

	<h2>Pension Fund Committee</h2> <h3>24 October 2017</h3>
<p style="text-align: center;">Title</p>	<p>Barnet Council Pension Fund – Policy for Reporting Breaches of the Law</p>
<p style="text-align: center;">Report of</p>	<p>Director of Resources</p>
<p style="text-align: center;">Wards</p>	<p>n/a</p>
<p style="text-align: center;">Status</p>	<p>Public</p>
<p style="text-align: center;">Urgent</p>	<p>No</p>
<p style="text-align: center;">Key</p>	<p>No</p>
<p style="text-align: center;">Enclosures</p>	<p>Appendix A – Breaches Policy</p>
<p style="text-align: center;">Officer Contact Details</p>	<p>George Bruce, Head of Treasury, CSG george.bruce@barnet.gov.uk - 0208 359 7126</p>

<h2>Summary</h2>
<p>Certain people, including Members of the Pension Committee and Local Pension Board, relevant officers and advisors, are required to report breaches of the law to the Pension Regulator where they have reasonable cause to believe that:</p> <ul style="list-style-type: none"> a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with; and the failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions <p>The Administering Authority is required to make those with a reporting duty aware of their responsibility and provide guidance. This is the purpose of the breaches policy.</p>

<h2>Recommendations</h2>
<ul style="list-style-type: none"> i. That the committee approves the attached policy for reporting breaches of the law. ii. That the policy is made available to all those involved in the management and administration of the scheme.

1. WHY THIS REPORT IS NEEDED

- 1.1 Acting in its capacity as Administering Authority to the Barnet Pension Fund, it is the responsibility of London Borough of Barnet Council to ensure that the Pension Fund complies with legislation and effectively manages the Fund's financial affairs.
- 1.2 The Pensions Act 2004 requires specified individuals to make reports to the Pensions Regulator when they reasonably believe that a breach of the law of material significance to the Regulator has occurred.
- 1.3 The Pension Regulator's code of practice 14 (paragraphs 241 to 275) sets out:
 - Who has responsibility for reporting breaches,
 - The process that should be established to aid reporting,
 - Judging whether a breach is reportable,
 - How to submit a report,
 - Protection for whistleblowing.
- 1.4 The attached breaches policy is based on the provisions of the code of practice. It is designed to inform those involved in the management and administration of the scheme of their legal responsibilities and give practical guidance on carrying out their responsibilities.
- 1.5 The policy should be made available to all those with a reporting responsibility. Part of the policy is the maintenance of a register of breaches that should be presented to both the Pension Fund Committee and Local Pension Board.

2. REASONS FOR RECOMMENDATIONS

- 2.1 The requirement to report breaches of the law is a legal requirement and the absence of guidance makes it likely that this requirement will be either overlooked or breaches will not be brought to the attention of the Pension Fund Committee or Local Pension Board.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 Continuing as present without a breaches policy runs the risk of censure from the Pensions Regulator.

4. POST DECISION IMPLEMENTATION

- 4.1 The Director of Resources will carry out any actions considered necessary.

5. IMPLICATIONS OF DECISION

- 5.1 **Corporate Priorities and Performance**

5.1.1 Compliance with the Council's legal duties will minimise the risk of fines and poor publicity.

5.2 **Resources (Finance and Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 There are no direct resources issues for the council.

5.3 **Social Value**

5.3.1 The Public Services (Social Value) Act came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.

5.3.2 Before they start the procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

5.3.3 The Act is a tool to help commissioners get more value for money out of procurement. It also encourages commissioners to talk to their local provider market or community to design better services, often finding new and innovative solutions to difficult problems.

5.3.4 There are no specific social value issues arising out of this report, however membership of the Pension Fund ensures the long term financial health of contributing employees on retirement.

5.4 **Legal and Constitutional References**

5.4.1 Section 70(2) of the Pensions Act 2004 sets out the duty to report breaches of the law to the Pensions Regulator. The Pension Regulator's code of practice 14 provides guidance on the reporting of breaches. The attached policy is consistent with the law and the code of practice.

5.4.2 There is no specific reference in the constitution to a reporting policy on breaches of the law. The fall back provision is "To determine the appropriate course of action on any matter not specifically listed above that pertains to the leadership and/or strategic management of the Pension Fund, in particular any matter which could materially affect its financial performance or long-term standing." Failure to follow the law could have material financial implications.

5.5 **Risk Management**

5.5.1 Risk management is central to the Local Government Pension Scheme (LGPS). LGPS pension funds are in themselves risk management tools, managing the risk that future employer income streams will be able to meet future pensions liabilities by creating a reserve from which future liabilities will be met.

5.5.2 A major risk faced by pension schemes is poor governance. Awareness of legal responsibilities is vital for all those involved in managing and

administering the pension scheme.

5.6 Equalities and Diversity

5.6.1 Pursuant to the Equalities Act 2010, the Council is under an obligation to have due regard to eliminating unlawful discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; advancing equality of opportunity between persons who share a relevant 'protected characteristic' and those who do not share it; and fostering good relations between persons who share a relevant 'protected characteristic' and persons who do not share it. The 'protected characteristics' are: age, disability, gender reassignment, pregnancy, and maternity, race, religion or belief, sex and sexual orientation.

5.6.2 The rules governing admission to and participation in the Pension Fund are in keeping with the public sector equality duty. The Public Sector Equality Duty requires public authorities in carrying out their functions, to have due regard to the need to achieve the objectives set out under s149 of the Equality Act 2010. Good governance arrangements and monitoring of the Pension Fund's managers will benefit everyone who contributes to the fund.

5.7 Consultation and Engagement

5.7.1 The proposed breaches policy has been shared with the pension administration team. Most breaches arise from the administration of benefits.

5.8 Insight

5.8.1 Not applicable

6. BACKGROUND PAPERS

6.1 None