



# DATA RETENTION POLICY

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This document has been prepared by **West Yorkshire Pension Fund (WYPF)** on behalf of Bradford Metropolitan District Council **Lincolnshire County Council, the London Borough of Barnet and the London Borough of Hounslow** in their capacity as the “**Administering Authorities**” for the Local Government Pension Scheme (LGPS) pension administration Shared Service.

In their capacity as the administering authorities these Funds set out the Shared Service policy on the retention of personal data in accordance with data protection legislation applicable to the Administering Authority when processing personal data.

This policy document can also be accessed via the following link:

[www.wypf.org.uk/publications/policy-home/wypf-index/](http://www.wypf.org.uk/publications/policy-home/wypf-index/) and should be read in conjunction with the Fund's privacy notice, which can be accessed via the following link:

[www.wypf.org.uk/administration/privacy-index/lgps/wypf-index/](http://www.wypf.org.uk/administration/privacy-index/lgps/wypf-index/)

## Introduction

As data controllers, the Shared Service partners are required by data protection legislation to comply with the principles of data minimisation and storage limitation. Personal data we process:

- must be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed; and
- must not be kept in a form which permits identification of a data subject for longer than is necessary for the purposes for which the personal data is processed.

We are obliged to retain certain records (whether in hard copy or electronic form) for various periods of time because:

- we have a statutory obligation to do so; and/or
- the information contained in those records may be necessary for the future (for example, questions may arise about the calculation of benefits paid in the past, and data that may be relevant to a possible legal claim needs to be kept until the period within which that claim could be brought has expired).

This policy document sets out the measures adopted by the Fund to comply with the principles of data minimisation and storage limitation in relation to personal data that it holds.

## Purpose

The Shared Service partners has a number of responsibilities under the Data Protection Act 2018 (“DPA 2018”) and the General Data Protection Regulation (“GDPR”) in relation to the processing of personal data it carries out.

One such responsibility is to comply with the fifth data protection principle, Storage Limitation, which requires personal data to be deleted when it is no longer needed. The timescales in most cases are not set. They will depend on business circumstances and the reasons why the data was originally collected.

The period of retention is, therefore, at the discretion of the Shared Service partners provided that personal data is not kept longer than is necessary for the purposes for which it was obtained. Thus, the period of time data may be retained may vary between scheme member and circumstance.

For the purposes of this policy, 'personal data', 'special category personal data', 'data subject' and 'processing' have the same meaning as defined in section 3 and Schedule 1 of the DPA18 and outlined in the Data Protection Policy.

## Type of Personal Data Retained

The types of personal data we hold and process can include:

- Contact details, including name, address, telephone numbers and email address.
- Identifying details, including date of birth, national insurance number and employee and membership numbers.
- Information that is used to calculate and assess eligibility for benefits, for example, length of service or membership and salary information.
- Financial information relevant to the calculation or payment of benefits, for example bank account and tax details.
- Information about scheme members and their family, dependents or personal circumstances, for example, marital status and information relevant to the distribution and allocation of benefits payable on death.
- Information about scheme member health, for example, to assess eligibility for benefits payable on ill health, or where health is relevant to a claim for benefits following the death of a member of the Fund.
- Information about a criminal conviction if this has resulted in a scheme member owing money to their employer or the Fund and the employer or Fund may be reimbursed from the scheme member benefits.

## How Long We Retain Personal Data

In compiling our policy on the retention of personal data, the Shared Service partners have taken into account the guidelines on the retention of personal data as set out by / in:

- Information and Records Management Society;
- The National Archives;
- HMRC compliance handbook manual CH15400;
- [Lord Chancellor's Code of Practice on the Management of Records issued under Section 46 of the Freedom of Information Act 2000];
- Information Commissioner's Office's guidance on storage retention; and
- The Pensions Regulator's code of practice for public service pension schemes.

Data protection legislation requires that we retain personal data for no longer than is necessary in order to fulfil the purpose(s) for which it is processed. Given the long term nature of pensions, we need to ensure that personal data is retained to:

- comply with our legal and regulatory obligations regarding the payment of benefits from the Fund; and
- deal with any questions or complaints that we may receive about our administration of the Fund.

For **active, deferred and pensioner scheme members** we will retain personal data for the greater of\*:

- such period as the Member (or any beneficiary who receives benefits after the Member's death) are entitled to benefits from the Fund and for a period of 15 years after those benefits stop being paid; or
- 100 years from the member's date of birth; or
- 100 years from the date of birth of any beneficiary who received benefits from the Fund after the member's death.

