

LONDON BOROUGH OF CROYDON

REPORT:	Pension Committee	
DATE OF DECISION	11 April 2024	
REPORT TITLE:	Review of Breaches of the Law	
CORPORATE DIRECTOR / DIRECTOR:	Jane West, Corporate Director of Resources (Section 151 Officer)	
LEAD OFFICER:	Matthew Hallett – Acting Head of Pensions and Treasury	
CONTAINS EXEMPT INFORMATION?	NO	[Public]
WARDS AFFECTED:	N/A	

1. SUMMARY OF REPORT

- 1.1 This report presents the current Breaches of the Law log (in Appendix A) for the Pension Fund and highlights any changes made since the last review carried out at the Pension Board meeting held on 17 January 2024.

2. RECOMMENDATIONS

The Board is recommended:

- 2.1 To review and note the contents of the Pension Fund Breaches of the Law Log.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure an accurate record of Breaches of the Law is kept helping demonstrate good governance.

4. BACKGROUND AND DETAILS

- 4.1 The Pension Act 2004 (“The Act”, s 70) imposes duties on certain persons to report breaches of the law as follows:

70 Duty to report breaches of the law

(1) Subsection (2) imposes a reporting requirement on the following persons—

(a) a trustee or manager of an occupational or personal pension scheme;

- (aa) a member of the pension board of a public service pension scheme;
- (b) a person who is otherwise involved in the administration of an occupational pension scheme;
- (c) the employer in relation to an occupational pension scheme;
- (d) a professional adviser in relation to such a scheme;
- (e) a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.

(2) Where the person has reasonable cause to believe that—

(a) a duty which is relevant to the administration of the scheme in question, and is imposed by or by virtue of an enactment or rule of law, has not been or is not being complied with, and

(b) the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions,

he must give a written report of the matter to the Regulator as soon as reasonably practicable.

(3) No duty to which a person is subject is to be regarded as contravened merely because of any information or opinion contained in a written report under this section. This is subject to section 311 (protected items).

(4) Section 10 of the Pensions Act 1995 (c. 26) (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on him by this section.

In line with this legislation, Code of Practice No, 14 and the new Pensions Regulator's General Code of Practice (described in more detail below) a Breaches Log is maintained by the Fund. It was last reviewed on 13 December 2023. An extract from the current Breaches Log is attached (Appendix A).

4.2 In this context a breach of the law occurs when a duty which is relevant to the administration of the Fund, and is imposed by or by virtue of legislation or rule of law, has not been or is not being complied with. In the context of the LGPS this can encompass many aspects of the management and administration of the LGPS including failure to:

- to do anything required under the regulations which govern the LGPS (including in particular the requirements of the Local Government Pension Scheme Regulations 2013);
- to do anything required under overriding legislation, applicable statutory guidance or codes of practice;
- to maintain accurate records;
- to act on any fraudulent act or omission that is identified;
- to comply with policies and procedures (e.g. the Fund's statement of investment principles, funding strategy, discretionary policies, etc);

- of an employer to pay over member and employer contributions on time;
- to pay member benefits either accurately or in a timely manner;
- to issue annual benefit statements on time or non-compliance with the General Code of Practice replacing the Code of Practice No. 14 (Governance and administration of public service pension schemes) with effect from 28 March 2024

4.3 The extract of the current Breaches Log includes 12 items reported to the Board. Since the Board last reviewed the no new entries have been added, 1 entry has been amended and no entries have been deleted.

4.4 Breach 6 concerning failure to publish audited fund accounts has been amended to reflect that the 2019/20 accounts have been agreed by the Audit Committee on 14 March 2024..

4.5 The Board is asked to consider the contents of the Breaches of the Law log as attached in Appendix A.

5. CONSULTATION

5.1 Officers have previously consulted with both the Pension Committee and Local Pension Board on the template for the Breaches Log which forms the basis of Appendix A.

6. IMPLICATIONS

6.1 FINANCIAL IMPLICATIONS

6.1.1. There are no direct financial implications arising from this report.

6.1.2. Comments approved by Matthew Hallett, Acting Head of Pensions, on behalf of Allister Bannin, the Director of Finance. (Date 02/04/2024)

7. APPENDICES

7.1 A Pension Fund Breaches of the Law Log.

8. BACKGROUND DOCUMENTS

8.1 None.