Public Document Pack

Local Government Pensions Board

Date: **WEDNESDAY, 28 FEBRUARY 2018**

Time: **1.45 pm**

Venue: **COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL**

Members: Alderman Ian Luder (Chairman)
James Tumbridge (Deputy Chairman)
Jon Averns
Yvette Dunne
Christina McLellan
Martin Newnham

Enquiries: **Chris Rumbles**
tel. no.: 020 7332 1405
christopher.rumbles@cityoflondon.gov.uk

Lunch will be served in the Guildhall Club at 1pm
NB: Part of this meeting could be the subject of audio or video recording

John Barradell
Town Clerk and Chief Executive

AGENDA

1. **APOLOGIES**

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

3. **MINUTES OF THE PREVIOUS MEETING**
   To agree the public minutes and non-public summary of the meeting on 6th October 2017.

   For Decision
   (Pages 1 - 4)

4. **WORK PROGRAMME**
   Report of the Town Clerk.

   For Information
   (Pages 5 - 6)

5. **TERMS OF REFERENCE: ANNUAL REVIEW**
   Report of the Town Clerk.

   For Decision
   (Pages 7 - 10)

6. **THE CITY CORPORATION'S PENSION SCHEME - UPDATE**
   Report of the Chamberlain.

   For Information
   (Pages 11 - 30)

7. **REPORTING BREACHES OF LAW - PROPOSED POLICY**
   Report of the Chamberlain and the Comptroller & City Solicitor.

   For Decision
   (Pages 31 - 48)

8. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**

9. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

10. **EXCLUSION OF THE PUBLIC**
    MOTION - That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

    For Decision

Part 2 - Non-Public Agenda

11. **NON-PUBLIC MINUTES OF THE PREVIOUS MEETING**
To agree the non-public minutes of the meeting held on 6th October 2017.

For Decision
(Pages 49 - 52)

12. **GENERAL DATA PROTECTION REGULATION (GDPR) & THE PENSIONS BOARD**
Report of the Comptroller & City Solicitor & Data Protection Officer.

For Information
(Pages 53 - 58)

13. **ADMITTED BODIES**
Report the Chamberlain and the Comptroller & City Solicitor.

For Decision
(Pages 59 - 64)

14. **THE CITY OF LONDON: LGPS TRAINING PLAN**
Report of the Chamberlain.

For Decision
(Pages 65 - 82)

15. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**

16. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

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LOCAL GOVERNMENT PENSIONS BOARD

Friday, 6 October 2017

Minutes of the meeting of the Local Government Pensions Board held at the Guildhall EC2 at 1.45 pm

Present

Members:
James Tumbridge (Chairman)
Jon Averns
Yvette Dunne
Christina McLellan
Martin Newnham

Officers:

Caroline Al-Beyerty	-	Deputy Chamberlain
Jeff Henegan	-	Acting Pension Manager
Tom Broughton	-	Chamberlain's Department
Chris Rumbles	-	Town Clerk's Department

1. **APOLOGIES**
Apologies were received from Ian Luder.

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**
There were no declarations of interests.

3. **MINUTES OF THE PREVIOUS MEETING**
RESOLVED – That the minutes of the meeting on 7th July 2017 are approved as an accurate record.

Matters Arising

Pension Manager
Members noted the post is currently being advertised and that recruitment to this role remains ongoing.

4. **OUTSTANDING ACTIONS**
The Board received a report of the Town Clerk setting out the outstanding actions list.

Opt-out figures
Members noted that there is no clear pattern of employees opting out of the LGPS. Opt-out rates from the LGPS are not recorded centrally.

Members were advised that at the last quarterly London Pension Officer Group Meeting it was requested that a survey be sent out to the London Boroughs to record their opt-out rates from the LGPS.

Data Protection
The Chairman remarked that guidance on the Data Protection Regulation 2018 is clear and has been available for some time so he was surprised to see comments that the legislation is unclear. Organisations need to ensure information is held securely, that appropriate consent has been given and that there is a legitimate reason for holding and processing data.

The Chairman added that Directors can be held personally liable for Data Protection breaches, it is unclear how Members of the Board would be treated, so a paper is needed clarifying this for Members of this Board. The Chairman asked that as reports are going to other committees on Data Protection they should also come to this Board to efficiently show how the City Corporation is dealing with these issues.

RESOLVED – That the Board notes the report

5. **THE CITY CORPORATION'S LGPS - UPDATE**

The Board received a report of the Chamberlain providing information on a range of topics in relation to the City Corporation’s Local Government Pension Scheme.

The Board noted the schedule of events.

The Acting Pension Manager updated the Board on two new appeals that had been considered and dismissed. In response to a question from a Member, it was confirmed that appeals are predominantly towards ill health retirement decisions.

RECEIVED.

6. **TRAINING UPDATE**

The Acting Pension Manager updated the Board on a proposed training plan. The Board were reminded that there is also the Police Pension Board. The intention is to consider the training needs of this Board alongside the Police Pension Board to produce a combined training plan.

The Chairman questioned if there are other Committees at the City Corporation with LGPS-related responsibility that might benefit from training e.g. Investment Committee. The range of people and experience on the Pension Board was noted and it was suggested training could be offered on a modular basis rather than holding a one day training session covering everything. Members will then be able to select modules specific to their training needs.

The Acting Pension Manager advised the Group that he is in correspondence with Barnett Waddingham and that he will provide an update at the next meeting.

A Member stressed the need to get dates in the diary at the earliest opportunity.

7. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**
There were no questions.

8. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**
There were no items of urgent business.

9. **EXCLUSION OF THE PUBLIC**
RESOLVED – That under 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Local Government Act.

Item No.	**Paragraph No.**
10	3
11	3

10. **DRAFT ANNUAL REPORT YEAR ENDING 31 MARCH 2017**
The Board considered a report of the Chamberlain which provided Members with the Draft Pension Fund Annual Report for the year ended 31 March 2017.

The Chamberlain advised that the Auditors have completed their review of the Annual Report and the Corporation's main set of accounts, of which the Pension Fund Statement of Accounts is included and auditors have issued an unqualified opinion across the board. It was noted that the Annual Report is a prescribed document that, as outlined in regulation 57 of the Local Government Pension Scheme, must include certain statutory statements such as the funding strategy statement, an investment strategy statement and communications policy statement etc.

In response to a Member's question with regards to the Compliance statement, the Chamberlain advised that CLG best practice guidance looks at general principles nationally including district and unitary authorities and therefore not all the guidance is relevant to the City Corporation and this results in only partial or non-compliance in certain areas.

In response to a Member's question, the Chamberlain advised that this Board has a scrutiny role so it would be appropriate for it to review non-attendance at other relevant Committees. It was suggested no action is needed at the present time as all meetings have been quorate and operating, but that this could change if there started to be very low level attendances.

11. **ADMITTED BODIES**
The Board considered a report of the Chamberlain which provided Members with a table of organisations that are admitted bodies to the City of London Local Government Pension Scheme (LGPS), the number of Members and whether or not a bond is in place.

12. **NON-PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE BOARD**
There were no non-public questions.

13. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE COMMITTEE AGREES SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

LGPS newsletters and guidance from Government
It was agreed that LGPS Newsletters, guidance from Government and other essential reading will be circulated to the Board and added to agendas as a link.

2018 Meetings
The Board agreed to three LGPS Pension Board meetings next year with the first of these taking place on Wednesday 28th February 2018 1.45pm.

Training
A Member commented on his recent attendance at a Local Government Pension Scheme conference and suggested other Members of the Board would benefit from attending. The Deputy Chamberlain agreed to consult the Corporate Treasurer and identify appropriate conferences to attend.

Pensioners' Association Annual Lunch
A Member referred to the annual Pensioners' Luncheon and questioned if the organisers were aware of the Local Government Pension Board. The Chairman suggested writing to the City of London Pensioners' Association confirming this Board is in place.

