

## PERSONAL DATA RETENTION POLICY EXPECTATIONS

### City of Westminster Pension Fund (the "Fund")

This document has been prepared by Westminster City 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.wccpensionfund.co.uk](http://www.wccpensionfund.co.uk) and should be read in conjunction with the Fund's privacy notice, which can be accessed via the following link;

**[www.wccpensionfund.co.uk/westminster-city-council-pension-fund/about-us/forms-and-publications](http://www.wccpensionfund.co.uk/westminster-city-council-pension-fund/about-us/forms-and-publications)**

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 data controllers to the Administering Authority. The Administering Authority will assume responsibility as data 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;
- 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 LGPS to take account of recent 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 and that the payroll provider provides them with the legacy data to enable the employer to meet their pension obligations.

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:

**Sarah Hay**

**June 2020**

## **PARTICIPATING EMPLOYER PERSONAL DATA RETENTION POLICY**

(the "Employer" and "we")

This document has been prepared by the Employer, in its capacity as a scheme employer in the City of Westminster Pension Fund (the "Fund") and sets out the Employer's policy on the retention of personal data relating to its employees who are members of the Fund.

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

**<https://www.wccpensionfund.co.uk/westminster-city-council-pension-fund/about-us/forms-and-publications/>** and should be read in conjunction with the Employer's and Fund's privacy notices, which can be accessed via the following links: **[www.wccpensionfund.co.uk/media/3957/privacy-notice.pdf](http://www.wccpensionfund.co.uk/media/3957/privacy-notice.pdf)**

### **Introduction**

As data controllers, we are required by 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<sup>1</sup> 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 either to be put into payment or that have been 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 Employer to comply with the principles of data minimisation and storage limitation in relation to personal data that we hold and process for the purposes of the Fund.

### **Types of personal data we hold**

We hold and process the following types of personal data in relation to our current and former employees who are Members of the Fund:

- Contact details, including name, address, telephone numbers and email address.
  - Identifying details, including date of birth, national insurance number and employee and membership numbers.
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- Information that is used to calculate and assess eligibility for benefits, for example, length of service, history of hours worked or membership and salary information necessary for the calculation of the Member's benefits in the Fund.
- For current employees, information about the Member's family, dependants or personal circumstances, for example, marital status and information relevant to the distribution and allocation of benefits payable on death in service.
- Information about the Member's health, for example, to assess eligibility for benefits payable on ill health, or where the scheme Member's health is relevant to a claim for benefits following their death.
- Information about a criminal conviction if this has resulted in the Member owing money to the Employer or the Fund and the Employer or Fund may be reimbursed from the Member's benefits.

### **Retention periods for personal data**

In compiling our policy on the retention of personal data, we have taken into account the guidelines on the retention of personal data as set out 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;
- ICO's retention policy;
- EU Article 29 Working Party guidance; and
- The Pension Regulator's code of practice 14 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 Regulator obligations as a participating employer regarding the payment of pensions from the Fund; and
- deal with any questions or complaints that we or the Fund may receive about a Member's pension entitlement from the Fund.

Personal data will be retained for a maximum period of fifteen years after termination of employment.

During any period when we 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.

## **Member's and Beneficiary's rights**

Beneficiaries form a wider category of people who receive benefits from the Fund, for example the active/deferred/pensioner member's spouse / child(ren) / dependants). 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 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.

If the exercise of the Member's / Beneficiary's rights would prevent us from providing the personal data to the City of Westminster Pension Fund in order for the payment or continued payment of a pension from the Fund, we will consider retaining a minimised version of that Member's / Beneficiary's personal data in order to fulfil our legal obligations.<sup>2</sup>

## **Review**

This policy will be reviewed by the Employer at least annually.