

Warwickshire Pension Fund and the Breaches Process

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What do we mean when we say *'breach'*

- *'an act of breaking or failing to observe a law, agreement, or code of conduct'*
- For the Local Government Pension Scheme this means a failure to do anything required under the LGPS regulations, framework or any other overriding legislation

Pensions Act 2004

Duty to report breaches of the law:

1. **A trustee or manager of an occupational or personal pension scheme;**
2. A person who is otherwise involved in the administration of such a scheme;
3. **The employer in relation to an occupational pension scheme;**
4. A professional adviser in relation to such a scheme;
5. A person who is otherwise involved in advising the trustees or managers of an occupational or personal pension scheme in relation to the scheme

Pensions Act 2004

Where the person has reasonable cause to believe that:

1. 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

2. 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.

What does *material significance* mean?

The Pension Regulator decision tree suggests the following measurements to determine the materiality of any breach:

CAUSE

e.g. dishonesty, poor governance, incomplete or inaccurate information, acting or failing to act in contravention of the law;

EFFECT

e.g. does the nature of the breach lead to an increased likelihood of further material breaches. Is it likely to cause, for example; ineffective internal controls, lack of knowledge and understanding, inaccurate records, potential for further breaches occurring;

REACTION

e.g. taking prompt and effective action to resolve a breach, notifying scheme members where appropriate;

WIDER IMPLICATIONS

e.g. where lack of knowledge or a poor system has caused the breach, will it lead to further breaches

Pensions Regulator Actions

August 2019

- Anonymous employer eventually fined **£350,000** for failing to fully comply with its pension duties
- Initial escalating penalty notice of £5,000 for not enrolling qualifying employees into pension scheme was ignored and grew to £350,000
- Employer required to pay the back dated pension contributions by a specified date

Pensions Regulator Actions

September 2015

- An LGPS fund were unable to issue annual benefit statements due to poor member data (statements must be issued by 31st August)
- Led to an improvement notice issued by the regulator in 2018 with a fine applicable if prescribed steps were not followed
- ***Highlights how vital accurate and up to date member information is***

Pensions Regulator Actions

- From July to September 2020, the number of warnings issued to employers by the regulator for failing to pay contributions increased by **200%**
- The warnings require all back dated contributions to be paid by a certain date to prevent further action by the regulator

WPF Breaches Policy

- The Warwickshire Pension Fund Breaches Policy can be viewed on our website (<https://warwickshirepensionfund.org.uk/>)
- The website also lists the monthly **amber**, **green** and **red** breaches for the fund on the **Breaches Log**

How WPF record breaches

- **Red Amber Green** (RAG)
- Breaches are recorded across the whole fund and monitored to check for repeated cases
- Combined breaches can raise material significance as it can be a sign of systematic failures or lack of awareness of responsibilities.
- ***Recording breaches*** is not the same as ***reporting breaches***


Most Frequent Breach

The most frequently recorded breach for WPF is in relation to the late monthly payment of employee and employer contributions to the fund

This encompasses:

1. Submission of an accurate Monthly Contribution Reconciliation (MCR) form that reflects the actual payment to the fund by the 19th of each month
2. Payment of the contributions to the fund by the 19th of each month
3. It is essential that total on the MCR is the same as the payment made to the fund

How we can help

- Admin Strategy - details the statutory requirements of the scheme employers
- i-Connect  i-Connect
- Member self service
- Training requirements
- Pensions regulator provides a framework for good governance to make clear the responsibilities of administrators and employers

Any Questions?

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Useful Links

- www.warwickshirepensionfund.gov.uk
- <https://www.thepensionsregulator.gov.uk/en>
- <https://lgpsregs.org/>
- <https://www.lgpsmember.org/>