The meeting closed at 2.50pm

Chairman

Contact Officer: Chris Rumbles
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christopher.rumbles@cityoflondon.gov.uk

Local Government Pension Board - Outstanding Actions List

	Date raised	Action	Officer responsible	To be completed/ progressed to next stage	Update
1	July 2017	Comparison to other Local Authorities.	Corporate Treasurer & Acting Pensions Manager	February 2018	Included in Update Report
2	July 2017	2018 Meetings	Town Clerk	December 2018	Three meetings agreed in 2018. - 28th February 1.45pm - 29th June 1.45pm - 31st October 1.45pm
3	July 2017	Data Protection 2018	Corporate Treasurer & Acting Pensions Manger	February 2018	On the Agenda.
4	July 2017	Succession Planning	Town Clerk		To be reported to the Court of Common Council at the appropriate point.
5	July 2017	Admitted Bodies and liability	Corporate Treasurer/ Comptroller & City Solicitor	February	On the Agenda
6	Oct 2017	Training Update	Acting Pension Manager	February 2018	On the Agenda

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Committee(s)	Dated:
Local Government Pensions Board	28th February 2018
Subject: Terms of Reference: Annual Review	**Public**
Report of: Town Clerk	**For Decision**
Report author: Chris Rumbles – Town Clerk's Department	

Summary

As part of the post-implementation review of the changes made to the City Corporation's governance arrangements in 2011, it was agreed that all Committees should review their terms of reference annually. This is to enable any proposed changes to be considered in time for the annual reappointment of Committees by the Court of Common Council.

The terms of reference of the Local Government Pensions Board are attached at Appendix 1 to this report for consideration.

Recommendations

It is recommended that:

- the terms of reference are amended to read "The Pensions Board shall meet at least three times per year."and;
- the terms of reference of the Board, subject to any comments, be approved for submission to the Court in April 2018.

Appendices

- Appendix 1 – Terms of Reference

Chris Rumbles
Town Clerk's Department
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Appendix 1

LOCAL GOVERNMENT PENSIONS BOARD

1. **Constitution**

A Non-Ward Committee consisting of,

- Three **Employer** Representatives, of which;
  - Two will be Members of the Court of Common Council (who may not be Members of the Investment Committee, Financial Investment Board or Establishment Committee);
  - One will be an Officer of the Corporation, nominated by the Town Clerk and Chief Executive; and
- Three Member Representatives, selected by an appointment method determined by the Town Clerk and Chief Executive.

In addition, the Board has the power to appoint one co-opted member (with no voting rights) as an independent advisor to the Board, should the Board require further technical guidance.

2. **Quorum**

The quorum consists of any three Members, including one Employer Representative and one Member Representative.

3. **Membership 2017/18**

Three Employer Representatives

2 (2) Ian David Luder, J.P., Alderman

2 (2) James Richard Tumbridge

Jon Averns, Port Health and Public Protection Director

Three Member Representatives

Christina McClellan *(appointed for a four-year term expiring February 2020)*

Yvette Dunne *(appointed for a four-year term expiring February 2020)*

Martin Newnham *(appointment for a four-year term expiring June 2020)*

together with the co-opted Member referred to in paragraph 1 above, if required.

Each Board Member should endeavour to attend all Board meetings during the year. In the event of consistent non-attendance by any Board member, then the tenure of that membership should be reviewed by the other Board members in liaison with the Scheme Manager.

Board Members must be satisfied that they:

- are conversant with the legislation and associated guidance of the Local Government Pension Scheme (LGPS);
- are conversant with documents recording policy about the administration of the LGPS by the City of London Corporation;

- Have knowledge and understanding of the law relating to pensions and any other matters which are prescribed in regulations, including undertaking appropriate training to develop this knowledge;
- conduct themselves in line with the seven principles of public life;
- do not have any conflict of interest with their role on the Pensions Board.

4. **Terms of Reference**

In line with the requirements of the Public Services Pensions Act 2013 for the management of the City of London Corporation's Pension Scheme, to be responsible for:

a) assisting the Scheme Manager (the City of London Corporation) in the following matters:

- Securing compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme and any statutory pension scheme that it is connected to;

- Securing compliance with requirements imposed in relation to the scheme and any connected scheme by the Pensions Regulator; and

- Other such matters as the scheme regulations may specify.

b) securing the effective and efficient governance and administration of the LGPS for the City of London Pension Fund.

The Pension Board will ensure it effectively and efficiently complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Pension Board will also help ensure that the City of London Corporation Pension Fund is managed and administered effectively and efficiently and complies with the code of practice on the governance and administration of public service pension schemes issued by the Pension Regulator.

The Pension Board shall meet sufficiently four times per year during 2017 and three times per year thereafter.

5. Chairmanship

Any Member of the Board will be eligible to be Chairman. However, to allow reporting to the Court of Common Council, either the Chairman or Deputy Chairman must be a Member of the Court of Common Council.

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Committee:	Date:
Local Government Pensions Board	28 February 2018
Subject: The City Corporation's Pensions Scheme - Update	**Public**
Report of: The Chamberlain	**For Information**
Report author: Jeff Henegan – Chamberlain's Department	

Summary

At the Board's meeting on 20 October 2016, it was agreed that information regarding a range of topics in relation to the Corporation's Local Government Pensions Scheme (the Scheme) would be provided at each meeting. Members have indicated that information regarding communications be provided on an annual basis and all of the other items of information will be provided at each meeting except for when there is no updated information since the previous meeting

Item	Update
Annual schedule of events for the Pensions Scheme	Update provided (Appendix A)
Documentation of all the communications which are circulated to Scheme Members	Letter to scheme members regarding Voluntary Scheme Pay option (Appendix B). The letter was sent to those employees whose rate of pay from the City of London for the tax year 2016/17 was £90,000 or over after pension contributions were deducted,
Information of Scheme Record Keeping	No amendments since the last Board meeting.
The Pensions Board's Risk Register	No amendments since the last board meeting (Appendix C)
A record of any complaints or disputes under the Scheme's complaints procedure	No new appeals
Any recent breaches of the law	None to report.
Any audit reports relating to the administration of the Scheme	None to report.
Any reports relating to the administration of the Pension Scheme which have been considered by other Committees	Annual Allowance – Use of Voluntary Scheme Pays approved by the Finance Committee. (Appendix D).

The board requested details of opt-out rates from other Local Authorities to establish if the City Corporation's pension opt-out figures are out of kilter with the national picture. A survey was sent to Pension Managers at the London Boroughs to provide opt-out rates for the year 2016/17. There were 12 responses including the City of London. The opt-out rates ranged from 2% to 35% with the average opt-out rate being 18%. The opt-out rate for City of London in 2016/17 was 9.6%.

In December 2017 the Government Actuaries Department published 'Advice on assumptions for the SAB cost Management Process'. Within the document it provided details of the national opt-out rate of the LGPS based ONS public sector employment data in 2017 finding a national opt-out rate of approximately 24%. The City of London with an opt-out rate of 10% is well below the national average.

Recommendation

The Board is recommended to consider the information provided in the following reports and provide any comments in relation to this information.

