



Havering
L O N D O N B O R O U G H

HAVING PENSION FUND

POLICY FOR REPORTING BREACHES
OF THE LAW

Effective from December 2024

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1. Introduction

This is the Whistleblowing Policy of the London Borough of Havering Pension Fund in relation to the administration Local Government Pension Scheme (LGPS).

The policy provides guidance on the procedure for identifying, monitoring and where appropriate, reporting breached of the law.

Policy Review, Ownership and Authorisation

The Whistleblowing Policy is effective from 01 December 2024.

The administering authority will review this policy as required to reflect changes in Regulations, Governance or working practices with a full review every three years.

The policy lead is the Pension Projects and Contracts Manager. The document has been developed in consultation with the Local Pensions Board and with approval from the Pensions Committee.

If you have any questions or comments regarding the charging policy, please contact: Caroline Guyon, Pensions Projects and Contracts Manager.
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Pensions Administration

From 1 November 2017, the London Borough of Havering delegated the pension administration service to Lancashire County Council who have engaged the Local Pensions Partnership Administration (LPPA) to undertake their pension portfolio. The Local Pensions Partnership was formed in 2016 through a collaboration between Lancashire County Council and the London Pensions Fund Authority and provides pension services to the Local Government Pension Scheme, Police and Firefighter Schemes.

2. Legislative Framework

Breaches can fall into 2 categories:

- a breach of pensions law in accordance with the Pensions Act 2004 or as detailed in the Pensions Regulators General Code of Practice
- non-compliance under the Local Government Pension Scheme (LGPS) Regulations.

3. Key Objective

The key objective of the Policy for reporting breaches of the law is to document the procedure for the identification, monitoring and potential reporting of material breaches.

4. Policy Detail

What is a breach

A breach of the law is when a legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with.

It can encompass many aspects of the management or administration of the scheme including a failure to:

- perform tasks under legislation or code of practice
- maintain accurate records
- act on any breach identified
- pay relevant sums to the pension fund on time
- pay member benefits accurately
- issue annual benefits statements in line with statutory guidance

Non compliance with the LGPS regulations can encompass many aspects of the management or administration of the scheme including a failure to:

- adhere to the LGPS Regulations
- comply with the Funds policies and procedures

Responsibilities to report a breach

Responsibility to report a breach falls on the following (known as reporters):

- Elected members of the Pensions Committee
- Members of the Local Pensions Board
- Fund Officers and Senior Council Officers
- Scheme Employers
- Professional Advisers (including Fund Actuary, Investment Advisers, Legal Advisers)
- Third Party Provides (including the Local Pensions Partnership)

Requirement to report a breach of law

Breaches of the law which affect the pension fund should be considered for reporting to the Pensions Regulator.

The decision whether to report will depend on whether:

- There is reasonable cause to suspect a breach of the law
- If so, is that breach likely to be of material significant to the Regulator

It is important to recognise not every breach needs to be reported to the Regulator. For example, where it can be demonstrated that appropriate action has been taken to rectify a breach, it may not be necessary to report this to the Regulator.

All breaches, however minor and regardless of whether it is considered reportable, should be recorded in a breach log. This log will be maintained by the Pensions Projects and Contracts Manager and cases will be reported to the Local Pensions Board and Pensions Committee on an annual basis

Any potential breaches identified in connection with the Havering Pension Fund should be reported immediately. Breaches can initially be reported to either:

- The Pensions Projects and Contracts Manager
- The Assistant Director of Transactional People Services
- The Pension Fund (Finance Manager)

Any breaches identified as being of material significance to the Pensions Regulator should be reported to the Strategic Director of Resources (nominated responsible person) without delay..

Breaches reportable to the Pensions Regulator

The General Code of Practice requires that a breach should be notified to the Regulator as soon as reasonably practicable (and no later than one month after becoming aware of the breach) once there is reasonable cause to believe a breach that may be considered significant to the Regulator may have occurred.

A breach is likely to be of concern and material significance to the Regulator where a breach has been identified and those involved:

- Do not take prompt action to remedy the breach and identify and tackle its cause to minimise the risk of reoccurrence
- Are not pursuing corrective action
- Fail to notify affected scheme members where it would be appropriate to do so

It is important that the Fund and nominated responsible person are satisfied a breach has actually occurred, rather than acting upon suspicion of such an event, and robust checks should be made.

When assessing the materiality of any breach the following should be considered:

- Cause – eg dishonesty, poor governance or failing to act within the law or regulations
- Effect – eg ineffective internal controls and procedures, lack of knowledge or understanding or inaccurate data
- Reaction – eg taking prompt corrective action and notifying scheme members if applicable
- Wider implications – eg where the breach is as a result of lack of knowledge or poor processes, what steps are to be put in place to prevent a reoccurrence

It should be noted that a failure to report a material breach is in itself likely to be considered a significant breach.

Guidance within the Pensions Regulators General Code of Practice will be used to determine any identified breaches materiality and whether it must be reported.

Role of the Responsible Officer

The Responsible Officer will oversee the management and execution of this breaches policy.

The Responsible Officer will ensure:

- All identified breaches are recorded in a log, maintained by the Pensions Projects and Contracts Manager
- Investigate the circumstances of breaches of the law and ensure breaches to non compliance are reviewed by the Pensions Projects and Contracts Manager
- Where appropriate an action plan is in place to enable corrective action
- Breaches are reported to the Pensions Committee and Local Pensions Board
- All materially significant breaches are reported to the Regulator in writing either by post or electronically via the online Exchange service.

The Responsible Officer will determine whether any breach or likely breach is materially significant, having regard to the guidance set out in the Code of Practice and after consultation with parties they deem appropriate. Such parties might include Legal Services, the Pension Fund Committee, Pension Board or professional advisers.

Whistleblowing

It is a statutory duty to report breaches of the law. In rare cases this may involve a duty to whistle blow on the part of an officer of the Fund or a member of the Local Pension Board or Pensions Committee. The duty to report does not override any other duties a “reporter” may have, such as confidentiality. Any such duty is not breached by reporting to the Regulator. Given the statutory duty that exists in exercising this breaches policy, the Fund will ensure it adheres to the requirements of the Employment Rights Act 1996 in protecting an employee making a whistleblowing disclosure to the Regulator.

The duty to report, however, does not override ‘legal privilege’, so oral and written communications between the Fund, its representatives and a professional legal adviser do not have to be disclosed if they meet the principles of legal privilege.