We will only keep personal data for as long as the pension fund needs in order to fulfil the purpose(s) for which it was collected and for so long afterwards as considered may be required to deal with any questions or complaints that may be received about our administration of the Fund, unless we elect to retain scheme member data for a longer period to comply with our legal and regulatory obligations.

In practice this means that personal data will be retained for such a period as an active scheme member, deferred scheme member or pensioner scheme member, or any beneficiary who receives pension benefits after the death of the scheme member, are entitled to benefits from the Fund and for a further period of 15 years after those benefits cease to be paid.

When a scheme member opts out of the scheme or leaves Local Government employment and receives a refund of contributions or elects to transfer the value of their LGPS benefits to another pension provider, the liability to pay pension benefits will be discharged. In such an event the pension fund will retain the personal data of the scheme member until they are aged 75\*\*.

During any period when the Shared Service partners retain personal data, we will keep that personal data up to date and take all reasonable steps to ensure that inaccurate data is either erased or rectified without delay. We will periodically review the personal data that we retain and consider whether it is still required; any personal data that we no longer require will be destroyed.

\*The greater of "100 years from date of birth" and "last payment of benefits to the Member/beneficiary plus 15 years", is intended to ensure that Administering Authorities are acting in line with the Pensions Regulator's Code of Practice 14 (Public Service Pension Schemes) which notes that data will need to be held for long periods of time and schemes will need to retain some records for a Member even after that individual has retired, ensuring that pension benefits can be properly administered over the lifetime of the Member and their beneficiaries (paragraph 135).

The suggested period of "last payment of benefits plus 15 years" is based on the current maximum statutory limitation period, as any complaints about the payment of those benefits would usually need to be brought within that timeframe.

\*\*Under LGPS regulations 2013, regulation 32(2), all pension benefits due must be in payment prior to the scheme member's 75<sup>th</sup> birthday.

## **Member and beneficiary rights and the right to erasure (“right to be forgotten”)**

Beneficiaries form a wider category of people who receive benefits from the Fund, for example the active/deferred/pensioner scheme member's spouse / cohabiting partner / child(ren) / dependants who may receive benefits from the Fund following a scheme member's death. Scheme members of the Fund and beneficiaries have a right to access and obtain a copy of the personal data that we hold about them and to ask us to correct personal data if there are any errors or it is out of date or incomplete.

In certain circumstances a scheme member / beneficiary has the right to:

- object to the processing of their personal data;
- restrict the processing of their personal data until any errors are corrected;
- transfer their personal data; or
- erase their personal data.

Under section 47 of the DPA18 (Article 17 GDPR), a data subject has the right to obtain from the data controller the erasure of personal data concerning them and the data controller must erase the personal data without undue delay. This is not, however, an absolute right.

For **active scheme members, deferred scheme members and pensioner scheme members or their beneficiary's**, if the exercise of their rights would prevent the Shared Service from paying or continuing to pay a pension from, we may only consider retaining a minimised version of that Member's / beneficiary's personal data providing we can still fulfil our legal and regulatory obligations.

For **former scheme members** we may consider the criteria have not been met (for the reasons as stated in How Long We Retain Personal Data) and may still require the personal data to be retained. This may occur where the former scheme member has received a transfer value from the Shared Service paid to another pension arrangement or received a refund of contributions in respect of their period of membership in any of the Shared Service partner Funds.

The Shared Service would in these circumstances only consider retaining a reduced or "skeleton file" in order to be able to fulfil the legal and regulatory obligations.

## Data to be Retained (but not restricted to) in a Skeletal Record

- Name
- Date of birth
- National insurance number
- Record of period of membership
- Election to leave pension fund
- Election to receive payment of refund of contributions
- Election to transfer benefits to another pension provider
- Evidence of the refund payment/transfer value payment
- Other personal data considered necessary to fulfil legal and regulatory obligations

## Participating Employers

This policy applies to all partners in their capacity as administering authority of the LGPS. We have produced separate guidance for other participating employers in the Fund about our expectations for the retention by them of personal data the Shared Service may require to administer the LGPS. That guidance includes a suggested data retention policy that employers can each adopt in relation to their participation in the Fund.

## Review

This policy will be reviewed by the Shared Service partners annually to confirm the correct information is being retained.

**Matt Mott**

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