Appendices:
Appendix A – Annual Schedule of Events
Appendix B – Voluntary Scheme Pays option letter
Appendix C – Risk Register & Risk Matrix
Appendix D - Report on Annual Allowance – Use of Voluntary Scheme Pays

Contact:

Jeff Henegan

Acting Pensions Manager | Chamberlain's Department

T: 020 7332 1355
E: jeff.henegan@cityoflondon.gov.uk

Appendix A

Local Government Pensions - Schedule of Events 2017/18 and 2018/19

Date Due	Event	Completed
1st October 2017	Write to employees affected by end of transitional delay	26/09/2017
Within 2 weeks of quarter date	Tax Return for Quarter 3 (to 31/12/2017)	09/01/2018
31st January 2018	HMRC Event 22 Report – List of Annual Allowance cases exceeding the Previous years' threshold.	25/01/2018
Within 2 weeks of quarter date	Tax return for Quarter 4 (to 31/3/2018)	
1st April 2018	Employee Contribution band review/ implementation.	
1st April 2018	Revaluation of CARE benefits.	
1st Monday in April following the 6th	Pensions Increase – Annual Inflation increase.	
30th May 2018	Draft Accounts signed by the Chamberlain	
6th June 2018	Audit of Accounts begins	
30th June 2018	Target date for the issue of annual updates to Deferred members.	
Within 2 weeks of quarter date	Tax return for Quarter 1 (to 30/06/2018)	
17th July 2018	Draft accounts to Audit & Risk Mgt Cttee	
24th July 2018	Draft accounts to Finance Cttee	
31st July 2018	Publish Accounts	
31st August 2018	Issue of Annual Statements deadline.	
Within 2 weeks of quarter date	Tax return for Quarter 2 (to 30/09/2018)	
30th September 2018	Employee Contribution Band review	
Within 2 weeks of quarter date	Tax Return for Quarter 3 (to 31/12/2018)	

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Chamberlain's Department
Dr Peter Kane MA, MSc, CPFA
Chamberlain (Finance Director)

Telephone 020 7332 1355
Fax 020 7710 8539
Email jeff.henegan
@cityoflondon.gov.uk

Our ref PG/PENSIONS/JH

Case Officer
Jeff Henegan

Date

Dear Scheme Member

Local Government Pension Scheme – Annual Allowance

I am writing to you as a pension scheme member with regards to the Annual Allowance and in particular the introduction of the Tapered Annual Allowance in the tax year 2016/17. This may affect you if your taxable income is £110,000 or over (referred to as the threshold income).

The Annual Allowance is the amount by which the value of your pension benefits may grow in any one year without you having to pay a tax charge. You are assessed on pension benefits in all tax-registered pension arrangements that you (or an employer) have paid in to in a tax year. If your threshold income is less than £110,000 per annum your annual allowance will be at the standard level which is £40,000 for 2016/17 and 2017/18.

Scheme members with a threshold income of £110,000 or over will subject to a Tapered Annual Allowance when their taxable income plus the growth in their pension benefits (this is known as the adjusted income) in a year exceed £150,000. For every two pounds the adjusted income exceeds £150,000 a scheme member's Annual Allowance is tapered down by £1 to a minimum level of £10,000. Further details regarding Tapered Annual Allowance can be found at;

https://www.gov.uk/government/publications/pensions-tapered-annual-allowance

Paying the Annual Allowance Tax Charge

You would only be subject to an Annual Allowance tax charge if the value of your pension benefits for a tax year increases by more than your Annual Allowance. However, a three year carry forward rule allows you to carry forward unused Annual Allowance from the last three tax years and offset this against any excess. This means that even if the value of your pension savings increase by more than your Annual Allowance in a year you may not be liable to the annual allowance tax charge. To carry forward unused Annual Allowance from an earlier year you must have been a member of a tax registered pension scheme in that year.

You are responsible for reporting to HMRC on your self-assessment tax return if you exceed the Annual Allowance for the year and do not have sufficient unused carry forward to offset the growth in pension benefits. You will be subject to a tax charge by HMRC.

For tax charges of £2,000 or more on the pension growth above the standard Annual Allowance (presently £40,000) you can request the pension scheme to pay the tax on your behalf, this is known as Mandatory Scheme Pays. To use this option scheme members must notify the Pensions Office no later than 31 July in the year following the end of the year to which the Annual Allowance charge relates (i.e. by 31 July 2018 for charge relating to the tax year 2016-17). The tax charge would be recovered by a reduction in your annual pension when you retire.

An important change following the introduction of the Tapered Annual Allowance are the options available on paying a tax charge on growth in pension benefits between a scheme member's Tapered Annual Allowance and the standard Annual Allowance.

Tax charges in relation to growth between Tapered and standard Annual Allowance falls under HMRC's **Voluntary Scheme Pays option**. Voluntary Scheme Pays allows a pension scheme to pay Annual Allowance charges (in return for a reduction in pension benefits) not covered by the Mandatory Scheme Pay option. The acceptance of Voluntary Scheme Pays is at the discretion of the Administration Authority.

The City of London Pension Fund has exercised its discretion to accept Voluntary Scheme Pays requests under the following circumstances;

a) a scheme member is subject to the tapered Annual Allowance; **and**

b) that scheme member's total Voluntary Scheme Pays tax charge is £2,000 or more. This can be derived either from solely the tapered Annual Allowance or a combination of that tax charge and the standard Annual Allowance (where this latter tax charge is less than £2,000); **and**

c) the scheme member's tapered Annual Allowance tax charge stems only from the Annual Allowance relating to LGPS benefits in the City of London Pension Fund; **and**

d) the application is received in writing by the City of London Pension fund by 31 December in the tax year following the year to which the tax charge relates.

The Chamberlain may consider accepting Voluntary Scheme Pays requests for other cases outside of the circumstances outlined above on a case by case basis.

The tax charge for the excess growth between the Tapered and standard Annual Allowance must be <u>paid</u> by the 31 January in the year following the year to which the tax charge relates (i.e. paid by 31 January 2018 for a tax charge relating to 2016/17). Any applications under Voluntary Scheme Pays must be received by the Pensions Office no later than 31 December.

This information is based on present HMRC guidance and could be subject to change. This is a complex issue and the above is our current understanding of the legislation as it stands. The relevant regulations will be used to reach a decision in any dispute or disagreement. You may wish to seek independent financial advice.

Appendix B

Enclosed is a fact sheet on the Annual Allowance and a copy of both the Mandatory and Voluntary Scheme Pays option forms.

If you have any queries in relation to this matter please contact Jeff Henegan.

Yours sincerely

Jeff Henegan
Interim Pensions Manager

Appendix B

The City of London
The Local Government Pension Scheme

Voluntary Scheme Pays Form

Election for the Scheme to pay the Tapered Annual Allowance Charge in Return for a Reduction in Pension Benefits

Personal Details

Title:	
Surname:	
Forename(s):	
Address:	
Postcode:	
National Insurance Number:	

Charge Details

Tax year to which charge relates:	
Amount of charge liability to be paid:	

Declaration

I confirm the following:

- The amount of the liability that I wish the scheme to pay has been calculated at the proper rate.
- I understand that I cannot withdraw this notice once made.
- I understand that my pension benefits from the scheme will be adjusted to take account of the tax that will be paid on my behalf by the scheme.
- I understand that by signing and returning this notification I remain solely liable for the tax charge I have asked to be paid.
- The charge arises solely from benefits built up within the City of London Pension fund.
- I am subject to the Tapered Annual Allowance

Signed:	
Date:	

Notes

The notification to pay your annual allowance charge must be received by the Local Government Pension Scheme by 31 December in year following the year to which the charge relates – for example, if the charge relates to the tax year 2016-17 then the notification must be received by 31 December 2017.

The notification must be received by 31 December. It is not enough to have just sent the notification by that date.

If you intend to retire before 31 December following the tax year in which a liability has been accrued then your notification must be received by the Scheme before your date of retirement.

The City of London accepts Voluntary Scheme Pays requests on the following the basis;

- You are subject to the Tapered Annual Allowance
- Your tax charge exceeds £2,000
- The charge arises solely from benefits built up within the City of London Pension fund.

By signing and returning this notification you remain solely liable for the tax charge indicated. The City of London will pay to HMRC the tax charge specified but you will have to report the amount of tax the scheme will be paying in your own Self-Assessment tax return.

