Department of Education
www.education-ni.gov.uk

NI Teachers' Pension Scheme

Breach Reporting Policy & Procedures

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A Breach is when an organisation fails to abide by the provisions of a particular principle, rule or rules contained in legislation with which that concern must comply. Consequently, the nature of breaches can be extremely wide and of varying significance.

NI Teachers' Pension Scheme
Reporting Breaches Policy & Procedures

Introduction

1. The Pensions Regulator (TPR or the Regulator) **Code of Practice 14: Governance and Administration of Public Service Pension Schemes** (the Code) requires 'certain people' to report breaches of the law in relation to the governance and administration of the Northern Ireland Teachers' Pension Scheme (NITPS or the Scheme) to the Regulator.

   These procedures set out the steps that should be followed and the action taken to report an actual or suspected breach of the law to TPR. They have been developed with reference to the requirements of the Code.

Purpose

2. The purpose of the procedures is to:

   - provide a systematic process for the reporting, recording and investigation of potential or actual breaches of the law, in compliance with the Code
   - encourage all staff members and Pension Board members to be proactive and raise compliance issues that are of concern as soon as possible
   - enable the gathering of information to facilitate monitoring and reporting of compliance performance within the Scheme
   - ensure that no individual is penalised or disadvantaged as a result of reporting a compliance breach.

Legal Requirement to Report

3. **'Certain people'** are required to report breaches of the law to the Regulator where they have reasonable cause to believe that:

   - a legal duty, which is relevant to the administration of the Scheme, has not been, or is not being, complied with; and
   - the failure to comply is likely to be of **'material significance'** to the Regulator in the exercise of any of its functions.

   The Code requires the Scheme to have effective arrangements in place to meet its duty to report breaches of the law.

   Reliance cannot be placed on waiting for others to report.

Breaches should be reported as soon as reasonably practicable.

Failure to report when required to do so is a civil offence.

Who has a Duty to Report?

4. The 'Certain People' who are subject to this reporting requirement for public service pension schemes include:

    - The Scheme Manager
    - Members of the Pension Board
    - Any person who is otherwise involved in the administration of the scheme
    - Employers
    - Professional advisers

    Teachers' Pensions staff and NITPS Pension Board members have a duty to report breaches of the law to TPR. Individuals should ensure they have the appropriate level of knowledge and understanding to be able to carry out their responsibilities effectively. It is the responsibility of managers to ensure staff within their teams are familiar with the compliance and reporting obligations in their area of work.

What is a Breach?

5. A breach includes non-compliance with the requirements of any legislation or rule of law relevant to the governance and administration of the Scheme. This includes pension law, Scheme Regulations and relevant court decisions. It also applies where there is evidence of dishonesty or improper conduct by those involved with the governance and administration of the Scheme, including Teachers' Pensions Staff, NITPS Pension Board (NITPSPB) members and Scheme employers.

    Examples of breaches could be failures in the following areas:[1]

    - Failure of Scheme employers to pay the correct NITPS contributions within the prescribed timeframes
    - Unauthorised and/or incorrect benefits paid to Scheme members or beneficiaries
    - Failure to meet disclosure requirements
    - Incorrect or incomplete information issued to members in relation to the Scheme
    - Scheme employers fail to advise NITPS about Scheme members' pensionable salary or change in hours
    - Member information is not up-to-date on the pension administration system

[1] This is not an exhaustive list – the examples provided are intended to highlight some areas where breaches may occur.

- The Pension Board does not have the appropriate level of knowledge and understanding which may result in poor decision making and the Scheme not being properly governed and administered
- Pension Board members have conflicts of interest that may result in them being prejudiced in the way they carry out their role; ineffective governance and administration of the Scheme and/or NITPS breaching legal requirements.

All breaches should be considered and investigated, but not every breach will be reportable to TPR. A reportable breach will depend on whether there has been a breach of law and if the breach is considered materially significant to TPR.

Reporting Breaches in the NI Teachers' Pension Scheme

6. Identifying and assessing a breach of the law is important in reducing risk and providing an early warning of possible malpractice.

   Those with a responsibility to report breaches relating to the NITPS should ensure appropriate procedures are established to ensure that legal obligations can be met effectively. The procedures included in this document aim to meet this obligation and are designed to enable people to raise concerns and facilitate the objective consideration of those matters.

Identification of a Breach or a Potential Breach

7. There is no requirement or expectation that reporters should search for breaches. However, all those involved with the governance and administration of the Scheme should be alert to breaches relevant to the service or services they are providing in relation to the Scheme.

   NITPS Pension Board

   Where a NITPSPB member identifies a breach, or potential breach within the NITPS, they should raise this for discussion with the Chair and other Board members. If a Board meeting is scheduled in the near future it should be raised as an agenda item via the Chair.

   Where the next scheduled Board meeting is more than 2 weeks distant the individual should contact the Chair to discuss the issue. The Chair will liaise with the Department, via the Secretariat, to decide whether an extraordinary meeting should be called or to agree what activity should be carried out. The breach should then be discussed at the next Board meeting to apprise fellow Board members and agree next steps.

   Where the breach involves fellow Board members, the individual should alert the Chair who will agree next steps with the Department.

Where the breach involves the Chair, individuals should contact Department officials via the Secretariat.

Where Board members encounter breaches within their normal working environment (i.e. not as a result of their Board membership) they should only alert the Board where there is a potential conflict of interest.

Department of Education/Teachers' Pensions Team

When a breach or possible breach is identified or suspected, staff should notify their appropriate line manager immediately. Upon receiving notification of a breach, the line manager should notify the senior manager within their section.

If the individual feels unable to discuss the breach with their manager, they should notify the senior manager within their section or the Chair of the NITPS Pension Board via the Secretariat, as appropriate.

Breaches or potential breaches can be notified anonymously[2] but individuals are encouraged to be open when notifying breaches so as to make the investigation process more timely and effective. No individual will be penalised or disadvantaged as a result of notifying a breach or potential breach provided the action is taken in good faith.

The Employment Rights Act 1996 provides protection for employees raising a concern about wrongdoing or making a whistleblowing disclosure, either internally or to the Regulator. The Department also adheres to the principles underpinned by NI Civil Service Policy for 'Public Interest Disclosure ("Whistleblowing")'. Click on the link to access Section 6 of the HR Handbook on whistleblowing HR Connect Portal - Public Interest Disclosure

Scheme employers and advisers

Scheme employers and advisers should notify identified or suspected breaches directly to the Chair of the NITPS Pension Board.

