



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Pension Fund Committee

**At:** Multi-Location Meeting - Gloucester Room, Guildhall / MS Teams

**On:** Wednesday, 7 September 2022

**Time:** 10.00 am

**Chair:** Councillor Mike Lewis

**Membership:**

Councillors: P N Bentu, J P Curtice, P Downing, M W Locke and W G Thomas

Neath Port Talbot Council Co-opted Member: To be confirmed.

Advisors: N Jellema, D Morton and Andre Ranchin

**Watch Online:** <https://bit.ly/3AcrKbV>

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### Agenda

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<b>3 Minutes.</b> To approve & sign the Minutes of the previous meeting(s) as a correct record.	1 - 5
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**Next Meeting:** Wednesday, 16 November 2022 at 10.00 am

*Huw Evans*

**Huw Evans**

**Head of Democratic Services**

**Thursday, 1 September 2022**

**Contact: Democratic Services: - 636923**

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# Agenda Item 3



City and County of Swansea

## Minutes of the Pension Fund Committee

Multi-Location Meeting - Gloucester Room, Guildhall / MS

Teams

Thursday, 7 July 2022 at 1.00 pm

### Present:

#### Councillor(s)

P N Bentu  
M B Lewis

#### Councillor(s)

J P Curtice  
M W Locke

#### Councillor(s)

P Downing  
W G Thomas

#### Advisors

D Morton  
Andre Ranchin

Advisor - Hymans Robertson  
Advisor - Hymans Robertson

#### Officer(s)

Karen Cobb  
Jeremy Parkhouse  
Jeffrey Dong

Senior Accountant  
Democratic Services Officer  
Deputy Chief Finance Officer / Deputy Section 151  
Officer.  
Principal Lawyer

Stephanie Williams

#### Apologies for Absence

Advisors: N Jellema

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### 1 Election of Chair for the 2022-2023 Municipal Year.

**Resolved** that Councillor M B Lewis be elected Chair for the 2022-2023 Municipal Year.

**(Councillor M B Lewis presided)**

### 2 Election of Vice-Chair for the 2022-2023 Municipal Year.

**Resolved** that Councillor P Downing be elected Vice-Chair for the 2022-2023 Municipal Year.

### 3 Disclosures of Personal and Prejudicial Interests.

In accordance with the Code of Conduct adopted by the City & County of Swansea, the following interests were disclosed:

Councillor P Bentu, J P Curtice, P Downing, M B Lewis and W G Thomas declared personal interests in the agenda as a whole.

**Officers:**

K Cobb, C Davies, J Dong, J Parkhouse and S Williams declared personal interests in the agenda as a whole.

**4 Minutes.**

**Resolved** that the Minutes of the Pension Fund Committee meeting held on 15 March 2022 be signed and approved as a correct record.

**5 2022 Audit Plan - City & County of Swansea Pension Fund.**

Gillian Gillett, Audit Wales presented the Audit Wales 2022 Audit Plan – City and County of Swansea Pension Fund.

The report outlined the work Audit Wales would plan to undertake during 2022 to discharge its statutory responsibilities as external auditor and to fulfil its obligations under the Code of Audit Practice to examine and certify whether the Pension Fund accounting statements were 'true and fair'.

The purpose of the plan was to set out the proposed work, when it would be undertaken, how much it would cost and who would undertake it. It was added that there had been no limitations imposed on the auditors in planning the scope of the audit.

The plan also outlined the continued impact of Covid-19, the audit of pension fund accounts, the financial audit risks, statutory audit functions, audit fee, audit team and timetable.

**Resolved** that the contents of the report be noted.

**6 City & County of Swansea Pension Fund - Draft Annual Report & Statement of Accounts 2021/22.**

The Deputy Chief Finance Officer / Deputy Section 151 Officer provided for approval the draft annual report & statement of accounts for the City & County of Swansea Pension Fund 2021/22.

It was outlined that the City & County of Swansea Pension Fund had always produced separate statement of accounts and annual report in respect of the financial year in question, which were subject to public audit. However, in consultation with Audit Wales, it was determined to consolidate both documents into one and streamline the production/audit process.

It was added that Officers had presented a completed draft annual report & statement of accounts 2021/22 to Audit Wales to commence their audit. Audit Wales had indicated that they would not commence their audit of the Pension Fund Draft

Annual Report & Statement of Accounts 2020/21 until September 2022. Their subsequent ISA 260 report with audit opinion and audit findings would be presented to Pension Fund Committee at the conclusion of the audit in November 2022.

The City & County of Swansea Pension Fund Draft Annual Report & Statement of Accounts 2021/22 were attached at Appendix 1.

The Committee commented upon the excellent results, particularly the record rise in asset values over the 3 years ranking the fund 2<sup>nd</sup> overall. Staff within the Finance Department were thanked and congratulated for their work and commitment.