For further information please visit:
https://www.gov.uk/tax-on-your-private-pension/annual-allowance

Appendix B

The City of London
The Local Government Pension Scheme

Mandatory Scheme Pays Election Form

Election for the Scheme to pay the Annual Allowance Charge in Return for a Reduction in Pension Benefits

Personal Details

Title:	
Surname:	
Forename(s):	
Address:	
Postcode:	
National Insurance Number:	

Charge Details

Tax year to which charge relates:	
Amount of charge liability to be paid:	

Declaration

I confirm the following:

- The amount of the liability that I wish the scheme to pay has been calculated at the proper rate.
- I understand that I cannot withdraw this notice once made.
- I understand that my pension benefits from the scheme will be adjusted to take account of the tax that will be paid on my behalf by the scheme.
- I understand that by signing and returning this notification I and the City of London will have a joint and several liability in respect of the tax charge I have asked to be paid.

Signed:	
Date:	

Notes

The notification to pay your annual allowance charge must be received by the Local Government Pension Scheme by 31 July following the tax year in which the charge relates – for example, if the charge relates to the tax year 2013-14 then the notification must be received by 31 July 2015.

The notification must be received by 31 July. It is not enough to have just sent the notification by that date.

If you intend to retire before 31 July following the tax year in which a liability has been accrued then your notification must be received by the Scheme before your date of retirement.

The City of London is only required to offer 'scheme pays' if your benefits accrued in the Local Government Pension Scheme exceed the annual allowance for the given tax year and the charge owed is greater than £2,000. If you have exceeded the annual allowance by having pension savings in other pension schemes then the City of London will only be able to pay the charge accrued in your Local Government Pension Scheme membership.

By signing and returning this notification you will have joint and several liability with the City of London for the payment of the tax charge indicated. The City of London will pay to HMRC the tax charge specified but you will have to report the amount of tax the scheme will be paying in your own Self-Assessment tax return.

For further information please visit:
https://www.gov.uk/tax-on-your-private-pension/annual-allowance

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City of London LGPS Risk Register for the LGPS Pensions Board - FOR CONSIDERATION

Risk No.	Risk (Short description)	Risk Owner	Cause	Effect	Existing Controls	Current Risk Likelihood	Current Risk Impact	Current Risk Rating	Current Risk Direction	Planned Actions	Target Risk Likelihood	Target Risk Impact	Target Risk Rating
1	Inappropriate Investment Strategy	Chamberlain	(i) Inappropriate investment advice. (ii) Advice ignored	(i) Inappropriate risk/return profile. (ii) Opportunities not maximised to progress towards full funding (iii) Ramifications on employers contributions.	Investment strategy devised to reduce financial risk through use of asset allocation and a range of Fund Managers implementing different investment mandates. Monitoring of fund managers' performance by Chamberlain & Financial Investment Board. Information on market conditions provide by Investment Consultant.	Unlikely	Major	Amber 8	↔	Review of asset allocation by Investment Consultant following triennial valuation	Unlikely	Major	Amber 8
2	Unsuitable triennial actuarial valuation leading to inappropriate employer rates	Chamberlain	(i) Inappropriate assumptions used by the Actuary (ii) Inaccurate data supplied to the Actuary	Employer rates unsuitable to maintain long term cost efficiency & solvency.	(i) Regular meetings with the Actuary to ensure that assumptions are appropriate involving nominated Members of the Finance Cttee, with final report to Finance Cttee. (ii) prompt clearance of queries from Actuary. (iii) Robust Year End procedures and updates. (iv) Checking for errors or inconsistencies in valuation extract report before submission to the Actuary.	Rare	Minor	Green 1	↔	Continue existing controls	Rare	Minor	Green 1
3	Failure to comply with legislative requirements.	Chamberlain	(i) Lack of consultation with appropriate persons. (ii) Lack of training/ appropriately skilled staff	(i) Inaccurate benefits paid. (ii) Financial loss. (iii) Increase in Appeals. (iv) Fines from Pensions Regulator (v) Reputational damage	(i) Recruitment of suitable staff appropriate salary levels. (ii) Formal Institute of Payroll Professionals training. (iii) Attendance at seminars and Forums, webinars and user groups. (iv) Knowledge updates via LGA training sessions	Possible	Minor	Green 3	↔	Continue existing controls	Possible	Minor	Green 3
4	Pension Scheme Administration	Chamberlain	(i) Ineffective succession planning. (ii) Inadequately trained staff. (iii) Absences/increased staff turnover. (iv) IT system failure. (v) Data Accuracy. (vi) Lack of resources.	(i) Inaccurate benefits paid or delayed. (ii) Increased costs. (iii) Financial penalties/ sanctions.	(i) Recruitment and training of staff. (ii) Ensuring software is the latest version and any known errors are reported. (iii) Ensure IT have sufficient back-ups and Disaster Recovery. (iv) Ensuring training opportunities are shared. (v) Robust checking procedures in place at all stages of record management from new starters, transfers received, career changes, pension top-ups, leaving and benefit payment. (vi) If staff or other resources are lacking ensure priority cases are covered and all checking levels maintained.	Unlikely	Serious	Green 4	↔	Continue existing controls	Unlikely	Serious	Green 4
5	Pension Fund Fraud	Chamberlain	(i) Not notified of death. (ii) Staff acting inappropriately	(i) Continued payment of pensions following death. (ii) Overpaid pensions. (ii) Financial loss to the Pension Fund	(i) Use of Mortality Screening Service and Tell Us Once Service (Government initiative that allows us to be notified of a death when registered). (ii) Participation in the National Fraud Initiative. (iii) Sending Life Certificates to Overseas Pensioners.	Unlikely	Minor	Green 2	↔	Continue existing controls	Unlikely	Minor	Green 2
6	Employer becomes insolvent or is abolished with insufficient funding to meet liabilities	Chamberlain/ Comptroller & City Solicitor	Processes not in place to capture or review covenant of individual employers.	Fund would pick up the liabilities potentially leading to increased contribution rates for other employers.	Bond/guarantor sought for potential new admitted bodies and incorporated into admission agreements where appropriate.	Possible	Serious	Amber 6	↔	Annual review of employer covenants particularly where bonds/guarantors are required	Unlikely	Serious	Green 4

APPENDIX

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City of London Corporation Risk Matrix (Black and white version)

Note: A risk score is calculated by assessing the risk in terms of likelihood and impact. By using the likelihood and impact criteria below (top left (A) and bottom right (B) respectively) it is possible to calculate a risk score. For example a risk assessed as Unlikely (2) and with an impact of Serious (2) can be plotted on the risk scoring grid, top right (C) to give an overall risk score of a green (4). Using the risk score definitions bottom right (D) below, a green risk is one that just requires actions to maintain that rating.

(A) Likelihood criteria

	Rare (1)	Unlikely (2)	Possible (3)	Likely (4)
Criteria	Less than 10%	10 – 40%	40 – 75%	More than 75%
Probability	Has happened rarely/never before	Unlikely to occur	Fairly likely to occur	More likely to occur than not
Time period	Unlikely to occur in a 10 year period	Likely to occur within a 10 year period	Likely to occur once within a one year period	Likely to occur once within three months
Numerical	Less than one chance in a hundred thousand (<10-5)	Less than one chance in ten thousand (<10-4)	Less than one chance in a thousand (<10-3)	Less than one chance in a hundred (<10-2)

(C) Risk scoring grid

Likelihood		Impact			
	X	Minor (1)	Serious (2)	Major (4)	Extreme (8)
	Likely (4)	**4 Green**	**8 Amber**	**16 Red**	**32 Red**
	Possible (3)	**3 Green**	**6 Amber**	**12 Amber**	**24 Red**
	Unlikely (2)	**2 Green**	**4 Green**	**8 Amber**	**16 Red**
	Rare (1)	**1 Green**	**2 Green**	**4 Green**	**8 Amber**

