



12 February 2026

Agenda Item: 8

## **REPORT OF THE SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE AND IMPROVEMENT**

### **BREACHES POLICY AND UPDATE ON NEW ITEMS ADDED TO THE BREACHES LOG**

#### **Purpose of the Report**

1. The report asks members to approve the updated Breaches Policy (**Appendix A**) and note the update on items recorded in the Breaches Log.

#### **Information**

##### ***Breaches Policy***

2. Nottinghamshire Pension Fund has a Breaches Policy which sets out its arrangements for recording and reporting breaches of the law. It also sets out the responsibilities of different parties in respect of breaches of the law.
3. A breach may take one of the following forms:
  - Non-compliance under the Local Government Pension Scheme Regulations
  - A breach under pensions law as defined within section 13 of the Pensions Act 2004
  - A breach of the Pension Regulator's General Code of Practice
4. Pension Funds must record all breaches of the law on their own breaches log. They must also report materially significant breaches to the Pensions Regulator.
5. Responsibility to report identified breaches of the law falls on the following:
  - Members of Nottinghamshire Pension Fund Committee
  - Members and officers of the council acting as Scheme Manager
  - Members of the Local Pensions Board
  - Scheme employers
  - Professional advisers
  - Third party providers
6. The Fund's policy applies only to members of Nottinghamshire Pension Fund Committee, the Local Pensions Board and officers and members of the council. Other reporters must ensure

they have their own policies and procedures in place to identify, assess, and, where necessary, report breaches.

7. Nottinghamshire Pension Fund Committee last reviewed the Breaches Policy in November 2024. The draft updated Breaches Policy is attached as **Appendix A** to this report. No material changes to the current policy are proposed, however the following amendments/clarifications have been made:

- Review cycle updated

The proposed policy includes an updated review period. The previous version listed the policy for annual review; the proposed wording in the draft would revise the review period to at least once every three years in line with other Pension Fund strategy documents. This would not prevent reviews being undertaken in the intervening period as required.

- Clarification within the main document about the purpose of Appendix A

Appendix A of the policy gives examples of breaches that would need adding to the council's breaches log. It includes considerations for deciding whether these breaches would also need reporting to the Pensions Regulator. This was previously included as part of the policy, but without explanation or any reference made to it in the main document.

- Updated arrangements for advising members of Nottinghamshire Pension Fund Committee and the Local Pensions Board of any significant breaches or likely breaches that require reporting to the Pensions Regulator

The current iteration of the policy states that where a significant, reportable material breach is identified, it will be reported to Nottinghamshire Pension Fund Committee and the Local Pensions Board within one month of the breach, or possible breach, being identified. The revised wording proposes that in respect of a reportable breach, members are notified by email within one week of the breach (or possible breach) being reported. This will be followed up with a formal report to the next meeting of the committee and the board. The revised wording is proposed to accommodate the cycle of meetings for both Nottinghamshire Pension Fund Committee and the Local Pensions Board, where there may not be a meeting within the original one-month time period.

No changes are proposed to the process for reporting non-reportable breaches to Nottinghamshire Pension Fund Committee and the Local Pensions Board.

- Addition of Appendix B

Appendix B is a form which has been added to the document, to help officers identify and assess breaches, and to support the Section 151 and Monitoring Officer in considering those breaches. Completing the template should also assist the Fund in the event that there is a breach, or possible breach, that must be reported.

## ***Additions to the Breaches Log***

8. Within the scheme year to date, two items have been added to the Fund's Breaches Log. The first matter was not a breach but had the potential to become one. The other was not considered materially significant and so was not reported to the Pensions Regulator.

### *McCloud rectification determination*

9. While not a breach, the first item that was added related to the McCloud rectification determination. As was reported to Nottinghamshire Pension Fund Committee at its meeting on 24 July 2025 (following consultation with the Local Pensions Board), initial plans targeted full rectification for active and deferred scheme members by 31 August 2025 in line with government guidance. Several developments prompted a reassessment of the timeline.
10. Under both the Public Service Pensions Act 2013 and the Local Government Pension Scheme (Information) Regulations 2024, Fund administrators could, in specific cases, make a determination allowing the extension of the McCloud implementation phase to 31 August 2026. The legislation applied to either active or deferred scheme members due an annual benefit statement under the 2013 Regulations and allowed for flexibility to not reflect McCloud in scheme members' annual statement until 31 August 2026,
11. The item was added to the breaches log because it had the potential to be a breach, but this was remedied by the decision taken by committee on 24 July 2025.