Assurance

8. The Department has established a control environment to provide assurance mechanisms and oversee the governance of the scheme. Governance provisions are outlined in Annual Scheme Statements.

[2] See page 14 for reporting breaches anonymously to the Pensions Regulator

Judging whether a Breach should be reported

9. Breaches can occur in relation to a wide variety of the tasks normally associated with the governance and administration of the Scheme, such as keeping records, internal controls and calculating benefits. In order to assess whether a breach is reportable, there must be **'reasonable cause'** to believe that a breach has occurred. This means more than merely having a suspicion that cannot be substantiated.

   The senior manager to whom the breach has been reported ('the reporter') should carry out checks to establish whether or not a breach has in fact occurred. If they do not know the facts or events around the suspected breach it will usually be appropriate to check with the Scheme Manager or with others who are in a position to confirm what has happened. This will include checking the relevant legal provision if they are unclear.

   If there is any doubt about whether a legal requirement has been breached, it may be necessary to seek legal advice.

   Where there is reasonable cause to believe a breach has occurred, the reporter should take immediate, common sense action to limit or contain the breach. Depending on the nature of the breach, different actions may be required, such as stopping unauthorised payments, communications with members, suspension of a staff member/Pension Board member. Any evidence should be retained that may be valuable in determining the cause of the breach or allow corrective action to be taken.

   The reporter should email details of the breach to the Chair of the Pension Board, as appropriate, and record the breach on the Breach Register (see section 11 for further information on recording a breach).

   In establishing whether there is reasonable cause to believe that a breach has occurred, it is not necessary for a reporter to gather all the evidence which the Regulator may require, seek an explanation or assess the effectiveness of proposed remedies, but only to make such checks as are necessary. A delay in reporting may increase the risk of the breach.

   The Regulator should be contacted without delay where the reporter has become aware of either theft, suspected fraud or another serious offence **and** where there is concern that by making further checks there is a risk of either:

   - alerting those involved; or
   - hampering the actions of the police or a regulatory authority.

   Under these circumstances, the suspected breach – if considered to be materially significant – should be reported directly to the Regulator. Where

a breach relates to suspected fraud or bribery, reports should refer to the Department of Education *Fraud Prevention Policy and Fraud Response Plan v.3* May *2014* for investigation and reporting procedures.

Breach Assessment and Escalation

10. There is a legal requirement to report any breaches that are likely to be of **material significance** to TPR in carrying out any of its functions. Assessing whether a breach is materially significant will depend on the following:
    - cause of the breach
    - effect of the breach
    - reaction to the breach
    - wider implications of the breach.

The breach is likely to be of material significance where it was caused by:

- dishonesty
- poor governance or administration
- slow or inappropriate decision making process
- incomplete or inaccurate advice
- acting (or failing to act) in deliberate contravention of the law.

A breach will not normally be materially significant if has arisen from an isolated incident. When deciding whether to report, consideration should be given to these points and reporters should seek expert or professional advice, where appropriate, when deciding whether the breach is likely to be of material significance to the Regulator.

The Regulator has developed a traffic light framework to help decide whether a breach is likely to be of material significance and should be reported:

Red – where the cause, effect, reaction and wider implications, when considered together, are **likely** to be of material significance.

Red breaches must be reported.

Amber – where the cause effect, reaction and wider implications of a breach when considered together **may** be of material significance.

Amber breaches are less clear cut; reporters must take into account the context of the breach in order to decide whether it is of material significance and should be reported.

Green – where the cause, effect, reaction and wider implication of a breach, when considered together, are **not likely** to be of material significance.

Green breaches do not need to be reported.

The traffic light framework provides some examples of breaches and their assessment to determine which category they fall into. The framework is provided at Appendix A. These examples are not an exhaustive list. They are designed to illustrate situations with which any actual breach can be compared and thereby assist the reporter in reaching an appropriate decision.

Guidance on what may be considered materially significant and how to determine the **RAG** status of a breach is detailed below. This has been summarised in the flowcharts attached at Appendix B, which should be used by reporters when considering a breach. The flowcharts are a guide only and the status will depend on the individual circumstances of each breach.

Cause of the Breach

If the cause of the breach is considered to be in relation to theft, suspected fraud, bribery or other serious offences committed by those involved in the governance and administration of the Scheme, these are categorised as red and should be reported immediately to TPR. It should also be reported immediately to the Department's Head of Internal Audit for appropriate theft, suspected fraud or bribery reporting and other action to be undertaken as required (see the Department's *Fraud Prevention Policy and Fraud Response Plan*).

A breach will not normally be considered materially significant if it has arisen from an isolated incident, such as resulting from teething problems with a new system or procedures, or from an unusual or unpredictable combination of circumstances.

Reporters should, however, consider other reported and unreported breaches (refer to the Breach Register) as persistent isolated breaches could be indicative of wider issues and considered materially significant.

Effect of the Breach

Reporters need to consider the effects of the breach in relation to who will be affected and what the consequences of the breach are likely to be. The potential impact on Scheme members, employers and NITPS is the key consideration in deciding whether a breach should be reported to the TPR. The extent of the impact will be dependent on a number of factors.

Where the breach is likely to affect a large number of members or volume of records, have a significant financial impact or damage NITPS's credibility or reputation, these will normally always be categorised as a red breach and vice versa for a green breach. Guidance to consider when assessing the effect of a breach is set out below:

Red	Number of members/Records affected: >10% Monetary threshold: >£100k Consequences of the breach: Would have a <u>significant</u> impact on NITPS's service delivery and reputation.
Amber	Number of Members/Records affected: 1 – 10% Monetary threshold: £ 50k – 100k Consequences of the breach: Would have a <u>moderate</u> impact on NITPS's service delivery and reputation.
Green	Number of Members/Records affected: <1% Monetary threshold: No financial impact or <£50k Consequences of the breach: Would have a <u>minor</u> impact on NITPS's service delivery and reputation.

The limits/thresholds in the table above are provided as guidance only. If these limits are breached, this will not always mean a breach should be reported – the effect of each individual breach will need to be considered together with the cause, reaction and wider implications. Reporters need to take care to consider the effects of each breach, including any other breaches occurring as a result of the initial breach and the effects of those resulting breaches.