**Resolved** that the City & County of Swansea Pension Fund Draft Annual Report & Statement of Accounts 2021/22 be approved, subject to audit.

## **7 Breaches Report.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which presented any breaches which had occurred in the period in accordance with the Reporting Breaches Policy.

Appendix A provided the details of breaches that had occurred since the previous Pension Fund Committee in March 2022. The details of the breaches and the actions taken by Management were noted.

## **8 Trustee Training.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a report which sought to determine an annual training programme for Pension Fund Committee and Local Pension Board members and officers of the Pension Fund.

**Resolved** that the assessment and outline training plan in paragraphs 3.7, 3.8 and 3.9 be approved and further opportunities which are identified during the year be delegated to the Deputy Section 151 Officer for approval.

## **9 Exclusion of the Public.**

The Committee was requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involved the likely disclosure of exempt information as set out in the exclusion paragraph of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 relevant to the item(s) of business set out in the report.

The Committee considered the Public Interest Test in deciding whether to exclude the public from the meeting for the items of business where the Public Interest Test was relevant as set out in the report.

**Resolved** that the public be excluded for the following items of business.

**(Closed Session)**

**10 Investment Strategy Implementation Update.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a report which updated the Committee on the progress of the continuation of the asset re-allocation (de-risking) programme from equities into yielding assets and the implementation of an equity protection programme proxy.

**Resolved** that: -

- 1) The progress made to date on previously approved recommendations in sections 2.3 and 3.4 of the report be noted and approved.
- 2) The granting of delegated approval to the Deputy Section 151 Officer to implement the programme of GILT futures outlined in line with Appendix 1 to manage interest rate exposure, be noted and approved.

**11 Net Zero Journey Plan.**

The Deputy Chief Finance Officer / Deputy S151 Officer and David Morton, Hymans Robertson presented a report which sought approval of the Net Zero Journey Plan, objectives and timeline.

The Chair requested that Officers prepared a statement which outlined the progress made and what the Committee was achieving.

**Resolved** that: -

- 1) The Net Zero Journey Plan and Objectives provided at Appendix 2, be approved.
- 2) The Net Zero Timeline provided at Appendix 3, be approved.

**12 Wales Pension Partnership - Draft Statement of Accounts and Audit Return.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which updated the Committee on the Wales Pension Partnership Draft Annual Report and Statement of Accounts 2021/22.

**13 Wales Pension Partnership Business Plan 2022-2025.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a report which provided a framework to the Wales Pension Partnership (WPP) programme of work for 2022-2025.

**Resolved** that the Wales Pension Partnership Business Plan 2022-2025 be approved.

**14 Wales Pension Partnership - Progress Update.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report to update the Pension Fund Committee on the progress and work of the Wales Pension Partnership (WPP).

**15 Investment Summary.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which presented the asset valuation and investment performance for the quarter, year and 3 years ended 31 March 2022.

**16 Report(s) of the Independent Advisors.**

David Morton and Andre Ranchin, Investment Consultants, Hymans Robertson presented 'for information' the Quarter 1 2022 Investment Monitoring Report.

The content of the report was noted by the Committee and various questions were asked, which were responded to accordingly. The Investment Consultants were thanked for the report.

**17 Fund Manager's Presentation(s):**

A presentation was made by and Aidan Quinn and Ionna Ali of Russell Investments.

Questions in relation to the content of the presentation were asked by the Committee and responses were provided accordingly.

The content of the presentation was noted and the Chair thanked the Fund Managers for attending the meeting.

The meeting ended at 3.36 pm

**Chair**

# Agenda Item 4a



## Report of the Section 151 Officer

Pension Fund Committee - 7 September 2022

### Administering Authority Discretions

<b>Purpose:</b>	In accordance with LGPS Regulations, to formulate and approve adopted Administering Authority Discretions
<b>Consultation:</b>	Legal, and Finance
<b>Recommendation:</b>	That the Pension Fund Committee note and approve:  1. The discretions afforded to the Administering Authority outlined in Appendix A
<b>Report Author:</b>	Jeff Dong
<b>Finance Officer:</b>	Jeff Dong
<b>Legal Officer:</b>	Carolyn Issac
<b>Access to Services Officer:</b>	N/A

#### 1. Background

- 1.1 In the management of the administration of an LGPS fund, sometimes requires the application of a number of discretions afforded to the Administering Authority under the LGPS Administering Regulations in its dealings with members and employers.
- 1.2 An Administering Authority must formalise and make clear either in a written policy or otherwise, if, and how it intends to implement these discretions.

#### 2. Adopted Administering Authority Discretions

- 2.1 Attached at Appendix A, is the City & County of Swansea's recommended Administering Authority Discretions for approval.

