

**REPORT TO: PENSION SUB-COMMITTEE OF THE CITY GOVERNANCE COMMITTEE
& PENSION BOARD – 22 SEPTEMBER 2025**

REPORT ON: BREACHES OF LAW POLICY

REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES

REPORT NO: 261-2025

1 PURPOSE OF REPORT

This report sets out the Fund's policy in respect of reporting breaches of the law to The Pensions Regulator.

2 RECOMMENDATIONS

Members are asked to approve the policy contained within.

3 FINANCIAL IMPLICATIONS

There are no financial implications.

4 BACKGROUND

As part of a review of compliance with the Pensions Regulators Revised Code, Isio recommended development of a policy which set out the treatment of breaches in the law.

5 POLICY IMPLICATIONS

This report has been subject to the Pre-IIA Screening Tool and does not make any recommendations for change to strategy, policy, procedures, services or funding and so has not been subject to an Integrated Impact Assessment. An appropriate senior manager has reviewed and agreed with this assessment.

6 CONSULTATIONS

The Chief Executive and Head of Democratic and Legal Services have been consulted in the preparation of this report.

7 BACKGROUND PAPERS

None

PAUL THOMSON
EXECUTIVE DIRECTOR OF CORPORATE SERVICES
2025 **30 SEPTEMBER**



BREACHES OF LAW POLICY

2025-26

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Introduction

When a legal requirement is not met, it is essential that we respond appropriately and in full compliance with our obligations. To support this, we have established a Breaches of Law Policy.

This policy is communicated to both our internal teams and external employers, making it clear that any deviation from expected legal or procedural standards must be reported without delay.

In the event of a suspected breach, the Systems / Process Analyst (Pensions) should be notified via email. Upon receiving the report, they will engage the Pension Scheme Manager and any other relevant officers (depending on the nature and context of the issue) to investigate the matter in accordance with The Pensions Regulator's (TPR) guidance. This includes applying TPR's traffic light framework to assess the severity and implications of the breach. Where appropriate, updates will be provided to the Pension Board and the Pensions Committee.

Background

In April 2015 TPR published Code of Practice no 14 (the Code) concerning the governance and administration of public service pension schemes. This code also covered breaches of the law, supplementing the Pensions Act 2004. There are various other laws relating to the Local Government Pension Scheme, with a range of people having a statutory duty to report material breaches of the law to the Regulator. To assist with this, the Code states that a procedure should be established to ensure that those with a responsibility to make reports are able to meet their legal obligations. This document is that procedure, which relates to all Tayside Pension Fund (TPF) areas of operation.

As part of TPF's commitment to responsible governance and transparent operations, this document outlines the Fund's policy and procedures for identifying, monitoring, and, where necessary, reporting breaches of the law. This policy will be reviewed by the Fund at least annually to ensure it remains effective and up to date.

The Fund is committed to monitoring all breaches of law and will allocate appropriate resources to support the effective management and administration of this process. Responsibility for overseeing and implementing the Breaches of Law Policy rests with the Pension Scheme Manager. The introduction of this policy provides the Fund with an additional mechanism to mitigate risk and detect any potential misconduct at an early stage. It also offers a valuable opportunity to learn from incidents, enabling continuous improvement of processes in areas where breaches have occurred.

What constitutes a breach of law?

A breach of the law occurs when a legal obligation is not, or has not been, fulfilled. Such breaches may arise across various aspects of Fund management and administration, including but not limited to:

- Failure to comply with overarching legislation, statutory guidance, or codes of practice.
- Inadequate maintenance of accurate records.
- Failure to act upon identified fraudulent acts or omissions.
- Employers failing to remit member or employer contributions within the required timeframe.
- Inaccurate or delayed payment of member benefits.
- Failure to issue annual benefit statements within the statutory deadline.
- Non-compliance with the Fund's internal policies, such as the Funding Strategy Statement or the Pension Administration Strategy.

Responsibility for Reporting Breaches

All individuals and entities involved in the management and oversight of the Fund share a collective responsibility to proactively identify, manage, and report any breaches of the law, whether they have occurred or are likely to occur. This includes:

- Members of the Pensions Committee
- Members of the Pension Board
- Scheme Managers and other Fund officers
- Participating employers
- Professional advisers, including auditors, actuaries, legal advisers, and fund managers
- Any person who is otherwise involved in advising the managers of the scheme.

How are records of breaches of law maintained?

All breaches or suspected breaches of the law will be recorded in the Fund's Breaches of Law Log, which is maintained by the Systems / Process Analyst (Pensions). This log will include all breaches, regardless of whether they are ultimately deemed material to The Pensions Regulator (TPR). Recording all breaches ensures that patterns of repeated non-material breaches can be identified and escalated if they become material over time. It also supports continuous improvement by highlighting areas where process enhancements or additional controls may be required.

The log will be maintained using a traffic light framework, developed in line with TPR's guidance, to help assess the severity and urgency of each breach. It will be stored centrally within SharePoint to ensure secure and consistent access.

Key Responsibilities and Processes

1. Investigating Breaches

All reported and likely breaches must be investigated. The Systems / Process Analyst (Pensions) is the first point of contact for potential breaches.

2. Corrective Action

If a breach is confirmed, an action plan must be developed and implemented to:

- Correct the breach.
- Prevent recurrence of similar breaches.

3. Reporting

Routine Reporting: Updates to the breaches log are reported at the next Pensions Committee and Pension Board meetings.