<u>Reaction to the Breach</u>

Where prompt and effective action is taken to investigate and correct the breach and its causes and, where appropriate, notify any affected Scheme members, TPR will not normally consider this to be materially significant.

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 and effective action to remedy the breach and identify and tackle its cause to minimise the risk of reoccurrence
- are not pursuing corrective action to a proper conclusion
- fail to notify affected Scheme members where it would have been appropriate to do so.

Wider Implications of the Breach

The wider implications of the breach should be considered when assessing whether the breach is likely to be materially significant to TPR. For example, a breach is likely to be of material significance where:

- the fact that the breach has occurred makes it appear more likely that other breaches will emerge in the future. For example, this could be due to Pension Board members having a lack of appropriate knowledge and understanding to fulfil their responsibilities
- other pension schemes may be affected. For example if the breach is a result of a pension administration software system failure, this could affect the England and Wales Teachers' Pension Scheme using the same software provider.

If the breach indicates that it is highly likely that NITPS will be in breach of other legal requirements in the future, it is indicative of wider scheme administrative issues and/or other schemes are likely to be affected, these should be categorised as red.

In deciding whether a particular breach may have wider implications, the reporter should take into account such general risk factors as how well run the Scheme appears to be. In determining this, it may be helpful to review the Breach Register and establish whether NITPS has had any fines imposed or been subject to regulatory action in the last two years. Some breaches that arise in respect of a poorly administered scheme will be more significant to TPR than the same breaches in a well administered scheme, consistent with its risk-focused approach.

Overall Assessment

As each breach will have a unique set of circumstances, there may be elements which apply from one or more of the red, amber and green categories for the cause, effect, reaction and wider implications. Reporters should use the Breach Assessment Matrix attached at Appendix C to record the RAG status of each area (the flowcharts at Appendix B should be used to inform this). Reporters then need to use their own judgement to determine which overall reporting category the breach falls into. As a general rule, if more than two areas are categorised as red, it is likely that the breach will be considered as materially significant to TPR.

Where the overall assessment is amber, the indicators provided in the Breach Assessment matrix should be considered to determine whether the breach should be reported to the Regulator.

Some breaches may be considered so serious in relation to any one area that it will warrant immediate reporting to TPR.

Recording and Reporting

11. **Breach Register**

All breaches must be recorded on the Breach Register even if the decision is not to report. A full record of all potential breaches, reported breaches, investigations and corrective actions undertaken should be recorded on this register. The record of past breaches (even if they are not reported) may be relevant in deciding whether to report a breach (for example it may reveal a systemic issue).

The Breach Register is held on the departmental electronic records management system (i.e. HP Records Manager (HPRM) –formerly TRIM) and maintained by the Pension Board Secretariat under the direction of the Pension Board Chair. When a breach has been identified, the reporter should ensure that the breach has been recorded on the Register and that the Register is fully updated as the assessment and reporting process progresses.

Breach Report Form

A Breach Report Form (template attached at Appendix D) should be completed by the reporter when considering a breach. In the event that a group of breaches are being considered together, for example, late payment contributions, the reporter can complete one form per group, if it is considered appropriate to do so. If, after assessment, the reporter decides that there is reasonable cause to believe that a breach has occurred, and that it is of material significance to TPR, this should be recorded on the form. The Breach Report Form must be countersigned by the Chair of the Pension Board.

Process for submitting a Report to the Regulator

12 A report of a breach must be made in writing as soon as reasonably practicable.

What is reasonably practicable depends on the circumstances – the time taken should reflect the seriousness of the breach but in all cases the intention should be to assess the breach and make a decision about reporting as quickly as possible and no longer than 30 days from when the breach was identified.

Reports should be in writing, either by post or electronically and, wherever possible, reporters should use the standard format available on the Exchange

On-line service on the Regulator's website. The Exchange can be accessed via the link:
http:/www.thepensionsregulator.gov.uk/trustees/exchange.aspx

See Appendix E: Submit a Report using TPR Exchange.

Reports can also be submitted by post or email to the contact details below:

Address: The Pensions Regulator
Napier House
Trafalgar Place
Brighton
BN1 4DW

Email: exchange@tpr.gov.uk

The report should be dated and include:

- Details of the scheme (including scheme type [defined benefit] and Pension Scheme Registry Number)/scheme manager, such as full name and address
- Details of the employer if relevant
- Description of the breach(es) with any relevant dates and whether the concern has been reported before
- The reason the breach is thought to be of material significance to the Regulator
- Name, position and contact details of the reporter, and their role in relation to the scheme.

Reporters may precede a written report with a telephone call, if appropriate.
The telephone number is 0845 600 5666.

Protection

13. The Pension Act 2004 makes clear that the statutory duty to report overrides any other duties a reporter may have such as confidentiality and that any such duty is not breached by making a report. The statutory duty does not however override "legal privilege" which means that oral and written communications between a professional legal adviser and their client do not have to be disclosed.

    The Regulator does encourage reporters to provide their contact details in case they need to ask for further information during the course of the investigation. If, however, you wish to report a breach of the law **anonymously** to TPR, you can use TPR's online whistleblowing form using the link below:
    https://secure.thepensionsregulator.gov.uk/inform.aspx

    Alternatively you can email TPR with the details of the breach at wb@tpr.gov.uk or call 0345 600 7060.

If requested, the Regulator will take all reasonable steps to maintain confidentiality and protect the identity of the reporter, and will not disclose the information except where lawfully required to do so.

Follow up

14. Reporters should ensure they receive an acknowledgement for any report they have sent to the Regulator. TPR will acknowledge all reports within five working days of receipt. The acknowledgement is confirmation that the report has been received by TPR. If an acknowledgement is not received, the reporter should follow this up.

    Once a report is received, TPR will make initial enquiries and may contact the reporter to clarify information (if contact details are provided).

    If appropriate, TPR will refer the concerns raised internally for investigation. However, due to legal restrictions, TPR will not generally keep reporters informed of the steps taken in response to a report or provide any feedback on the investigation. If a report has been made against an employer or third party, TPR will provide a designated point of contact and ensure any witnesses are supported throughout any enforcement process.