(B) Impact criteria

Impact title	Definitions
Minor (1)	**Service delivery/performance:** Minor impact on service, typically up to one day. **Financial:** financial loss up to 5% of budget. **Reputation:** Isolated service user/stakeholder complaints contained within business unit/division. **Legal/statutory:** Litigation claim or find less than £5000. **Safety/health:** Minor incident including injury to one or more individuals. **Objectives:** Failure to achieve team plan objectives.
Serious (2)	**Service delivery/performance:** Service disruption 2 to 5 days. **Financial:** Financial loss up to 10% of budget. **Reputation:** Adverse local media coverage/multiple service user/stakeholder complaints. **Legal/statutory:** Litigation claimable fine between £5000 and £50,000. **Safety/health:** Significant injury or illness causing short-term disability to one or more persons. **Objectives:** Failure to achieve one or more service plan objectives.
Major (4)	**Service delivery/performance:** Service disruption > 1 - 4 weeks. **Financial:** Financial loss up to 20% of budget. **Reputation:** Adverse national media coverage 1 to 3 days. **Legal/statutory:** Litigation claimable fine between £50,000 and £500,000. **Safety/health:** Major injury or illness/disease causing long-term disability to one or more people **objectives:** Failure to achieve a strategic plan objective.
Extreme (8)	**Service delivery/performance:** Service disruption > 4 weeks. **Financial:** Financial loss up to 35% of budget. **Reputation:** National publicity more than three days. Possible resignation leading member or chief officer. **Legal/statutory:** Multiple civil or criminal suits. Litigation claim or find in excess of £500,000. **Safety/health:** Fatality or life-threatening illness/disease (e.g. mesothelioma) to one or more persons. **Objectives:** Failure to achieve a major corporate objective.

(D) Risk score definitions

RED	Urgent action required to reduce rating
AMBER	Action required to maintain or reduce rating
GREEN	Action required to maintain rating

This is an extract from the City of London Corporate Risk Management Strategy, published in May 2014.

Contact the Corporate Risk Advisor for further information. Ext 1297

October 2015

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Annual Allowance – Use of Voluntary Scheme Pays

Summary

For scheme members of the Local Government Pension Scheme (LGPS) who exceed HMRC's Annual Allowance limit on pension savings growth in a financial year there is an option for the tax charge to be paid by the Pension Scheme via 'Voluntary Scheme Pays' in return for a reduction to their annual pension at retirement.

The option to accept a Voluntary Scheme Pay application is at the discretion of the administrating authority i.e. the City of London Corporation.

A report was submitted to the Finance Committee on 21 November 2017 seeking approval to the use of Voluntary Scheme Pays by the Pension Fund for those scheme members affected by the introduction of the Tapered Annual Allowance.

The Finance Committee approved the use of Voluntary Scheme Pays where;

a) a scheme member is subject to the tapered Annual Allowance; **and**

b) that scheme member's total Voluntary Scheme Pays tax charge is £2,000 or more. This can be derived either from solely the tapered Annual Allowance or a combination of that tax charge and the standard Annual Allowance (where this latter tax charge is less than £2,000); **and**

c) the scheme member's tapered Annual Allowance tax charge stems only from the Annual Allowance relating to LGPS benefits in the City of London Pension fund; **and**

d) the application is received in writing by the City of London Pension fund by 31 December in the tax year following the year to which the tax charge relates.

The Finance Committee also agreed to delegate authority to the Chamberlain to consider accepting Voluntary Scheme Pays requests for other cases outside of the circumstances outlined above.

Report

1. The Annual Allowance is the amount by which pension savings can grow in a financial year before becoming subject to a tax charge. Pension growth within the LGPS is calculated in accordance with HMRC legislation. In essence a scheme member's pension benefits are measured at the start and end of the financial year and the difference between these values are multiplied by an HMRC factor - with any Additional Voluntary Contributions also being taken into account at this point. The difference between the start and end value of pension benefits is known as the Pension Input Amount.

2. The growth in pension savings in the year that is above the Annual Allowance is subject to a tax charge by the HMRC (based on an individual's tax band). However, a three year carry forward rule allows a scheme member to carry forward any unused annual allowance from the last three tax years to offset any tax charge. The scheme member is responsible for reporting to the HMRC when they exceed the Annual Allowance on a self-assessment tax return.

3. In 2016/17 the standard Annual Allowance was set at £40,000, and remains at that rate for 2017/18.

4. Scheme members are normally required to pay their tax charges directly to HMRC, however, where the standard Annual Allowance charge in a tax year exceeds £2,000, scheme members are able to elect to meet some or all of the tax charge from their future pension benefits. Where the tax charge is less than £2,000 the scheme member pays the tax directly to HMRC.

5. The Pension Fund is required to pay this tax charge on the scheme member's behalf and then to reduce their future pension benefits accordingly. This is known as the **Mandatory Scheme Pays**.

6. The deadline for scheme members who incur a tax charge and wish to apply to the Pension Fund to utilise Mandatory Scheme Pays is 31 July each year, for example, if the charge relates to the tax year 2016-17 then the notification must be received by 31 July 2018. The subsequent deadline for administering authorities to make the payment to HMRC is the following 14 February (2019 in the example). Under the Mandatory Scheme Pays the scheme member and the Pension Fund are jointly and severally liable for the tax charge.

7. In the tax year 2016/17, HMRC amended the Annual Allowance rules by introducing the **tapered Annual Allowance** for employees with taxable income in excess of £110,000. A scheme member's Annual Allowance will be tapered when their taxable income plus the growth in their pension benefits exceeds £150,000 in a financial year. For every £2 of taxable income over the excess of £150,000 the standard Annual Allowance is reduced by £1. However, this is subject to a minimum tapered Annual Allowance of £10,000.

8. An example of the above would be as follows: an employee's taxable income (including their Pension Input Amount) is £220,000. The tapered Annual Allowance would reduce the standard Annual Allowance rate of £40,000 to a lower rate by deducting £1 from it for each £2 over £150,000. In this example, tapered Annual Allowance would be set at the minimum level of £10,000 – see attached annex for worked example.

9. There is no Mandatory Scheme Pays for any tax charge relating to excess growth on a scheme member's tapered Annual Allowance – this can only be paid by the Pension Fund under the **Voluntary Scheme Pays.**

10. **Voluntary Scheme Pays:** There is technically no deadline for scheme members to request to use the Voluntary Scheme Pays option. However, subject to the administering authority's approval, the tax charge payment to HMRC must be made before 31 January in the following tax year to ensure additional interest charges are not incurred by the scheme member. For example, if the charge relates to the tax year 2016-17 then payment must be received by HMRC by 31 January 2018. To allow the Pensions Office to pay Voluntary Scheme Pays tax charges by 31 January a deadline of the 31 December in the preceding year has been set for applications to be received by.

11. The scheme member has sole liability for the Annual Allowance tax charge under the Voluntary Scheme Pays option, so even though the Pension Fund may pay over the amount of tax on the scheme member's behalf, the scheme member remains solely liable for the amount of tax due until the administering authority pays it to HMRC.

12. Following receipt of a Voluntary Scheme Pay election a scheme member will have their pension reduced; the reduction would then be applied at retirement. The reduction is calculated in accordance with the guidance issued by the Secretary of State for Communities and Local Government in conjunction with consultation by Government Actuaries Department (GAD).

13. The reduction to a pension following either a Mandatory or Voluntary Scheme Pays election is calculated to be cost neutral to the Pension Fund.

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Annex – Worked Example

Annual Allowance for 2016/17
Standard Annual Allowance for 2016/17 is £40,000

Annual pension at the start of the period		10,000
Apply factor of 16		x 16
		160,000
Add automatic lump sum		0
		160,000
Multiply by CPI (based on September 2015 CPI figure)		0%
Opening Value		**160,000**
Annual pension at the end of the period		13,906.25
Apply factor of 16		x 16
		222,500
Add automatic lump sum		0
Closing Value		**222,500**
Pension Input Amount	£222,500-160,000 **=**	**62,500**
Income for 2016/17		180,000
Less pension contributions in the year		22,500
Plus Pension In Amount for 2016/17		62,500
Income for measuring tapered annual allowance		**220,000**
Tapered annual allowance	£40,0000 - ((£220,000-£150,000) / 2) **=**	£5,000
Minimum Tapered Annual Allowance		**£10,000**
Tax Charge under Voluntary Scheme Pays (at 45%)	(40,000 - 10,000) x 45% **=**	**£13,500**
Tax Charge under Mandatory Scheme Pays (at 45%)	(62,500 - 40,000) x 45% **=**	**£10,125**
Total Tax Charge		**£23,625**

Committee:	Date:
Local Government Pensions Board **Police Pensions Board (Delegated Authority)**	28 February 2018
Subject: Reporting Breaches of the Law – Proposed Policy	**Public**
Report of: The Chamberlain and the Comptroller & City Solicitor	**For Decision**
Report author: Kate Limna (Chamberlain's) and Richard Jeffrey (Comptroller & City Solicitor)	

Summary

The Pensions Regulator (the Regulator) acquired authority over public sector pension schemes under provisions in the Public Service Pensions Act 2013. The Regulator issued a Code of Practice in April 2015 titled "Governance and Administration of Public Service Pension Schemes."

