

TEESSIDE PENSION FUND

Administered by Middlesbrough Council

AGENDA ITEM 12

PENSION FUND COMMITTEE REPORT

16 MARCH 2022

DIRECTOR OF FINANCE – IAN WRIGHT

Breaches Log

1. PURPOSE OF THE REPORT

- 1.1 To provide Members of the Pension Fund Committee (the Committee) with an update on a regulatory breach that has been added to the Breaches Log.

2. RECOMMENDATIONS

- 2.1 That Members note this report.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no specific financial implications in respect of the information contained in this report.

4. REPORTING BREACHES

- 4.1 Under the Pensions Act 2004 certain categories of people involved with a pension scheme have a duty to make a report to the Pensions Regulator where they have 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.
- 4.2 This duty applies to the following people:
- a trustee or manager of an occupational or personal pension scheme
 - a member of the pension board of a public service pension scheme
 - a person who is otherwise involved in the administration of an occupational or personal pension scheme
 - the employer in relation to an occupational pension scheme
 - a professional adviser in relation to such a scheme
 - a person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme.
- 4.3 The Fund has a policy on reporting breaches, which was reviewed and approved by the 15 December 2021 Pension Fund Committee and, for reference, is enclosed at Appendix A. This

includes information on how to report a suspected breach of regulations and how a reported breach is evaluated to assess how it should be dealt with, and whether it should be reported to the Pensions Regulator.

- 4.4 In the context of the Local Government Pension Scheme (LGPS) the definition of a 'breach of the law' is fairly wide, and can cover a failure to do anything required under the LGPS regulations, overriding pensions or tax regulations and (potentially) the provision of incorrect information. This makes the issue of 'material significance' to the Regulator an important consideration. The Fund's procedure includes a traffic light system to help categorise breaches. One key consideration is to ensure all potential breaches are considered and investigated.
- 4.5 The procedure, and the requirement to report breaches has been in place since 2015. The current Breaches Log is attached as Appendix B. This contains one (new) addition relating to the provision of benefit statements to deferred members.
- 4.6 Deferred members are members of the pension scheme who have left active employment and so no longer contribute to the scheme, but have not yet drawn their pension benefits, normally because they are not old enough yet. Depending on the age of the individual, it can be many years between their leaving the scheme and drawing their pension, and it is not unusual for the individual to move house and not inform the pension scheme during that time. This results in mail being returned from that address and that individual being categorised as a 'gone-away'. This in turn makes it impossible to provide that individual with an annual benefit statement (which, according to the LGPS regulations, needs to be provided to all active and deferred members by 31 August each year).
- 4.7 The entry in the Breaches Log outlines the position, and explains that a decision has been taken to record but not report this breach, as it has a straightforward explanation, does not result in a loss to the individual and steps are being taken to look to improve the situation. These steps involve XPS working with the Head of Pensions Governance and Investments to consider cost-effective ways to trace the 'gone-aways' with a view to substantially reducing their number for the 2022 annual benefit statements.
- 4.8 The Breaches Log will be brought to future Pension Fund Committee (and Teesside Pension Board) meetings. A useful summary of dealing with breaches of the law in the LGPS produced by Hymans Robertson in 2019 (but still relevant) is enclosed at Appendix C.

5. NEXT STEPS

- 5.1 As the Breaches Log is updated it will be brought to future Committee meetings for consideration.

CONTACT OFFICER: Nick Orton – Head of Pensions Governance and Investments

TEL NO.: 01642 729040