Failure to Report

15. Failure to comply with the duty imposed by the requirement to report breaches of the law without 'reasonable excuse' is a civil offence. To decide whether the reporter has a reasonable excuse for not reporting as required or for reporting a breach later than TPR would have expected, TPR will look at:

    - The legislation, case law, relevant TPR codes of practice and any guidance issued by TPR
    - The role of the reporter in relation to the Scheme
    - The training provided to individual staff, and the level of knowledge it would be reasonable to expect that individual or those staff to have
    - The procedures put in place to identify and evaluate breaches and whether these procedures have been followed
    - The seriousness of the breach and therefore how important it was to report to TPR without delay
    - Any reason for the delay in reporting
    - Any other relevant considerations relating to the case in question.

Investigation and Corrective Action

16. If necessary, an investigation into the breach should be undertaken. The level of investigative effort should reflect the seriousness of the breach.

    Where there is an immediate risk to the scheme, the Regulator only requires reporters to make such immediate checks as are necessary. The more serious the potential break and its consequences, the more urgently reporters should make these checks.

    Investigations should:

    - Determine the root cause of the breach
    - Determine whether it was a systemic breach, an isolated incident or a deliberate act
    - Be completed within six weeks of the Breach Report Form being completed or the breach reported.

    Any non-reportable breaches should be investigated by the senior manager within the area in which the breach relates to. Any serious breaches reported to TPR will be investigated by a suitable senior departmental official appointed by the Pension Board, with assistance and input provided by the relevant staff and managers. Where it is not appropriate for the Pension Board to select the investigator, one will be appointed by the departmental Deputy Secretary with responsibility for NITPS. In either case, the outcome of the investigation should be reported to the Pension Board or Deputy Secretary as appropriate within six weeks of the investigation commencing.

    The investigation report should identify recommended/corrective action, where appropriate, the persons responsible for implementing the action and target completion times for implementation. Where systemic issues are identified, an improvement plan should be developed to address policy/process improvement. The appropriate manager should monitor implementation of corrective action to ensure it is completed and report any issues to the Pension Board or Deputy Secretary

Review

17. This Breach Reporting Policy and Procedures will be kept under review and updated as considered appropriate by the Scheme Manager or when required to remain current and reflective of the Regulator's guidance. After any update it will be sent to all individuals who are considered to be subject to the Policy and Procedures.

Scenarios

18. To assist specified ‘certain people’ in determining when they are likely to encounter identifying and reporting breaches, the scenarios in Appendix A are taken from the Pensions Regulator’s website and provided for illustration.

Appendix A: Extract from the Pensions Regulator's Public Service toolkit.

Certain people involved with the governance and administration of a public service pension scheme must report certain breaches of the law to The Pensions Regulator. These people include scheme managers, members of pension boards, employers, professional advisers and anyone involved in administration of the scheme or advising managers. You should use the traffic light framework when you decide whether to report to us. This is defined as follows:

- Red breaches must be reported.

- Amber breaches are less clear cut: you should use your judgement to decide whether it needs to be reported.

- Green breaches do not need to be reported.

All breaches should be recorded by the scheme even if the decision is not to report.

When using the traffic light framework you should consider the content of the red, amber and green sections for each of the cause, effect, reaction and wider implications of the breach, before you consider the four together.

As each breach of law will have a unique set of circumstances, there may be elements which apply from one or more of the red, amber and green sections. You should use your judgement to determine which overall reporting traffic light the breach falls into. By carrying out this thought process, you can obtain a greater understanding of whether or not a breach of the law is likely to be of material significance and needs to be reported.

You should not take these examples as a substitute for using your own judgement based on the principles set out in the code of practice as supported by relevant pensions legislation. They are not exhaustive and are illustrative.

Knowledge and understanding required by pension board members

Example scenario: The scheme manager has breached a legal requirement because pension board members failed to help secure compliance with scheme rules and pensions law.

Potential investigation outcomes				
	Cause	**Effect**	**Reaction**	**Wider implications**
RED	Pension board members have failed to take steps to acquire and retain the appropriate degree of knowledge and understanding about the scheme's administration policies.	A pension board member does not have knowledge and understanding of the scheme's administration policy about conflicts of interest. The pension board member fails to disclose a potential conflict, which results in the member acting improperly.	Pension board members do not accept responsibility for their failure to have the appropriate knowledge and understanding or demonstrate negative or noncompliant entrenched behaviours. The scheme manager does not take appropriate action to address the failing in relation to conflicts.	It is highly likely that the scheme will be in breach of other legal requirements. The pension board do not have an appropriate level of knowledge and understanding and in turn are in breach of their legal requirement. Therefore, they are not fulfilling their role to assist the scheme manager and the scheme is not being properly governed.
AMBER	Pension board members have gaps in their knowledge and understanding about some areas of the scheme's administration policies and have not assisted the scheme manager in securing compliance with internal dispute resolution requirements.	Some members who have raised issues have not had their complaints treated in accordance with the scheme's internal dispute resolution procedure (IDRP) and the law.	The scheme manager has failed to adhere precisely to the detail of the legislation where the breach is unlikely to result in an error or misunderstanding or affect member benefits.	It is possible that the scheme will be in breach of other legal requirements. It is possible that the pension board will not be properly fulfilling their role in assisting the scheme manager.
GREEN	Pension board members have isolated gaps in their knowledge and understanding.	The scheme manager has failed to adhere precisely to the detail of the legislation where the breach is unlikely to result in an error or misunderstanding or affect member benefits.	Pension board members take action to review and improve their knowledge and understanding to enable them to properly exercise their functions and they are making quick progress to address gaps in their knowledge and understanding. They assist the scheme manager to take prompt and effective action to remedy the breach.	It is unlikely that the scheme will be in breach of other legal requirements. It is unlikely that the pension board is not fulfilling their role in assisting the scheme manager.

Scheme Record Keeping

Example scenario: an evaluation of member data has identified incomplete and inaccurate records.

Potential investigation outcomes				
	Cause	**Effect**	**Reaction**	**Wider implications**
RED	Inadequate internal processes that fail to help employers provide timely and accurate data, indicating a systemic problem.	All members affected (benefits incorrect/not paid in accordance with the scheme rules, incorrect transactions processed and poor quality information provided in benefit statements).	Action has not been taken to identify and tackle the cause of the breach to minimise the risk of recurrence nor to notify members.	It is highly likely that there are wider scheme issues caused by inadequate processes and that the scheme will be in breach of other legal requirements.
AMBER	A failure by some – but not all participating employers to act in accordance with scheme procedures, indicating variable standards of implementing those procedures.	A small number of members affected	Action has been taken to identify the cause of the breach, but progress to tackle it is slow and there is a risk of recurrence.	It is possible that there are wider scheme issues and that the scheme may be in breach of other legal requirements.
GREEN	A failure by one participating employer to act in accordance with scheme procedures, indicating an isolated incident.	No members affected at present.	Action has been taken to identify and tackle the cause of the breach and minimise the risk of recurrence.	It is unlikely that there are wider scheme issues or that the scheme manager will be in breach of other legal requirements.