It is a statutory Code, which means that a Court or Tribunal must take any relevant provisions into account in determining any legal proceedings.

Part of the Code deals with the obligations on scheme managers, members of Pensions Boards, officers and others to report breaches of the law to the Pensions Regulator. The Code sets out the steps that should be taken in the event of a suspected breach, including establishing internal procedures to investigate the suspected breach.

The Corporation of London engaged Barnett Waddingham, the external actuary, to draft an appropriate policy and procedures document to apply to both the Corporation of London's Local Government Pension scheme and the City of London Police Pension scheme. The document is attached at Appendix 1.

Recommendations

Local Government Pensions Board:

Members are asked to approve the procedures set out in the attached "Reporting Breaches of the Law – City of London Policy & Procedure."

Police Pensions Board:

The Town Clerk in consultation with the Chairman and Deputy Chairman of the Police Pension Board is asked to approve the procedures set out in the attached "Reporting Breaches of the Law – City of London Policy & Procedure".

Main Report

Background

1. The Pensions Regulator has jurisdiction over public sector pension schemes, including local authority and police schemes. In April 2015 the Regulator issued Code of Practice no 14, titled "Governance and Administration of Public Service Pension Schemes."

2. The Code includes provisions relating to the obligations on scheme managers, members of Pensions Boards, officers, professional advisers and others to report breaches of the law to the Pensions Regulator. The Code sets out the broad steps that should be taken in the event of a suspected breach, including establishing internal procedures to investigate the suspected breach, and identifying individuals with specific responsibilities.

3. These provisions are not mandatory legal requirements, but the Code is a statutory Code with the effect that any court or tribunal must have regard to the Code, where relevant, in determining any legal dispute; for example, if the Regulator takes legal action against a scheme manager for failing to report a breach of the law.

Current Position

4. The Corporation of London's external actuary, Barnett Waddingham, was requested to draft a policy and procedure, to apply to the Corporation's dual role as scheme manager of the local authority pension scheme and the police pension scheme. The draft policy and procedure, which is recommended to be adopted by both Boards, is attached in Appendix 1.

5. At the meeting of the Police Pensions Board on 9 January 2018 there was a discussion concerning reporting breaches of the law, and it was considered by the Members of that Board that there should be a 30-day deadline from the discovery of the breach to the reporting to the Regulator, if appropriate. Board members should be notified of the circumstances by email unless there is a convenient Board meeting within that period.

6. The proposed policy and procedure adopts this course of action, except in cases of seriousness where the Regulator requires a faster reporting, or if the breach constitutes a crime and disclosure of actions being taken needs to be restricted. Members will also note that it is a requirement of the Code that the Breaches of the Law register is updated immediately at various points in the procedure, and the register is reported to every meeting of the Board.

Major aspects of the proposed policy and procedure

7. The important aspects that Members will wish to note are:

   (1) There is a wide range of people who are defined as "reporters" and subject to the reporting requirement. They include the scheme managers, the Members of the Pension Boards, officers involved in scheme administration, and anyone who advises the scheme managers, including professional advisers.

   (2) The document defines the identity of the officer with day-to-day responsibility for managing the process (the Corporate Treasurer), and defines the Deputy Chamberlain as the person who will make the final decision on reporting to the Regulator. At the same time, the Comptroller and City Solicitor as Monitoring

Officer is notified. The final version of the document will also identify those officers who will act in the absence of the Corporate Treasurer or Deputy Chamberlain.

(3) The policy provides a method for assessing and considering suspected breaches, providing guidance as to the relevant considerations to be taken into account. Once the investigation is complete the case is referred to the Deputy Chamberlain and to the Comptroller and City Solicitor.

(4) The Deputy Chamberlain assesses the material significance of the breach and determines whether it is Red (always reportable), Amber (reportable depending on the circumstances) or Green (not reportable). Guidance and examples are given in the policy and in the Code of Practice.

(5) If at the outset, or at any time through the investigation, it is considered that the breach is Red it must be reported immediately.

(6) A Breaches of the Law register has to be maintained, and updated at every stage of the investigation. The register will be a joint Corporation of London scheme and police pension scheme register, and it is required to be presented to each meeting of each Board.

(7) If a suspected breach involves a criminal offence, then the breach will be red and must be reported immediately. Care should be taken not to do anything which might alert the people implicated.

Conclusion

8. The report has been circulated to the Members of the Police Pensions Board and, as this Board does not meet until May, approval to the Breaches Policy has been delegated to the Town Clerk in consultation with the Chairman and Deputy Chairman.

Appendices

Appendix - “Reporting Breaches of the Law – City of London Policy & Procedure.”

Background Papers

None

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Appendix A

Public Service Pensions

Reporting Breaches of Law - City of London Policy & Procedure

Introduction

This document sets out the policy and procedure within the City of London for recording and reporting breaches of the law connected to the Public Service Pension Schemes for whom it is Scheme Manager.

It describes who has a legal requirement to report breaches, to whom and how they should report and provides processes to follow to assess and consider suspected breaches to ensure that they are reported appropriately.

This policy and procedure was approved by the Local Government Pensions Board on {date} and the Police Pensions Board on {date} It will be kept under review and reissued should personnel, the law, statutory or other guidance or best practice change. As a minimum, it will be formally reviewed every three years.

This document is published on the City of London website at *[insert link]*. It takes account of guidance and information issued by the Pension Regulator (tPR) in Code of Practice 14 and their Public Service Toolkit and includes text from them. Where text has been used, the tPR's copyright applies. The content does not override the requirements of prevailing legislation and statutory guidance, which should be followed at all times.

Any questions about the policy or procedure should be raised with the Corporate Treasurer in the first instance. The contact details are provided on page 4.

All those with a legal duty to report breaches of the law should ensure that they are familiar with this Policy and its operation.

Contents

This document contains the following sections:

1. The Legal Responsibility to Report Breaches of the Law and to whom it Applies

Legislation requires that where certain people have reasonable cause to believe that:

- a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with
- the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions

they must report breaches of the law to the Pensions Regulator (tPR).

The people who are subject to the reporting requirement ('reporters') for public service pension schemes are:

- scheme managers
    - For the Local Government Pension Scheme this is the Corporation of London
    - For the Police Pension Scheme this is the Commissioner of Police for the City of London for the members of City of London Police Force and the Common Council for the Commissioner of Police for the City of London
- members of pension boards
    - For the Local Government Pension Scheme this is the members of the Local Government Pensions Board. Details of the members can be found here: http://democracy.cityoflondon.gov.uk/mgCommitteeDetails.aspx?ID=1187
    - For the Police Pension Scheme this is the members of the Police Pensions Board. Details of the members can be found here: http://democracy.cityoflondon.gov.uk/mgCommitteeDetails.aspx?ID=1206
- any person who is otherwise involved in the administration of a public service pension scheme
    - For example, the committees, other boards, and officers dealing with the pension schemes
- participating employers whether a breach relates to, or affects, members who are its employees or those of other employers in the scheme
- professional advisers including auditors, actuaries, legal advisers and fund managers, whether required or not to be appointed by the scheme
- any person who is otherwise involved in advising the managers of the scheme in relation to the scheme

Reporters should not rely on waiting for others to report. They should follow the processes and procedures set out in this document.

