

BREACHES REPORT 2020/21

Report of the County Treasurer

Please note that the following recommendations are subject to consideration and determination by the Board before taking effect.

Recommendation: the Board notes the report.

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### **1. INTRODUCTION**

- 1.1 The Pensions Act 2004 imposes a requirement to report a breach of the law to The Pensions Regulator as soon as is reasonably practicable.
- 1.2 This requirement applies to all individuals with a role in the LGPS (including members of the Local Pension Board, Investment and Pension Fund Committee and officers) who have a duty to report breaches of the law when they have reasonable cause to believe that a breach has occurred.

### **2. BREACHES LOG**

- 2.1. The Pensions Regulator is responsible for the oversight of public sector pension schemes. Codes of Practice issued by The Pensions Regulator include practical guidance and set out expected standards and best practice in reporting breaches of material significance.
- 2.2. Peninsula Pensions' Breaches Policy and procedures have been designed to comply with the guidance provided by the Pensions Regulator and to ensure that Devon Pension Fund follows best practice in this area.
- 2.3. A breach is likely to be of material significance to the Regulator where it was caused by:
  - acting, or failing to act, in deliberate contravention of the law;
  - dishonesty;
  - incomplete or inaccurate advice;
  - poor administration;
  - poor governance;
  - slow or inappropriate decision-making practices.
- 2.4. Breaches that are determined not to be of material significance to the Regulator will not be reported but must still be recorded in the Breaches Log.

- 2.5. The Breaches Log for 2020/21 is attached at Appendix 1 to this report. Members should note that the 3 breaches recorded are considered not to be of material significance to The Pensions Regulator and therefore have not been reported.

### **3. CONCLUSION**

- 3.1 The Board is asked to note the report.

Mary Davis  
County Treasurer

[Electoral Divisions: All]

**LOCAL GOVERNMENT ACT 1972:**  
**LIST OF BACKGROUND PAPERS: NIL**  
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## Record of Breaches 2020-21