#### 3. Legal Implications

- 3.1 The current legislative framework for the pension fund administration carried out by Administering Authorities is set by the Local Government



Pension Scheme (Admin) Regulations 2009. The law governing pensions is a complex and specialist area.

- 3.2 The Pension Fund Committee Terms of Reference and Scheme of Delegation sets out the Committee's responsibility for the strategic governance of the Pension Fund.

#### **4. Financial Implications**

- 4.1 There are no direct financial implications arising from this report

#### **5. Equality Impact Assessment Implications**

- 5.1 There are no equality implications arising from this report

**Background papers:** None

**Appendices:**

Appendix A - Administering Authority Discretions

## CITY &amp; COUNTY OF SWANSEA PENSION FUND

## LGPS – ADMINISTERING AUTHORITY DISCRETIONS

## DISCRETIONS FROM 1.4.14. IN RELATION TO POST 31.3.14. ACTIVE MEMBERS (EXCLUDING COUNCILLOR MEMBERS) AND POST 31.3.14. LEAVERS (EXCLUDING COUNCILLOR MEMBERS), BEING DISCRETIONS UNDER:

- the Local Government Pension Scheme Regulations 2013 [prefix R]
- the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

REGULATION	DISCRETION	WRITTEN POLICY REQUIRED	RECOMMENDATION
R4(2)(b)	Whether to agree to an admission agreement with a Care Trust or NHS Scheme employing authority or Care Quality Commission		Each application will be considered on its individual merits.
R3(1A), R3(5) & RSch 2, Part 3, para 1	Whether to agree to an admission agreement with a body applying to be an admission body		Each application will be considered on its individual merits.
RSc2, Part 3, para 14	Whether to agree that an admission agreement may take effect on a date before the date on which it is executed		The Administering Authority will consider each case on its own merits; however will generally exercise this discretion
RSch 2, Part 3, para 9(d)	Whether to terminate an admission agreement in the event of: <ul style="list-style-type: none"> <li>- insolvency, winding up or liquidation of the body,</li> <li>- breach by that body of its obligations under the admission agreement'</li> <li>- failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so</li> </ul>		The Administering Authority will exercise its discretion and terminate the admission agreement where such circumstances arise.

RSch 2, Part 3, para 12(a)	Define what is meant by “employed in connection with”		The definition will be included in an admission agreement.
R16(1)	Whether to turn down a request to pay an APC/SCAPC over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment)		The Administering Authority will consider each case on its own merits; however will generally exercise this discretion when the cost to administer such payments exceeds the overall sum to be paid.
R16(10)	Whether to require a satisfactory medical before agreeing to an application to pay an APC / SCAPC		The Administering Authority requires all scheme members, who enter into additional pension contracts to pay additional pension contributions over a period of time, to undergo a medical examination.
R16(10)	Whether to turn down an application to pay an APC / SCAPC if not satisfied that the member is in reasonably good health		The Administering Authority resolves to turn down an application to pay an APC/SCAPC if it is not satisfied that the member is in reasonably good health
R17(12)	Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member		The Administering Authority resolves to pay the AVC monies under the instructions received via the ‘ <i>Death Grant – Expression of Wish form</i> ’. Where there is any doubt as to the validity of the deceased member’s wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits. Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.

R22(3)(c)	Pension account may be kept in such form as is considered appropriate		The Administering Authority resolves to keep electronic pension accounts via the pension administration system
TP10(9)	Where there are multiple ongoing employments, in the absence of an election from the member within 12 months of ceasing a concurrent employment, decide to which record, the benefits from the ceased concurrent employment should be aggregated.		The Administering Authority resolves that it will aggregate the ceased concurrent employment with the ongoing employment which will be in the best interests of the member
R30(8)	<b>Mandatory Policy:</b> <b>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement</b> Admin Authority discretion if employer has become defunct	YES	The Administering Authority may use its discretion to determine not to apply all or part of this reduction.  However, this discretion will only be used where there is a robust business case justifying the cost.
R30(8)	<b>Mandatory Policy:</b> <b>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31<sup>st</sup> March 2014 membership)</b> Admin Authority discretion if employer has become defunct	YES	The Administering Authority will consider the merits of the application submitted and may only agree where there is a robust business case justifying the cost
R68(2)	Whether to require any strain on Fund costs to be paid “up front” by employing authority following payment of benefits under R30(6) (flexible retirement), R30(7) (redundancy / business efficiency), or the waiver (in whole or in part) under R30(8) of any actuarial reduction that would otherwise have been applied to benefits which a member		The Administering Authority resolves that it will require employers to pay in full the cost of pension strain arising from early retirements, within a period not normally exceeding three years.