Reports must be made in writing as soon as reasonably practicable. Failure to comply, without reasonable excuse, with the law on reporting breaches of the law is a civil offence and can attract a fine. tPR can also issue improvement notices.

Applicable laws and Code of Practice

Relevant law includes the Pensions Acts 2004 (section 70) and 1995, and the Public Service Pensions Act 2013.

In addition, tPR's Code of Practice 14, entitled Governance and administration of public service pension schemes, sets out the legal requirements and explains the expectations of tPR.

The Code of Practice is not a statement of law. However, when determining whether the legal requirements have been met, a court or tribunal must take any relevant provisions of a code of practice into account. Following the Code will help to ensure compliance with requirements and expectations.

2. To whom Breaches of the Law are Reported

Material breaches of the law are reported to tPR, ie the Pensions Regulator or 'the Regulator'.

Unless the breach is so serious that it should be reported immediately, this document provides a process for investigating concerns that the law may have been breached and for facilitating objective consideration of breaches to enable reporters to decide within a reasonable timeframe whether they must report the breach. As noted above, reporters should not rely on waiting for others to report.

All breaches, and suspected breaches under consideration, should be reported to the Corporate Treasurer in the first instance. This is the person who will be responsible for the day to day running of the policy and maintaining the Register.

They can be contacted at: Guildhall, PO Box 270, London, EC2P 2EJ, Tel: 0207 332 3952

They will alert the Deputy Chamberlain that a potential or actual breach is being investigated. This is the person who is responsible for this Policy and for making the decision on whether to report a breach to tPR.

They can be contacted at: Guildhall, PO Box 270, London, EC2P 2EJ, Tel: 0207 332 1113

All actual breaches will be recorded in the Breaches of the Law Register (the Register), along with the decision made as to whether or not to report to tPR and the relevant considerations taken. The Register is presented to each Pension Board meeting for review.

Further details are provided below on these aspects.

3. Procedure for Assessing and Considering Suspected Breaches

This section sets out the procedure and processes for assessing and considering suspected breaches of the law and determining whether they should be reported to tPR.

To ensure breaches are reported in a timely manner, each action should be completed within five working days of receipt or notification, including responding to questions raised. Dates of actions and decisions should be recorded on the Register. A final decision to report the breach to the tPR should be taken and the report made by no later than 30 days after the initial identification of the breach.

Where a breach is identified that is so serious that it must always be reported, each stage should be dealt with immediately and the Deputy Chamberlain notified.

If there is an immediate risk to the scheme, such as if there is an indication of dishonesty, only necessary immediate checks should be made and those that may alert the people implicated, avoided. Reporters should use the quickest possible means to alert tPR.

All breaches must be recorded on the Register along with the details and considerations taken as detailed below whether or not they are reported to tPR.

3.1 Establishing the facts

Having 'reasonable cause' to believe that a breach has occurred means more than merely having a suspicion that cannot be substantiated.

Reporters should ensure that where a breach is suspected, they carry out checks to establish whether or not a breach has in fact occurred. This will involve establishing the facts and also whether there is another explanation.

For example, a member of a funded pension scheme may allege that there has been a misappropriation of scheme assets where they have seen in the annual accounts that the scheme's assets have fallen. However, the real reason for the apparent loss in value of scheme assets may be due to the behaviour of the stock market over the period. This would mean that there is not reasonable cause to believe that a breach has occurred.

Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to check with those in a position to know such as the Director of Finance, or the Pensions Manager to check what has happened.

However, as noted earlier, it would not be appropriate to check in cases of theft, suspected fraud or other serious offences where discussions might alert those implicated or impede the actions of the police or a regulatory authority. Under these circumstances the reporter should alert tPR without delay.

In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for the reporter to gather all the evidence which tPR may require before taking legal action. A delay in reporting may exacerbate or increase the risk of the breach.

Should you have difficulty establishing the facts, please report this to the Corporate Treasurer – *see note on page one*] who will provide further guidance.

3.2 Clarification of the law

In determining if a breach has occurred, if the reporter is unclear about the relevant legal provision, they should clarify their understanding of the law to the extent necessary to form a view.

If assistance is required in order to do so, once you have established the facts, you may contact the director of finance, or the pensions manager, or the Corporation of London's legal team for further advice.

Should you encounter any difficulties establishing the law, please report this to the Corporate Treasurer who will provide further guidance.

3.3 Considering the material significance

Having clarified the facts and the law and established that a breach has occurred, the next step is to consider whether it is of material significance and should therefore be reported to tPR.

In order to do so, reporters should consider the cause of the breach, the effect of the breach, the reaction to it and its wider implications. These aspects should be considered together and take account of expert or professional advice, where appropriate.

Consideration of previously recorded breaches on the Register, whether reported to tPR or not, can assist with this process. A copy should be obtained from the Corporate Treasurer.

Dialogue may also take place with the Scheme Manager or Pension Board. Reporters may approach the Scheme Manager or members of the Pension Board at any time to discuss matters. In addition, the Register is presented to each meeting of the Pension Board for consideration and discussion with the Scheme Manager's officers.

Code of Practice 14 provides guidance on each of the four aspects and this is included below.

A. Cause of the breach

The breach is likely to be of material significance to tPR where it was caused by:

- dishonesty
- poor governance or administration
- slow or inappropriate decision making practices
- incomplete or inaccurate advice, or
- acting (or failing to act) in deliberate contravention of the law.

When deciding whether a breach is of material significance, those responsible should consider other reported and unreported breaches of which they are aware. However, historical information should be considered with care, particularly if changes have been made to address previously identified problems.

Where changes are made, City of London officers should inform the Corporate Treasurer who should record the changes on the Register to assist with future determinations.

tPR notes that a breach will not normally be materially significant if it has arisen from an isolated incident, for example resulting from teething problems with a new system or procedure, or from an unusual or unpredictable combination of circumstances, but that in such a situation, it is also important to consider other aspects of the breach, such as the effect it has had and to be aware that persistent isolated breaches could be indicative of wider scheme issues.

Action should be taken to put the breach right whether is it is of material significance or not.

Reporters should summarise the cause of the breach.

B. Effect of the breach

Reporters need to consider the effects of any breach, but with tPR's role in relation to public service pension schemes and its statutory objectives in mind, Code of Practice 14 notes that the following matters in particular should be considered likely to be of material significance to tPR:

- pension board members not having the appropriate degree of knowledge and understanding, which may result in the Board not fulfilling its role, the scheme not being properly governed and administered and/or the scheme manager breaching other legal requirements
- pension board members having a conflict of interest, which may result in them being prejudiced in the way that they carry out their role, ineffective governance and administration of the scheme and/or the scheme manager breaching legal requirements
- adequate internal controls not being established and operated, which may lead to the scheme not being run in accordance with the scheme's 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
- accurate information about benefits and scheme administration not being provided to scheme members and others, which may result in members not being able to effectively plan or make decisions about their retirement
- appropriate records not being maintained, which may result in member benefits being calculated incorrectly and/or not being paid to the right person at the right time
- pension board members misappropriating any assets of the scheme, or being likely to do so, which may result in scheme assets not being safeguarded, and
- any other breach which may result in the Fund being poorly governed, managed or administered.

Reporters need to take care to consider the effects of the breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

Reporters should summarise the effect of the breach.

C. Reaction to the breach

Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, to notify any affected members, tPR will not normally consider this to be materially significant.

A breach is likely to be of concern and material significance to tPR 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
- fail to notify affected scheme members where it would have been appropriate to do so.

All reporters should keep records of the actions taken and submit these to the Corporate Treasurer who will record these on the Register.

Reporters should summarise the reaction to the breach.

D. Wider implications of the breach

Reporters should consider the wider implications of a breach when they assess which breaches are likely to be materially significant to tPR.