| Date     | Category (e.g. administration/contributions/funding/investment/criminal activity)                                                                                                      | Description and cause of breach (include relevant scheme details i.e. Devcon LGPS/Someset LGPS - NB DSFRS / GRS / ASP are all advised of breaches to considering/reporting on their own scheme manager breach log)                                                                                                                                                                                                                                                                                                                   | Possible effect of breach and wider implications                                                                                                                                                                                                                                                                                                                                                                                                                                        | Reaction of relevant parties to breach                                                                              | Reported/Not reported (with justification if not reported and dates)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Traffic light system colour                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Outcome of report and/or investigations | Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Comments |
|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| Aug-2021 | LGPS Administration<br>Deferred Member Annual Benefit Statements due to be issued by 31st August 2021:<br>Deferred Members: 41,440<br>Undecided Leaver Members: 2,191<br>TOTAL: 43,631 | A total of 3,730 Annual Benefit Statements were not issued by the 31/08/2021 deadline for non-active members.<br>This figure consists of the following:<br>Status 4 (deferred members): 0<br>Status 2 (Undecided leaver): 3,730                                                                                                                                                                                                                                                                                                      | The member has been unable to check:<br><ul style="list-style-type: none"> <li>personal data is complete and accurate</li> <li>correct contributions have been credited</li> <li>what their pension may be at retirement</li> </ul>                                                                                                                                                                                                                                                     | n/a                                                                                                                 | Not reported<br>Annual Benefit statements for all Status 4 records (deferred members) were issued either electronically or by post by the 31st August 2021 deadline.<br>Statements were uploaded via our online Member Self Service portal for any member that we do not hold a current address for. We are working with a tracing company to attempt to locate members with missing or incorrect addresses.<br>Pensions is unable to issue Annual Benefit Statements for Status 2 records (undecided leaver). For these cases, the member has left employment but is undecided as to the action that they want to take with regard to their pension benefits or there may be information outstanding from the employer. We are working with employers to introduce monthly interfacing, which should reduce the number of Status 2 records.<br>Deferred members and undecided leavers are not covered by The Pensions Regulator and therefore do not constitute a breach.                                                                                                                                              | A failure by some participating employers to act in accordance with scheme procedures.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | n/a                                     | 1) Address tracing company appointed to locate members with missing/incorrect address information - in progress and ongoing.<br>2) MSS updated with improved address functionality which will improve data quality - completed August 2021.<br>3) Employers are in the process of completing a historic data sign off exercise. Once completed, the employer will move to monthly data submissions which will help to reduce the number of Status 2 records - in progress. Target date for completion - 31/03/2022 |          |
| Aug-2021 | LGPS Administration<br>Active Member Annual Benefit Statements due to be issued by 31st August 2020: 36,643                                                                            | A total of 10 Annual Benefit Statements were not issued by the deadline for active members.                                                                                                                                                                                                                                                                                                                                                                                                                                          | The member has been unable to check:<br><ul style="list-style-type: none"> <li>personal data is complete and accurate</li> <li>correct contributions have been credited</li> <li>what their pension may be at retirement</li> </ul>                                                                                                                                                                                                                                                     | A letter was sent to all scheme members that we were unable to provide an ABS explaining why this was not possible. | Not reported.<br>Less than 0.03% of ABS were not issued.<br>The 10 statements that have not been issued are all in respect of members pending a TUPE transfer where data is outstanding.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Peninsula Pensions was unable to issue an Annual Benefit Statement to 10 members as the transfer which has not yet been completed and data is outstanding.<br>The 10 members have been contacted to explain the reasons why they have not been able to provide an ABS.                                                                                                                                                                                                                                                                                                                                                | n/a                                     | Peninsula Pensions is working with the employers involved in the TUPE process. Statements will be provided to members once the process is completed.                                                                                                                                                                                                                                                                                                                                                               |          |
| Ongoing  | LGPS Administration                                                                                                                                                                    | When considered against the Disclosure of Information Regulation, a total of 952 cases were overdue for action as at 31/03/21, as set out below:<br>High Priority Cases (13)<br>Retirements (Preserved Benefit): 13<br>Medium Priority Cases (762)<br>Amalgamations: 305<br>Deferred: 431<br>Divorce: 1<br>Estimates (Member): 22<br>Estimates (Employer): 1<br>General: 9<br>Low Priority Cases (170)<br>Estimates (Other): 57<br>Interfund In: 6<br>Interfund Out: 2<br>Pension Top Up: 1<br>Transfer-Ins: 13<br>Transfer Outs: 91 | The bulk of outstanding cases are in respect of amalgamations (305) and deferred cases (431). These delays mean that affected members will not be able to check:<br><ul style="list-style-type: none"> <li>personal data is complete and accurate</li> <li>correct contributions have been credited</li> <li>what their pension may be at retirement</li> </ul> Each of the 13 High Priority Cases were processed within a month of the Disclosure of Information Regulations deadline. |                                                                                                                     | Not reported.<br>The number of cases outstanding has reduced significantly following the restructure of the service in 2018, although the team has experienced an increase in work volumes during the pandemic. A continuous improvement approach has been implemented to our processes, which are regularly reviewed to ensure they are as effective and efficient as possible.<br>Team performance is reported internally on a weekly basis and presented to the Pension Board and management team on a regular basis.<br>The Pensions Regulator has confirmed that administrators should focus their efforts on the following key areas during the lockdown restrictions resulting from COVID-19:<br><ul style="list-style-type: none"> <li>benefits need to be paid</li> <li>the risk of scams needs to be minimised</li> <li>employees need to continue contributing</li> <li>savers need support to make good decisions in these challenging circumstances</li> <li>some administrative breaches of the law may occur and we will maintain a proportionate and fair approach to any action we may take</li> </ul> | Peninsula Pensions is tackling the priorities as set out by The Pensions Regulator during COVID-19. We are also continuing with actions set out in the Service Improvement Plan including employer training & communications, staff training, revised procedures, implementation of technological solutions (enhanced member self-service, enhancements to employer self-service, employer interfaces, immediate payments, enhanced reporting, etc.) We have also taken measures to ensure that the team has been able to adapt to the new ways of working resulting from the pandemic and operate business as usual. | n/a                                     | Peninsula Pensions is working with the employers involved in the TUPE process. Statements will be provided to members once the process is completed.                                                                                                                                                                                                                                                                                                                                                               |          |