications related to the Pension Board in connection with this report.

4. REPORT

4.1. REGULATORY BREACHES

- 4.2. The introduction of the Pensions Act 2013 extended the powers of the Pensions Regulator (TPR) to public sector schemes from 1 April 2014. The Pension Regulator introduced the Code of Practice 14 for the administration of public sector schemes in 2015. This, amongst other things, addressed the issue of Regulatory Breaches and reporting requirements.

- 4.3. Regulatory breaches are breaches of the regulations or standards as set out in the Administration Strategy and if Material need to be reported to TPR as set out in the Breaches Policy (Appendix 2). Due to slight changes in reporting lines with the introduction of the Head of Pensions role, the breaches policy has been amended to reflect the changes.

4.4. In addition to the requirement to report Material breaches to TPR, the Pensions Manager will formally report all breaches to the Avon Pension Fund Committee and the Pension Board on a quarterly basis, notifying the chairs of both of any significant issues as appropriate

4.5. In deciding whether a breach is likely to be of material significance to the Pensions Regulator, the following should be considered:

- cause of the breach;
- effect of the breach;
- reaction to the breach; and
- the wider implications of the breach

4.6. Breaches recorded by the Fund broadly fall into the following categories:

- Employer fines due to late or incorrect year end returns
- Employer fines for disproportionate work
- Employer late payments of contributions
- APF failing to meet statutory requirements eg not issuing ABSs on time
- Non-payment of refunds within 5 years*

4.7. Breaches are recorded on the breaches log and referred to the Pensions Manager if considered material. If Material TPR's online portal is used to report the breach.

4.8. Outcomes and improvements from breaches are agreed and implemented accordingly with employers or officers as appropriate.

4.9. A summary of regulatory breaches recorded for the period October 2022 to October 2023 can be found in Appendix 1. There was one material breach recorded in this period, relating to the non-payment of pension increase awards for some members. Full details can be found in the Administration report (Item 3).

4.10. 5 Year Refund Cases*

The 2013 LGPS regulations require schemes to pay a refund of contributions within 5 years. Failure to complete payment is classified as a regulatory breach and is required to be reported to the pensions committee and local pension board. The National Technical Group has previously made a recommendation to the Scheme Advisory Board (SAB) to remove the requirements to pay a refund of contributions within five years under the 2013 regulations. The SAB have agreed to proceed with this regulatory change and are in the process of making recommendations to DLUHC.

5. DATA PROTECTION BREACHES

5.1. The General Data Protection Regulations (GDPR) came into force with effect from 25th May 2018 under the Data Protection Act 2018 and replaced the earlier Data Protection Act of 1998.

5.2. A personal data breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data. This includes breaches that are the result of both accidental and deliberate causes.

- 5.3. A notifiable breach must be reported to the Information Commissioner's Office (ICO) within 72 hours after becoming aware of it. If it takes longer than this, reasons for the delay must be provided.
- 5.4. All breaches must be reported to Banes Data Protection Officer (DPO) within 24 hours of the incident using the incident reporting template. The DPO will advise if the incident meets the criteria for reporting to the ICO and also makes recommendations on future preventative actions.
- 5.5. A summary of data breaches reported to Banes DPO between October 2022 and October 2023 can be found in Appendix 1. No incidents were reported to the ICO during this period.
- 5.6. Procedures are in place for staff to follow and regular training takes place to ensure that everyone has a full understanding of data protection and the reporting procedure for breaches. Recent staff training has included:
- GDPR E-Learning Induction & refresher courses
 - Cyber Security E-Learning
 - Data Protection Induction Session including homeworking tips
 - Data Breaches – case studies
 - How to recognise a data breach, Subject Access Request & Freedom of Information Request

6. RISK MANAGEMENT

- 6.1. The Avon Pension Fund Committee is the formal decision-making body for the Fund. As such it has responsibility to ensure adequate risk management processes are in place. It discharges this responsibility by ensuring the Fund has an appropriate investment strategy and investment management structure in place that is regularly monitored. In addition, it monitors the benefits administration, the risk register and compliance with relevant investment, finance and administration regulations.

7. EQUALITIES

- 7.1. A proportionate equalities impact assessment has been carried out using corporate guidelines and no significant issues have been identified.

8. CLIMATE CHANGE

- 8.1. The Fund is implementing a digital strategy across all its operations and communications with stakeholders to reduce its internal carbon footprint in line with the Council's Climate Strategy. The Fund acknowledges the financial risk to its assets from climate change and is addressing this through its strategic asset allocation to Paris Aligned Global Equities Sustainable Equities and renewable energy opportunities. The strategy is monitored and reviewed by the Committee.

9. CONSULTATION

- 9.1 Reports and its contents have been consulted with the Head of Pensions and Director – One West representing the administering authority.

Contact person	Carolyn Morgan - Governance & Risk Advisor – 01225 395240
Background papers	
Please contact the report author if you need to access this report in an alternative format	