For example, a breach is likely to be of material significance where the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. This may be due to the Scheme Manager or Pension Board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities or where other pension schemes may be affected. For instance, public service pension schemes administered by the same organisation may be detrimentally affected where a system failure has caused the breach to occur.

For this reason, and to enable prompt actions to be taken to prevent or reduce the risk of further breaches, the City of London's policy is to maintain one Breaches of the Law Register covering all the schemes and Scheme Managers detailed on page 3, recording in which scheme the breach occurred.

Reporters should summarise the wider implications of the breach.

3.4 Deciding whether to report to the Pensions Regulator

The reporter should assess their view on whether the breach is of material significance and should be reported to tPR. Once assessed, they should submit their summaries of the breach and their categorisations and reasons for them, to the Corporate Treasurer who will update the Register and submit it all to the Deputy Chamberlain and to the Comptroller and City Solicitor as Monitoring Officer. The Deputy Chamberlain will make the decision whether to report the breach to tPR after liaising with the Comptroller and City Solicitor. They will review the categorisation and may discuss it or raise questions with the reporter in the first instance, and they will, in turn request the Corporate Treasurer to update the Register with their decision and reason for it.

tPR's traffic light framework should be used to assist in these assessments and decisions.

The Pension Regulator's Traffic Light Framework

tPR provide a traffic light framework which should be used to assist with deciding whether a breach of the law is likely to be of material significance to them and should therefore be reported.

Example breaches of the law and assessment of the cause, effect, reaction and wider implications against the traffic lights are available on tPR's website at http://www.thepensionsregulator.gov.uk/docs/PS-reporting-breaches-examples-traffic-light-framework.pdf

The reporter should consider their summaries of the cause of the breach, the effect of the breach, the reaction to it and its wider implications against the traffic lights and assess a colour category for each.

They should then determine an overall colour category considering all four together, and include details of why they have assigned a category such as their considerations and actions in regard to each of the four areas and overall. These should be submitted to the Corporate Treasurer as noted above.

The copy of the current Register should be reviewed in considering the assessments.

The tPR's framework for overall consideration of the breach is summarised below together with an example.

Red breaches

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

These must be reported to tPR.

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.

Amber breaches

Where the cause, effect, reaction and wider implications of a breach, when considered together, may be of material significance, the breach is 'amber'. 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.

Reporters will need to exercise their 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.

Green breaches	Where the cause, effect, reaction and wider implications of a breach, when considered together, are not likely to be of material significance, the breach is 'green'. 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.*

3.5 Determining difficult cases

Where there is a difficult case to determine, reporters should contact the Deputy Chamberlain who will discuss the case with them, and if necessary refer the case on to the Corporation of London's legal team, the Pension Board, Members of the Committee, tPR or other officers or advisors for further assistance, before making their determination.

4. Reporting to the Pensions Regulator

A final decision to report the breach to the tPR should be taken and the report made by no later than 30 days after the initial identification of the breach. However, where a case is so urgent that it must immediately be reported to tPR or where it is decided after following the procedure above that a breach should be reported, it should be reported without delay.

Breaches will normally be reported by the Deputy Chamberlain.

Reports should be made in writing via tPR online Exchange system which is available via their website at https://login.thepensionsregulator.gov.uk/whatsavailable

It contains a standard format for reporting. The following information should be gathered:

- details of the reporter
- name of the scheme, and scheme manager/employer
- a high level summary of the breach and relevant dates
- why it has occurred, including whether a third party, such as an employer, has caused the breach of the legal requirement
- how many members and what categories of members are affected, eg active or deferred, and the total number of scheme members in each category
- the reason the breach is thought to be of material significance and whether it has been reported before
- what action is being taken to address the issue and, if possible, a robust improvement plan outlining what is being done to resolve it, who is responsible and when the breach will be rectified by
- how future breaches of this nature will be prevented and effects on members minimised

Urgent reports should be clearly marked urgent and attention drawn to matters considered by the reporter to be particularly serious. If is appropriate, the reporter should call tPR before submitting the written report.

As noted earlier, if there is an immediate risk to the scheme, such as if there is an indication of dishonesty, only necessary immediate checks should be made and those that may alert the people implicated, avoided. Reporters should use the quickest possible means to alert tPR.

The reporter should ensure that they receive an acknowledgment from tPR and that this is retained with the other papers and recorded on the Register. Acknowledgements should be received within five working days.

tPR may request further information.

4.1 Whistleblowing protection and confidentiality

Code of Practice 14 notes that:

- the Pensions Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report and that tPR understands the potential impact of a report on relationships, for example, between an employee and their employer.
- the statutory duty to report does not, however, override 'legal privilege' . This means that oral and written communications between a professional legal adviser and their client, or a person representing that client, while obtaining legal advice, do not have to be disclosed. Where appropriate a legal adviser will be able to provide further information on this.
- tPR will do its best to protect a reporter's identity, if desired, and will not disclose the information except where lawfully required to do so. It will take all reasonable steps to maintain confidentiality, but it cannot give any categorical assurances as the circumstances may mean that disclosure of the reporter's identity becomes unavoidable in law. This includes circumstances where tPR is ordered by a court to disclose it.
- the Employment Rights Act 1996 (ERA) provides protection for employees making a whistleblowing disclosure to tPR. Consequently, where individuals employed by firms or another organisation having a statutory duty to report disagree with a decision not to report to tPR, they may have protection under the ERA if they make an individual report in good faith. tPR expects such individual reports to be rare and confined to the most serious cases.

5. Recording Breaches of the Law

All breaches of the law must be recorded in the Breaches of the Law Register (the Register) whether or not reported to tPR.

This is to ensure that patterns are identified, to help determine systemic issues and material significance, to identify where procedural change or further education may be required, and to help determine whether future breaches should be reported to tPR.

It also provides a record of action and considerations taken should a breach be reported to tPR by another reporter, and investigated by tPR.

5.1 Breaches of the law register

The Breaches of the Law Register is maintained by the Corporate Treasurer. All reporters and others involved in dealing with any breach of the law should submit the information and details as described above in order for them to do so. .

The Register covers the Police and LGPS Pension Schemes to enable issues common to all to be identified and appropriate action taken to prevent and reduce the risk of further breaches occurring.

Each action and decision taken should have a date recorded against it to enable monitoring that timescales are being adhered to, and breaches promptly dealt with and reported in a timely manner.

Where changes are subsequently made to address previously identified problems, Officers should submit details to the Corporate Treasurer who will update the Register to record the changes made to assist with future determinations of material significance.

Similarly, the progress of and actions taken to put right a breach should be included on the Register.

A sample Register is provided in Appendix 1. This should be reviewed while in use and additional columns added where helpful.

5.2 Reporting to the Pension Board and reviewing the Register

The Breaches of the Law Register should be presented to each meeting of each Pension Board for review and consideration. This may result in dialogue with the Deputy Chamberlain and/or the Scheme Manager over whether items should be considered as materially significant and reported to tPR, or if other actions should be taken to improve compliance or enhance efficiency.

The Pension Board will consider the Register and how they can assist the Scheme Manager, making recommendations as appropriate.

Appendix 1 – Sample Breaches of the Law Register

Where not specifically noted, dates for all actions and decisions should be recorded in each field.

The reference can be used to match background papers and contact details of those involved.

Fields can be expanded on electronic version. Print on A3 paper

				EG Late Conts/ABS			Fill fields with traffic light colour when determined Include summaries and reasons								
Ref	**Date reported**	**Scheme**	**Employer / Third Party**	**Type of Breach**	**Details of breach**	**Date of breach & ref no. if occurred before**	**Cause**	**Effect**	**Reaction** **Include actions planned/ taken to correct**	**Wider implications**	**Overall category & reporting recommendation**	**Final category & reporting decision**	**Reported by /date**	**tPR ack received**	**Date breach corrected**
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			
											Yes/No	*Yes/No*			

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