Providing Information to members

Example Scenario: An active member of a defined benefit (DB) public service scheme has reported that their annual benefit statement, which was required to be issued within 17 months of the scheme regulations coming into force, has not been issued. It is now two months overdue. As a consequence, the member has been unable to check:

- Personal data is complete and accurate
- Correct contributions have been credited
- What their pension may be at retirement

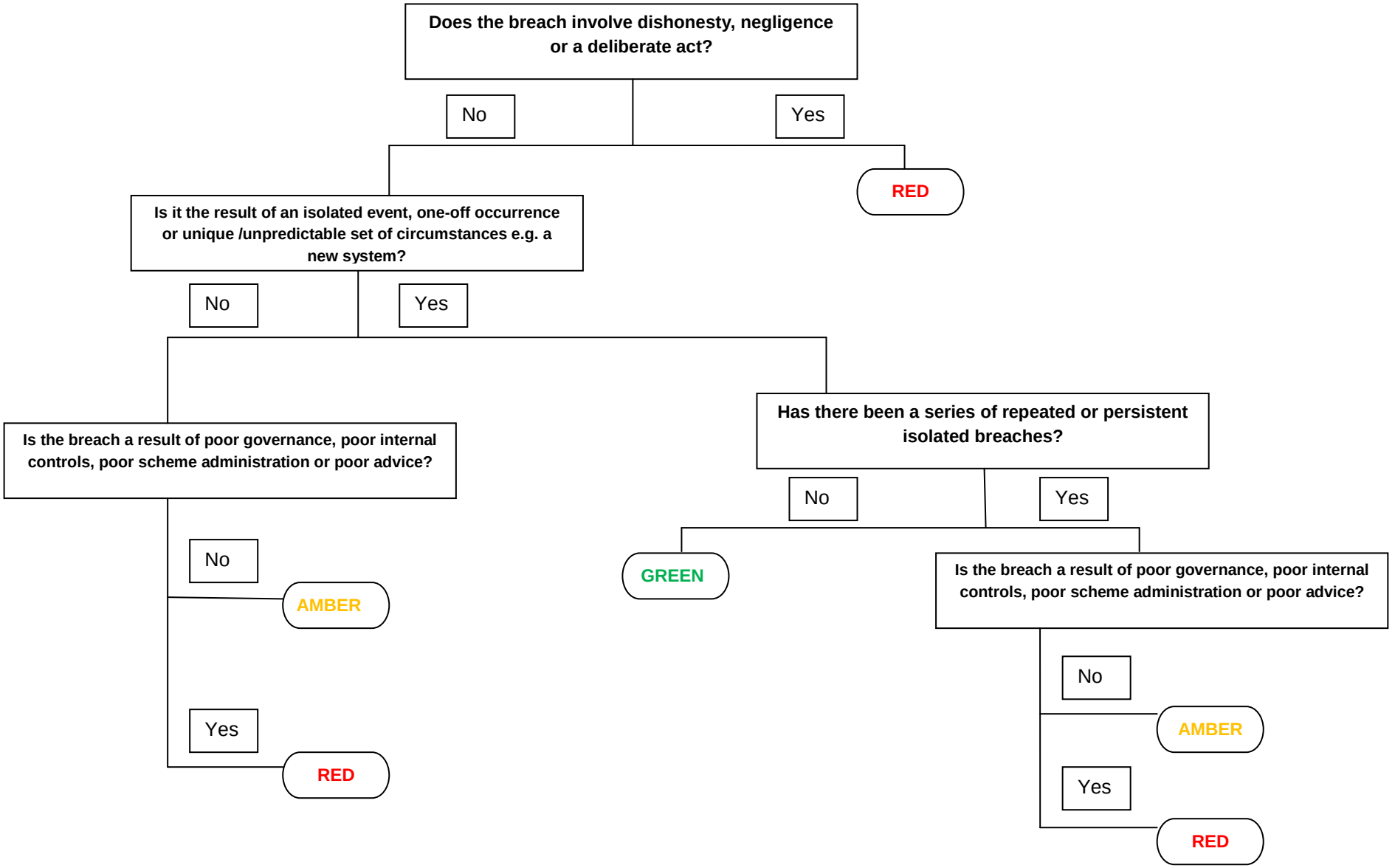
Potential investigation outcomes				
	Cause	**Effect**	**Reaction**	**Wider implications**
RED	Inadequate internal processes for issuing annual benefit statements, indicating a systemic problem.	All members may have been affected.	Action has not been taken to correct the breach and/ or identify and tackle its cause to minimise the risk of recurrence and identify other members who may have been affected.	It is highly likely that the scheme will be in breach of other legal requirements.
AMBER	An administrative oversight, indicating variable implementation of internal processes	A small number of members may have been affected.	Action has been taken to correct the breach, but not to identify its cause and identify other members who may have been affected.	It is possible that the scheme will be in breach of other legal requirements.
GREEN	An isolated incident caused by a one off system error.	Only one member appears to have been affected.	Action has been taken to correct the breach, identify and tackle its cause to minimise the risk of recurrence and contact the affected member.	It is unlikely that the scheme will be in breach of other legal requirements.

