

**TEMPLATE PERSONAL DATA RETENTION POLICY FOR SCHEME EMPLOYERS IN
THE LGPS**

- 1 This template personal data retention policy has been prepared for the Local Government Association. We understand that copies will be provided to the administering authorities of Local Government Pension Scheme funds in England and Wales for them to provide to employers participating in their fund. **This template will need to be tailored to the specific circumstances of each fund/scheme employer.** Accordingly, we accept no liability to individual funds, their administering authorities or any scheme employer unless we provide formal advice specific to that authority or employer in relation to this template.
- 2 This template is not advice to other connected or stakeholder parties, their auditors or other advisers, or other third parties ("**Third Parties**"). Other than as noted in paragraph 1 above, no part of this template may be passed on to Third Parties without our written agreement but, if it is so passed, we accept no responsibility, and will have no liability in contract, tort or otherwise, to those Third Parties in relation to this template.
- 3 This template has been prepared based on an understanding of the law and guidance as at the date of issue. Accordingly, it is possible that this template will need to be updated if the law changes or guidance is revised. However, we will only do so if the Local Government Association specifically give us written instructions to do so.
- 4 Please note that we have made some amendments to the template Personal Data Retention Policy for Scheme Employers in the LGPS, which was issued on 25 July 2019. The changes made are noted below to assist administering authorities who have already issued their personal data retention policy for LGPS scheme employers in determining whether and when to issue an update to their data retention policy:
 - (a) We have inserted a new reference to "data protection legislation" in the first paragraph rather than referring to specific legislation throughout and have added a footnote to explain what the legislation is for the benefit of administering authorities. We have also included references to the UK GDPR and the EU GDPR as there are now effectively "two GDPRs"; the EU version of the GDPR and the GDPR as incorporated into UK law. As at today's date, those provisions are near identical for most purposes. However, they may diverge over time following the UK's exit from the EU though for most purposes we would expect that it will be the UK version of the GDPR that will be relevant to administering authorities.
 - (b) In the section titled, "Types of personal data we hold", we have removed the footnotes relating to the requirement for Scheme Employers to obtain explicit consent. If you would like further information on this point, this information is contained in footnotes of the long form privacy notice in the section titled, "What personal data we hold, and how we obtain it".
 - (c) We have updated the footnotes throughout the template Personal Data Retention Policy to ensure that all legislative references are correct and complete. The footnotes have also been expanded to provide further guidance where possible.

- 5 This template is intended to assist administering authorities, in their capacity as data controller of personal data relating to the Local Government Pension Scheme fund for which they are responsible, to set their expectations of employers participating in their fund in relation to the retention of personal data that may need to be provided to the fund. The template includes a suggested form of data retention policy for adoption by individual employers in relation to their participation in the fund. We have not considered or advised on any tax or commercial implications that administering authorities and/or scheme employers may wish to consider in conjunction with this template. The template only concerns the retention of personal data and not any other data or information that administering authorities and/or scheme employers may wish or be required to retain.
- 6 This template takes into account guidance issued by a number of bodies (listed in the policy) as at the date of issue. Some of that guidance is not specific to pension arrangements and there is an obvious tension between the requirements of data protection legislation and the need for funds and/or scheme employers to retain personal data for significant periods of time in order to be able to pay benefits correctly and respond to future queries. Individual funds and scheme employers will need to consider whether their own administration arrangements are such that more detail should be included. Particular attention should be paid to footnotes 9 and 12. It is likely that best practice in this area will continue to develop and individual funds and scheme employers should review their data retention policies regularly and consider whether they should be updated and reissued.

Squire Patton Boggs (UK) LLP
25 July 2019
17 September 2021

PERSONAL DATA RETENTION POLICY EXPECTATIONS

City and County of Swansea Pension Fund (the "Fund")

This document has been prepared by the City and County of Swansea Council (the **"Administering Authority"**) in its capacity as the administering authority of the Fund. Employers participating in the Fund are under a statutory duty to provide data to the Fund under regulation 80 of the Local Government Pension Scheme Regulations 2013. This document sets out the Fund's expectations of employers participating in the Fund in relation to the retention of personal data that is required by the Fund.

This document can also be accessed via the following link: www.swanseapensionfund.org.uk/investment-and-fund/ and should be read in conjunction with the Fund's privacy notice, which can be accessed via the following link: www.swanseapensionfund.org.uk/privacy-notice/

This document largely takes the form of a template personal data retention policy for individual employers participating in the Fund to tailor to their own circumstances before adopting or incorporating into their existing personal data retention policy. In collecting and processing personal data required by the Fund, individual employers will be acting as separate, independent controllers to the Administering Authority. The Administering Authority will assume responsibility as controller of that personal data once it is provided to the Fund. However, in order that the Administering Authority can fulfil its legal obligations in relation to that data (as well as to pay the correct benefits to current and former employees of each individual employer and their beneficiaries), the Administering Authority expects individual employers to adopt certain minimum data retention periods. Those minimum periods are set out in the template personal data retention policy.

In determining what data retention period to adopt, Employers should note in particular that:

- you may have to provide salary information to the Administering Authority for certain Members relating to the thirteen years prior to the date of ceasing pensionable service in the Fund;
- the working hours of Members who have pre-1 April 2014 pensionable service in the Fund and are entitled to final salary benefits, are used in the calculation of certain benefits - queries regarding the Member's working hours can be received many years after any change in the Member's working pattern took effect;
- you are responsible for making ill health determinations in respect of both active and deferred Members (i.e. your former employees) and, in the case of deferred Members, may need to provide job descriptions to Independent Registered Medical Practitioners many years after a Member has ceased employment with you in order to assess if the Member is permanently incapable of doing the job they were employed to do whilst in employment with you;¹
- queries about salary data may arise some time after the relevant pay period for which it was provided, due to the complex definitions of pensionable pay in the Local Government Pension Scheme Regulations 2013 and the interaction with the tax regime for pension benefits;
- legal and tax requirements may change, requiring the Fund to recalculate benefits for which additional personal data is needed (for example, the Government may amend the Local Government Pension Scheme Regulations 2013 to take account of recent

¹ This may involve your HR department rather than your payroll department or provider. Generic job descriptions may not be personal data. However, if the individual member can be identified from the job description, it will still be personal data protected by data protection legislation.

Court cases concerning age discrimination within public sector pension schemes following benefit changes in 2014/5).

These factors mean the Fund requires some types of personal data to be available for longer periods of time than may usually be the case in relation to employees.

Employers wishing to make significant amendments to the template data retention policy are invited to discuss their policy with the Administering Authority before adoption, so that both parties can ensure they will be able to fulfil their legal obligations in relation to personal data required by the Fund.

Employers are responsible for providing payroll information and other data to the Administering Authority, even if those services are outsourced. You should provide your payroll department or provider with a copy of your data retention policy once adopted or updated and ask them to confirm that personal data will be retained in line with your policy. Employers should also ensure that they retain access to historical pay information if there is a change to the payroll provider.

Failure to provide historic salary/hours worked information or job descriptions may result in the Administering Authority having to make decisions or reasonable assessments in respect of a Member's benefits payable from the Fund. In the absence of such information, these could be challenged by the Member under the Internal Dispute Resolution Procedure, ultimately resulting in referral to the Pensions Ombudsman.

Issued on behalf of the Administering Authority by:

Claire Elliott, Pension Manager

06/12/2021