

Reporting breaches of the law to the Pensions Regulator

HAVERING Council Pension Fund

STAFF/MEMBER BRIEFING

1. HAVERING Council, as Administering Authority of the Fund, and all Employers that participate in the Fund, are under a legal obligation from 6 April 2005 to consider making a report to the Pensions Regulator if they become aware that there has been a breach of the legal requirements that govern the Fund. Failure to report when required to do so is a civil offence which can result in a fine on the persons who fail to report.
2. All potential breaches which are identified within Havering should be notified to Chief Finance Officer (CFO) or in his absence to Head of Internal Shared Services. This must be done without delay (i.e. normally within 24 hours) and irrespective of how minor the breach may seem.

The exception to this is a situation where you suspect that a senior officer of the Council, a Councillor or CFO has acted dishonestly or has knowingly been involved in a breach. In such a situation you must consider whether it would be better not to notify CFO but instead to notify another senior individual within Havering Council who you can be confident is independent of the person who has committed the breach e.g. Monitoring Officer. Alternatively you should consider approaching the Pensions Regulator direct. Go to the Pensions Regulator website for various ways of contacting them at www.thepensionsregulator.gov.uk.

3. Examples of breaches could be failures in the following areas:

In relation to protecting members' benefits:

- Substantially the right money is paid into the scheme at the right time.
- Assets are appropriately safeguarded.
- Payments out of the scheme are legitimate and timely.
- The fund is complying with any legal requirements on scheme funding which apply to the LGPS.
- The Administering Authority is properly considering the investment policy, and investing in accordance with it.
- Contributions in respect of money purchase AVCs are correctly allocated and invested.

In relation to promoting good administration:

- Schemes are administered properly and appropriate records maintained.
 - Members receive accurate, clear and impartial information without delay.
4. CFO will consider what action to take when she is notified of any breach. In making a decision she will comply with Code of Practice No 1 issued by the Pensions Regulator and will consult with any relevant parties.
 5. A breach includes not only breaches of pensions law, but also infringements of the Local Government Pension Scheme regulations or evidence of dishonesty or

improper conduct by the Administering Authority or an employer in relation to the Fund. For example, if someone has acted in a way which appears unfair or wrong to a reasonable and objective person, then a breach may have taken place.

6. You are not expected to be an expert on all aspects of the Local Government Pension Scheme regulations or of pensions law, but you are expected to be alert to obvious breaches and those that occur within your area of knowledge. Within Havering Council, individuals who work in certain roles are expected to be familiar with the relevant legal requirements and hence to be able to identify when a breach has occurred. These are listed in the Appendix.
7. If you are in any doubt as to how to proceed, you should contact the CFO. Havering Council would prefer you to err on the cautious side and notify the CFO if you have any doubt as to whether a breach has been committed.
8. Havering Council will not tolerate any victimisation of, or discrimination against, employees who decide to notify an incident to CFO. However, wilful failure to notify a breach may be regarded as gross misconduct.

Appendix – Specialist areas

Area of work / job title	Expected to be aware of:
Pensions Section	All aspects of the Local Government Pension Scheme regulations and pensions law applicable to the LGPS, and the Administering Authority's responsibilities (in detail)
Pension Committee members	All aspects of pensions law applicable to the LGPS and Administering Authority responsibilities (in outline)
Senior Council Officers, Legal and Finance Departments	High level understanding of Administering Authority's and employers' duties in relation to the Fund
Senior officers	High level understanding of employers' duties in relation to the Fund
Employer Finance and Payroll functions	Deadlines for making contributions to the Fund (including employer contributions, employee contributions and AVCs)
Employer HR functions	Deadlines for providing information on the Fund to members, potential members and beneficiaries