Urgent Reporting: If meetings are more than 30 days away, consultation must be conducted with:

- Chairs of the Pensions Committee and Pension Board.
- Executive Director of Corporate Services and Head of Corporate Finance

4. Annual Reporting

All material breaches must be included in the Fund's annual report.

Determining Materiality of a Breach (TPR Guidance)

Assessment and Escalation of Breaches

The materiality and significance of a breach will be assessed by considering four key factors, as detailed below. Detailed guidance on how each of these factors is evaluated is provided in Appendix A.

In the first instance, the Pension Scheme Manager will serve as the primary point of contact for determining whether a breach should be reported to The Pensions Regulator (TPR). Where cases are

more complex, they may be escalated for further review to the Executive Director of Corporate Services, and if required, the Chair of both Pension Sub-Committee and Pension Board.

Breaches vary in urgency. For example, an imminent fraud would require immediate attention, whereas other breaches may be less time sensitive. Non-urgent but material breaches should, wherever feasible, be reported to TPR within 30 working days of confirmation. Breaches assessed as non-material should still be recorded within the same timeframe.

Certain breaches are so serious that they must always be reported. For instance, theft of funds by any individual involved in the administration or management of the Fund constitutes a reportable breach. While it is not always possible to define every instance that warrants mandatory reporting, a useful test is: Could the breach reasonably result in criminal prosecution or cause serious damage to public confidence?

Factors for consideration:

- **Cause:** e.g., dishonesty, poor governance, deliberate legal breaches, incomplete or inaccurate advice.

When assessing whether a breach is of material significance, those responsible should take into account any other breaches, both reported and unreported, of which they are aware. However, historical breaches should be evaluated with caution, particularly where remedial actions have been implemented to address previously identified issues.

A breach is unlikely to be considered materially significant if it results from an isolated incident, such as initial challenges associated with the implementation of a new system or procedure, or from an unusual or unforeseeable set of circumstances. Nevertheless, it remains important to assess the broader impact of the breach. Repeated isolated incidents may signal underlying systemic weaknesses within the scheme and should therefore be carefully scrutinised.

- **Effect:** e.g., conflicts of interest, inaccurate benefit information, asset misappropriation.
- **Reaction:** e.g., delayed or ineffective corrective action.
- **Wider Implications:** e.g., likelihood of similar future breaches.
- **Note:** Not all breaches are reportable. If prompt and effective corrective action is taken, TPR may not consider the breach material.

Special Cases:

If the breach involves theft, fraud, or serious offences, and reporting internally may compromise investigations, report directly to TPR (and other agencies if applicable), without delay.

Reporting a breach of law to TPR

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 that they carry out checks to establish whether or not a breach has in fact occurred. Where the reporter does not know the facts or events around the suspected breach, it will usually be appropriate to consult senior officers within TPF in the first instance regarding what has happened. The procedure set out below will be followed for all suspected breaches of the law identified within or brought to the attention of TPF Management who will log the breach and undertake investigation as to materiality.

A material breach of law must be notified to TPR as soon as reasonably practicable and no later than one month after becoming aware of the breach or likely breach. Where it is considered that a breach is of such significance that TPR is required to intervene as a matter of urgency (for example, serious fraud) the matter should be brought to the attention of TPR and other agencies (if applicable), immediately.

Reports must be submitted in writing and can be sent by post or electronically, including by email. Wherever possible reporters should use the standard format available via the Exchange online service on the regulator's website: <http://www.thepensionsregulator.gov.uk/trustees/exchange.aspx>

The report should be dated and include as a minimum:

- Full name of the Fund.
- Description of the breach or breaches.
- Any relevant dates.
- Name of the employer (where known).
- Name, position and contact details of the reporter, and
- Role of the reporter in relation to the Fund.
- Additional information that would help the regulator, including
- includes:
 - The reason the breach is thought to be of material significance to the regulator.
 - The address of the Fund.
 - The contact details of the Fund (if different to the Fund address).
 - The Fund's registry number (if available), and
 - Whether the concern has been reported before.

The report should clearly indicate the seriousness of any breach by marking the submission as urgent where appropriate. It is the responsibility of the reporter to ensure that an acknowledgement of receipt is obtained for any report submitted. The Pensions Regulator (TPR) will acknowledge all reports within five working days of receipt.

Routine updates on the progress of a report are not typically provided, unless TPR requires additional information to support its regulatory functions.

In instances where dishonesty or other serious misconduct is suspected, reporters should, wherever possible, refrain from conducting checks or inquiries that could alert the individuals involved or compromise any potential investigation.

Whistleblowing

Under the Pensions Act 2004, there is a statutory obligation to report breaches of the law. In certain circumstances, this duty may require an employee of the Fund to make a whistle-blowing disclosure.

The Act makes it clear that this statutory duty to report overrides any other obligations, including those related to confidentiality. Making a report in accordance with this duty does not constitute a breach of any such obligations.

Dundee City Council has its own whistleblowing policy. The Council's whistleblowing arrangements are managed by Corporate Fraud and Internal Audit. Any concerns can be reported at <https://www.dundee.gov.uk/service-area/corporate-services/corporate-finance/whistleblowing-report-of-suspected-wrongdoing>

In fulfilling its responsibilities under this Breaches of Law Policy, the Fund will ensure full compliance with the Employment Rights Act 1996, thereby safeguarding any employee who makes a whistle-blowing disclosure to TPR.

The duty to report however, does not override legal privilege. This means that oral and written communications between the Fund, the Pensions Committee or Pension Board, and a professional legal adviser remain protected and are not subject to disclosure.