

## Agenda Item 7 - Appendix 3

# LOCAL PENSION BOARD

## FIREFIGHTER PENSION SCHEMES



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### Firefighter Pension Scheme – Breach of Law

#### Background

On 12 May 2022 Paul Mudd from XPS notified the Brigade that a data breach had occurred on 24 April 2022 which had only just come to light when the breached member emailed them to let them know.

As outlined in the LPB Guidance Note 5 – Reporting Breaches of the Law (Appendix 1), all breaches or potential breaches of the law be reported to the Scheme Manager. The requirement to report breaches are as follows:-

*Breaches of the law which affect pension schemes should be considered for reporting to the Pensions Regulator. The decision whether to report requires two key judgements:*

- i) Is there reasonable cause to believe there has been a breach of the law?*
- ii) If so, is the breach likely to be of material significance to the Pensions Regulator?*

*Not every breach needs to be reported to the Pension Regulator but a record should be retained.*

#### Information - Reporting of Breach from XPS

1. XPS reported that whilst processing the Brigades member starter forms for January 2022 new joiners, they have accidentally transposed the address for one member onto the pension record of another.
2. The breach occurred within work they completed on the 24th April and only discovered this on 12 May 2022 when the breached member e-mailed them to let them know. He knows because the member that we mistakenly sent the data to works with the breached member and by name (they joined and went through training together), knew that the information was intended for him.
3. XP have immediately corrected the record and re-issued the details to the member.

4. Paul Mudd from XPS has spoken to and formally reported this breach internally to their group compliance team, who have deemed the risk to the rights and freedoms to this member to be very low. He has spoken to the member who received the details to explain things to him and thank him for passing the information on and ensured that he has not copied or reproduced any information.
5. The only information that was sent was an annual pension value (that which the transfer-in would provide following receipt of the Transfer Value), the name of the sending scheme, which was Aviva, the member name and a reference number, so very limited with no special category data.
6. Whilst XPS do not deem, due to the low risk referred to above, that this meets the threshold which the Information Commissioner needs to be informed, we are conscious regards the other consideration for yourselves as Data Controller, in respect of informing the scheme member, as he already knows that his member data has been breached. I have contacted the member who has acknowledged the email and is happy with the explanation and in his words “knew it would be a silly mistake with no harm done”
7. XPS has spoken to the administrator who has made the mistake resulting in the breach. They have also informed the whole team about this breach to ensure this type of error is not replicated again, emphasising the need for accuracy and care at all times.
8. XPS have discussed this and the previous breach with their compliance team to consider options available to them to embed (where possible), changes to their administration process.
9. As the data controller, it is up to the Brigade, whether you wish to self-report to the Information Commissioners Office. Whilst XPS do not believe this is required due to the above reasons, it is entirely up to the Brigade and if you do need additional information from XPS to assist here, we will obviously provide this and assist wherever we can.

## **Assessment**

Once a potential breach has been identified a determination is needed as to the materiality of the breach and the level of breach i.e. Red, Amber or Green (framework advised by the Pension Regulator)

Red breach situations are always of material significance to the Pensions Regulator and should be reported.

Amber breach situations are less clear cut depending on the context of the breach.

Green breach situations are not of material significance and do not have to be reported, but should be recorded.

Some examples of a Green Breach situation are :-

- Failure to invest contributions promptly, in accordance with scheme procedures
- Failure to pay a member's benefits correctly or in a timely manner
- Failure to provide a member with timely or correct information, for eg a cash equivalent transfer value quotation or an annual benefit statement to a member

The Scheme Manager has consulted with the Brigade's Data Protection Officer who has reviewed the case and is satisfied that this matter is of low impact and therefore does not need to be reported to the Information Commissioners office.

The Scheme Managers assessment is that this would fall into the Green Breach situation and therefore will be recorded in the Breaches Register only.

	Cause	Effect	Reaction	Wider Implications
Red				
Amber				
Green				

(using the TPR guidance comment on the four areas and score red, amber or green)

## Action

The Scheme Managers conclusion/recommendation is that:

- the breach be recorded in the LPB Register
- the breach does not need to be reported to the Information Commissioner
- that the actions resulting in this breach and the outcomes and actions from the XPS Compliance Team Meeting be discussed with XPS at the next Pensions Management Team meeting.