Internal controls

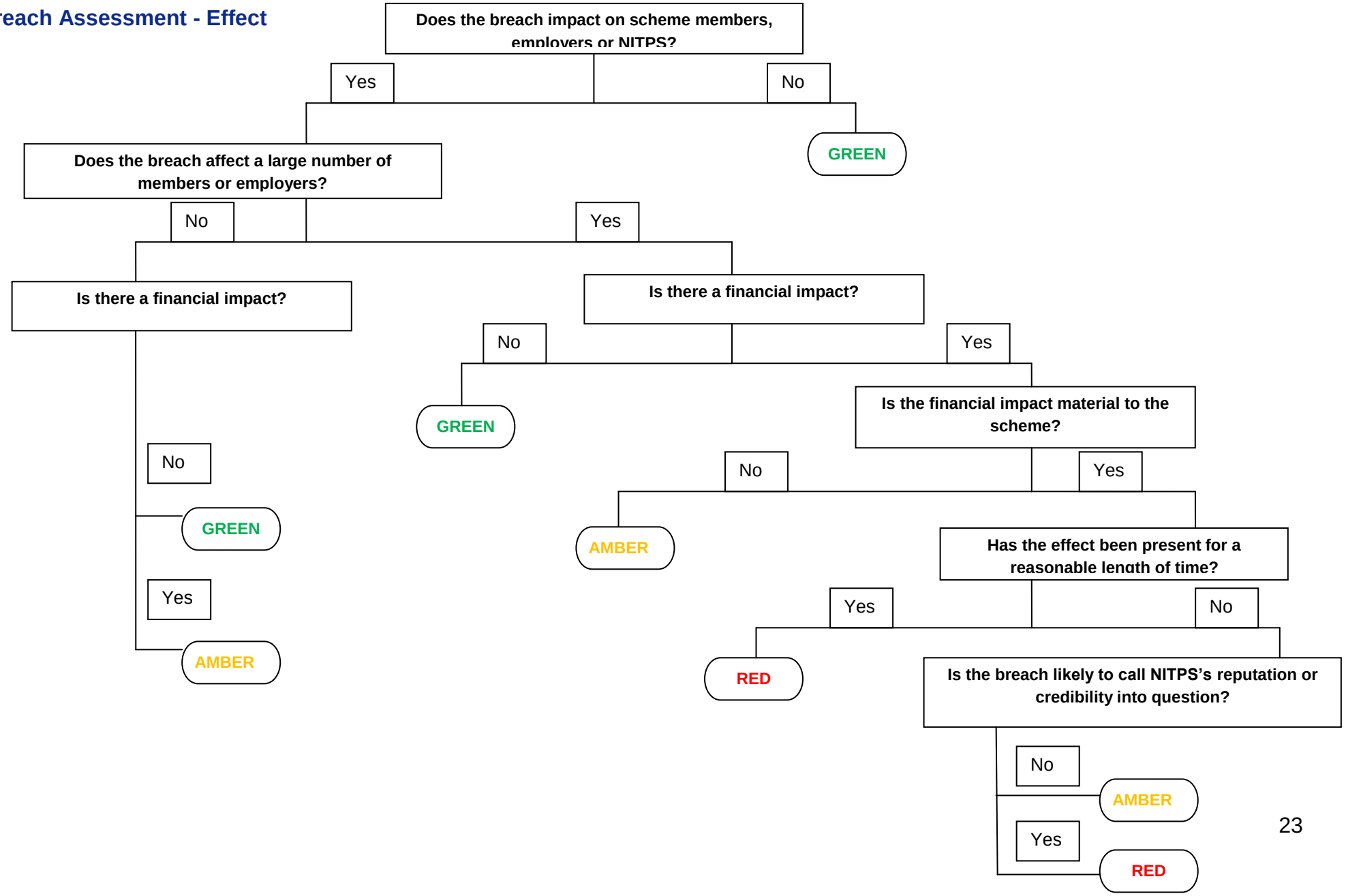
Example scenario: A DB public service scheme has outsourced all aspects of scheme administration to a third party, including receiving contributions from employers and making payments to the scheme. Some contributions due to the scheme on behalf of employers and members are outstanding.

Potential investigation outcomes				
	Cause	**Effect**	**Reaction**	**Wider implications**
RED	The administrator is failing to monitor that contributions are paid to them in time for them to make the payment to the scheme in accordance within the legislative timeframes and is therefore not taking action.	The scheme is not receiving the employer contributions on or before the due date nor employee contributions within the prescribed period.	The administrator has not taken steps to establish and operate adequate and effective internal controls and the scheme manager does not accept responsibility for ensuring that the failure is addressed.	It is highly likely that the administrator is not following agreed service level standards and scheme procedures in other areas. The scheme manager is likely to be in breach of other legal requirements such as the requirement to have adequate internal controls.
AMBER	The administrator has established internal controls to identify late payments of contributions but these are not being operated effectively by all staff at the administrator	The scheme is receiving some but not all of the employer contributions on or before the due date and employee contributions within the prescribed period.	The scheme manager has accepted responsibility for ensuring that the failure is addressed, but the progress of the administrator in training their staff is slow.	It is possible that the administrator is not following some of the agreed service level standards and scheme procedures in other areas. It is possible that the scheme manager is in breach of other legal requirements.
GREEN	legitimate late payments have been agreed by the scheme with a particular employer due to exceptional circumstances.	The employer is paying the administrator the outstanding payments within the agreed timescale.	The scheme has discussed the issue with the employer and is satisfied that the employer is taking appropriate action to ensure future payments are paid on time.	It is unlikely that the employer is failing to adhere to other scheme processes which would cause the scheme manager to be in breach of legal requirements.