### *Annual Benefit Statements*

12. Committee members will recall from the administration performance report, which was presented at its meeting on 13 November 2025, that the Fund was not able to issue all Annual Benefit Statements by the statutory deadline of 31 August 2025. The breach was assessed as amber, prompting work to assess the extent of the breach, the causes of the breach, actions taken to resolve the breach and its impact, following which the rating was reclassified as green.
13. By 31 August 2025, the fund had issued annual benefit statements to 91% of active members and 83% of deferred members. The reasons for non-production production were:
  - Lost contact/missing addresses (deferred 15%, active 2%)
  - Data outstanding from employers or subject to late response being received in respect of queries issued to employers
  - Active processes preventing a statement from being produced (i.e. where the member is in the process of retiring)
14. Since the largest proportion of the statements that were not issued were the result of 'gone aways' the Fund has taken steps to improve its data. At the Nottinghamshire Pension Fund Committee meeting on 25 September 2025, members agreed to the Fund engaging a partner for mortality screening and address verification.
15. At the end of September 2025, there was a further run of benefit statements for deferred members, meaning 85% of deferred members received a statement for the scheme year ending 31 March 2025. This was followed by a further run of annual benefit statements for

active members, following which 92% of active members received a statement for the scheme year ending 31 March 2025.

### **Other Options Considered**

16. It is important the Fund has a Breaches Policy so that all parties' responsibilities, together with the Fund's procedures are clear. Revising the Breaches Policy could have been deferred pending the appointment of the Senior LGPS Officer. This was rejected since there were related matters that needed bringing to members' attention and it was considered timely to bring the policy for refresh in conjunction with those items.

### **Reasons for Recommendations**

17. Funds need to ensure that arrangements are in place to identify, investigate, manage and, where necessary, report breaches of law and Regulation. The Fund sets out its arrangements in its Breaches Policy.

18. As part of the Fund's arrangements for managing breaches, reports should be provided to Nottinghamshire Pension Fund Committee and the Local Pensions Board on any breaches, or potential breaches, that have been identified.

### **Statutory and Policy Implications**

19. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

20. There are no financial implications arising as a direct result of this report. It is possible that individual breaches could carry financial implications. If a Fund fails to report material breaches to the Pensions Regulator, there is a risk that it could be subject to a civil penalty.

### **Legal Implications**

21. Section 70 of the Pensions Act 2004 imposes a requirement on named groups to submit a written report to the Pensions Regulator where anyone from those groups has reasonable cause to believe:

- a. 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, and
- b. The failure to comply is likely to be of material significance to the Regulator in the exercise of any of its functions

22. Section 10 of the Pensions Act 1995 (c.26) (civil penalties) applies to any person who, without reasonable excuse, fails to comply with an obligation imposed on them by this section.

## **Local Government Reorganisation Implications**

23. There are no local government reorganisation implications arising from this report.

## **RECOMMENDATIONS**

- 1) That Nottinghamshire Pension Fund Committee approves the updated Breaches Policy (**Appendix A**).
- 2) That Nottinghamshire Pension Fund Committee notes items added to the Fund's Breaches Log.

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**Service Director, Finance, Infrastructure and Improvement**

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## **Legal Comments (KK 14/01/2026)**

24. The Nottinghamshire Pension Fund Committee has delegated authority in relation to policy development and approval in relation to pensions, subject to any necessary approval by Cabinet or the Full Council. The proposals in the report are therefore within the remit of the Committee.

## **Financial Comments (TMR 13/01/2026)**

25. The financial implications are set out in paragraph 20 of the report.

## **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Pension Regulator's General Code of Practice (<https://www.thepensionsregulator.gov.uk/media/3rhduw51/general-code-of-practice.pdf>)
- Section 70, Pensions Act 2004 (<https://www.legislation.gov.uk/ukpga/2004/35/contents>)

## **Electoral Division(s) and Member(s) Affected**

- All