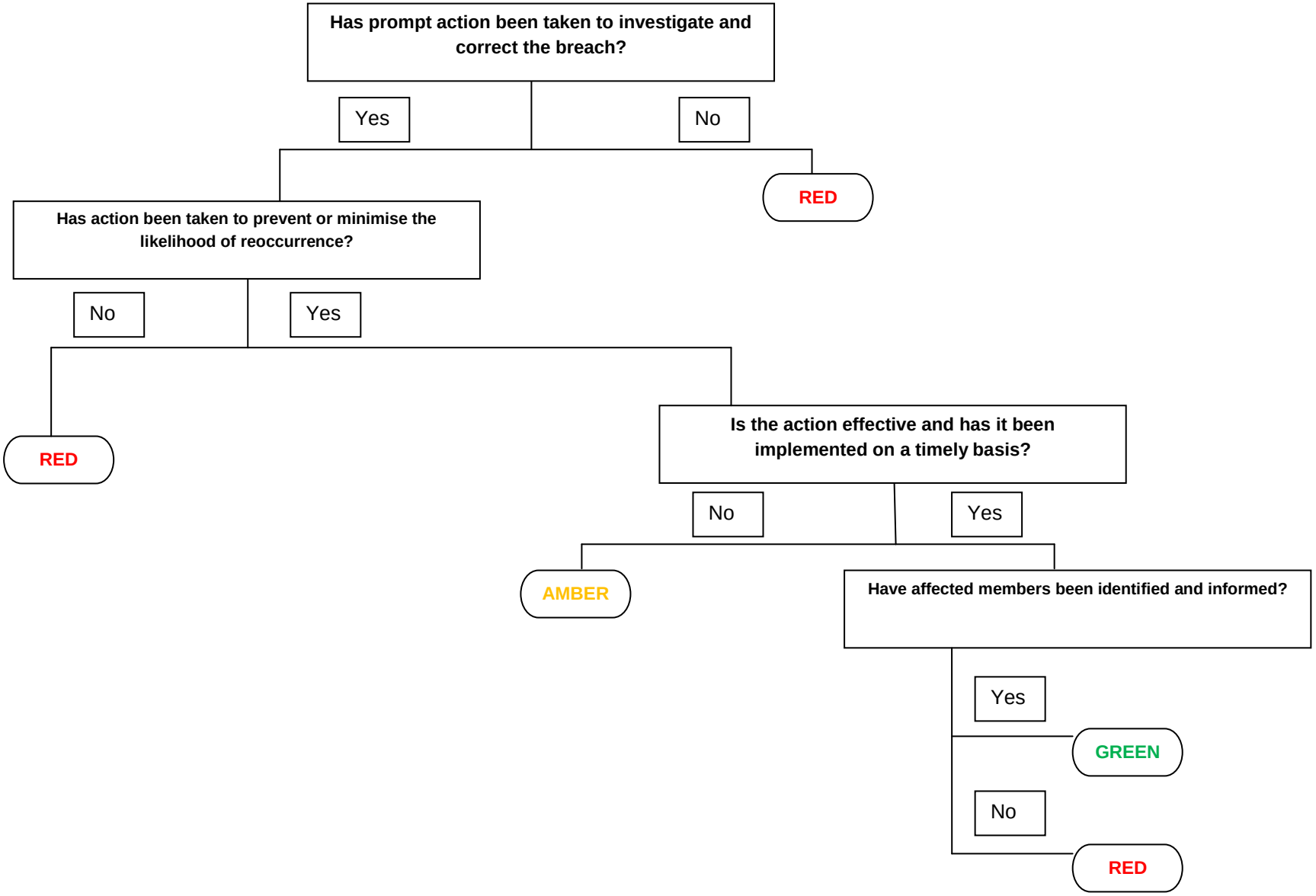
Breach Assessment - Cause



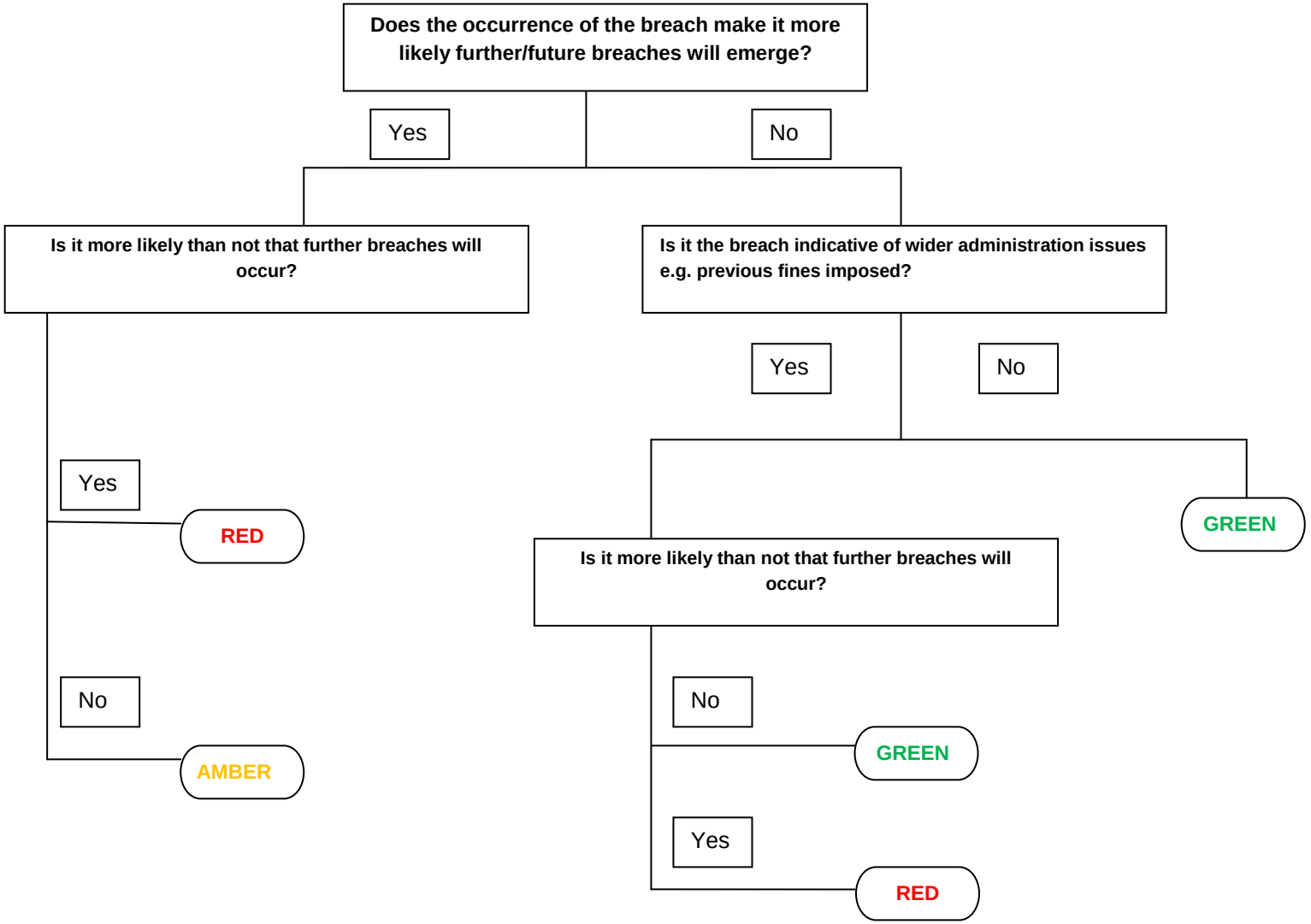
Breach Assessment - Effect



Breach Assessment - Reaction



Breach Assessment – Wider Implications



NOTE: IF THE BREACH IMPACTS ON OTHER PENSION SCHEMES E.G. PENSION SORTWARE FAILURE THIS IS LIKELYTO RESULT IN A RED RATING

Appendix C: Breach Assessment Matrix

	Red	Amber	Green
Cause			
Effect			
Reaction			
Wider Implications			
Overall Assessment			
Rationale			

If the overall assessment is Red - report breach to TPR

If the overall assessment is Green – do not report to TPR

If the overall assessment is Amber, the following indicators should be used to determine whether the breach is reportable to the Regulator:

Not reportable	**Reportable**
Single cause of breach	Multiple factors or control failures caused breach
Primarily a result of external factors outside of NITPS control	Primarily a result of internal factors within of NITPS control
Short term	Long term issue or significant period before breach can be rectified/remedied
Effective and timely response taken	Ineffective or slow action to remedy
Impact limited to NITPS	Impacts other pension schemes
Human error or inadvertent act	Deliberate act or poor controls/procedures
Few members affected	Widespread/impact unknown
Isolated breach	Repeated or persistent breaches of a similar nature (refer to Breach Register)
Has acted in good faith	Acting (or failing to act) in deliberate contravention of the law, including theft, fraud or other serious offences

Appendix D

Department of Education
www.education-ni.gov.uk

Breach Report Form

(Refer to NITPS / TPR Breach Reporting Procedures)

1.	**Do you believe that there has breach of the law?** • Reasonable cause is more than a suspicion that cannot be substantiated • Check facts of events • Clarify understanding of law to extent necessary to form a view
	Member No: If applicable **Background:** **Legal Requirement:** **Has there been a breach:** Yes/No (Delete as appropriate)
2.	**Do you believe that the breach is likely to be of material significance to the Pensions Regulator (TPR)?** What makes a breach significant depends on:
2a	**Cause of the breach**
	Rag Status: Red / Amber / Green (Delete as appropriate) Rationale
2b	**Effect of the breach**
	Rag Status: Red / Amber / Green (Delete as appropriate) Rationale
2c	**Reaction to the breach**
	Rag Status: Red / Amber / Green (Delete as appropriate) Rationale
2d	**Wider implication of the breach**
	Rag Status: Red / Amber / Green (Delete as appropriate) Rationale

3.	**Overall Conclusion / Decision** Consider the cause / effect / reaction and wider implications above an determine whether the breach is likely to be of material significance to TPR and therefore reportable.
	Report to TPR / Do not report to TPR (Delete as appropriate) Briefly outline the overall rationale for the decision to report or not report
4.	**Reporter**
	Breach considered by: Date considered:
5.	**Approval**
	Decision approved: Yes / No (Delete as appropriate) (If not approved, record reason) Authorised by: Date authorised:
6.	**If decision is to report, must be done as soon as reasonably practicable using Exchange.** Send form back to Reporter to submit a report
	Date reported to TPR: Date recorded on NITPS's Breach Register:

Appendix E

Submit a Report using TPR Exchange

Access Exchange via the following link:

https://exchange.thepensionsregulator.gov.uk/

1. Log in using Username and Password
2. Select Scheme

See screen shots, pages 30 – 34.

Main options | My schemes

My schemes

This page shows all the schemes that you're currently associated with, along with any schemes where you selected the option to share limited information as you did not have access to the scheme key.

To carry out an action for a particular scheme, for example to complete a scheme return, use the corresponding **'Select'**.

If the scheme you need is not listed, or if you want to register a new scheme, or print from a limited selection of paper forms, please select '**Main options**'.

Sort by: PSR (ascending) Go

PSR	Scheme name	Scheme type	Benefit type	Start date	Scheme status	Scheme return due	
10170667	Northern Ireland Teachers Superannuation Scheme	Occupational	Defined benefit	1922	Open to new members		SELECT
10276732	Northern Ireland Teachers Superannuation Scheme	Occupational	Defined benefit	2015	Open to new members		SELECT

Northern Ireland Teachers Superannuation Scheme **PSR: 10170667**

Scheme options

The following are the options available to you for a scheme of this type.

Please select the option you require:	
Update scheme details	
Submit / view a breach of law report	
Manage who can access this scheme online	
Remove this scheme from my list	

Northern Ireland Teachers Superannuation Scheme **PSR: 10170667**

Breaches of law

Submitting a Breach of Law report is a secure process. Only you and the Pensions Regulator can access the data online.

The following is a list of the breach of law reports which have been notified in relation to the scheme by your email address.

If you wish to report a new breach against this scheme, select the '**Add new breach**' button

Choose '**Select**' to continue a partially completed form, or '**View/Print**' to download a PDF containing the details of a submitted form.

If any of the breach details you have submitted are incorrect, you will need to complete and submit another report to notify us of the correct information.

Form number	Scheme name	Event type	Date created	Date submitted	Action
21250	Northern Ireland Teachers Superannuation Scheme	All other breaches	24/08/2016		
21305	Northern Ireland Teachers Superannuation Scheme	All other breaches	31/08/2016		
21554	Northern Ireland Teachers Superannuation Scheme	All other breaches	26/09/2016		

Northern Ireland Teachers Superannuation Scheme **PSR: 10170667**

All other breaches

Submitting a breach of law report is a secure process. Only you and the Pensions Regulator can access the data submitted online.

Please complete the following sections in any order. Although many of the details are optional, some are mandatory to help us to process your report.

If you selected this type of breach in error, please select '**Remove form**' to delete the breach of law report.

Form sections	Current status	Action
Breach of law details	Unconfirmed	
Trustee / scheme manager contact	Unconfirmed	
Relevant employer contact	Unconfirmed	
Reporter(s)	Unconfirmed	

Northern Ireland Teachers Superannuation Scheme **PSR: 10170667**

All other breaches

Please give details about the breach of law in accordance with the regulations set out under Section 70 of the Pensions Act 2004.

You'll find more detailed information on complying with the duty to report breaches of law in our guidance and code of practice available on our website.

Fields marked with an asterisk * are required

Breach details

Date of breach*

Please provide details of the breach (to a maximum of 4000 characters)*

Rectifying the breach

Has this breach been rectified?*

○ Yes ○ No

If yes, what steps were taken to rectify the breach?

If no, what steps are being taken to rectify the breach?

If the breach has not been rectified, what are the timescales for completion?

Additional breaches or any other information

Please provide details of any additional breaches or other information that you think is relevant (to a maximum of 4000 characters)