	voluntarily draws before normal pension age or to benefits drawn on flexible retirement		
TPSch 2, paras 1(2) and 1(1)(C)	<p><b>Mandatory policy:</b>  <b>Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement)</b>  Admin Authority discretion if employer has become defunct</p>		The Administering Authority will consider each case on its own merits and may only agree where there is a robust business case justifying the cost
TP3(1), TPSch 2, paras 2(1) and B30(5) and B30A(5)	<p><b>Mandatory Policy:</b>  <b>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 01 April 2014 and post 31 March 2014 membership):</b></p> <ul style="list-style-type: none"> <li>a) on compassionate grounds (pre 01 April 2014 membership) and / or in whole or in part on any grounds (post 31 March 2014 membership) if the member was not in the Scheme before 01 October 2006,</li> <li>b) on compassionate grounds (pre 01 April 2014 membership) and / or in whole or in part on any grounds (post 31 March 2014 membership) if the member was in the Scheme before 01 October 2006, will not be 60 by 31 March 2016 and will not attain 60 between 01 April 2016 and 31 March 2020 inclusive,</li> <li>c) on compassionate grounds (pre 01 April 2016 membership) and / or in whole or in part on any grounds (post</li> </ul>		The Administering Authority will consider the merits of the application submitted and may only agree where there is a robust business case justifying the cost

	<p><b>31 March 2016 membership) if the member was in the Scheme before 01 October 2006 and will be 60 by 31 March 2016,</b></p> <p><b>d) on compassionate grounds (pre 01 April 2020 membership) and / or in whole or in part on any grounds (post 31 March 2020 membership) if the member was in the Scheme before 01 October 2006, will not be 60 by 31 March 2016 and will attain 60 between 01 April 2016 and 31 March 2020 inclusive</b></p> <p><b>Admin Authority discretion if employer has become defunct</b></p>		
TPSch 2, para 2(3)	Whether to require any strain on Fund costs to be paid “up front” by employing authority if the employing authority “switches on” the 85 year rule for a member voluntarily retiring (other than flexible retirement) prior to age 60, or waives an actuarial reduction on compassionate grounds under TPSch 2, para 2(1)		The Administering Authority resolves that it will require employers to pay in full the cost of pension strain arising from early retirements, within a period not normally exceeding three years.
R32(7)	Whether to extend the time limits within which a member must give notice of the wish to draw benefits before normal pension age or upon flexible retirement		The Administering Authority resolves to exercise this discretion
R34(1)(a)	Decide whether to trivially commute a member’s pension under Section 166 of the Finance Act 2004 (includes pension credit members where the effective date of the Pension Sharing Order is after 31 March 2014 and the debited member had some		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.

	post 31 March 2014 membership of the 2014 Scheme)		
R34(1)(b)	Decide whether to trivially commute a lump sum death benefit under Section 168 of the Finance Act 2004		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.
R34(1)(C)	Decide whether to pay a commutation payment under Regulation 6 (payment after relevant accretion), 11 (de-minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (excludes survivor pensions and includes pension credit members where the effective date of the Pension Sharing Order is after 31 March 2014 and the debited member had some post 31 March 2014 membership of the 2014 Scheme)		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.
R36(3)	Approve medical advisors used by employers (for ill health benefits)		The Administering Authority has approved Independent Registered Medical Practitioners (IRMP) who are qualified in occupational health medicine for each employer on the Fund.
TP12(6)	Whether to use a certificate produced by an IRMP under the 2008 Scheme for the purposes of making an ill health determination under the 2014 Scheme <b>Admin Authority discretion if employer has become defunct</b>		The Administering Authority will exercise this discretion
R38(3)	Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner <b>Admin Authority discretion if employer has become defunct</b>		The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice
R38(6)	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health		The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice

	<b>Admin Authority discretion if employer has become defunct</b>		
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TP17(5) to (8) & R40(2), R43(2) & R46(2)	Decide to whom death grant is paid		<p>The Administering Authority resolves to pay the death grant under the instructions received via the '<i>Death Grant – Expression of Wish form</i>'. Where there is any doubt as to the validity of the deceased member's wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.</p> <p>Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.</p>
R49(1)(c)	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership		The Administering Authority resolves that it shall pay the member or their beneficiaries the highest value of benefit
R54(1)	Whether to set up a separate admission agreement fund		The Administering Authority resolves not to exercise this discretion.
R55	<p><b>Mandatory Policy:</b>  <b>Governance Compliance Statement must state whether the admin authority delegates their function or part of their function in relation to maintaining a pension fund to a committee, a sub-committee or an officer of the admin authority and, if they do so delegate, state</b>  - the frequency of any committee or sub-committee meetings  - the terms, structure and operational procedures appertaining to the delegation and</p>	YES	See Governance Compliance Statement

	<ul style="list-style-type: none"> <li>- whether representatives of employing authorities or members are included and, if so, whether they have voting rights</li> <li>The policy must also state</li> <li>- the extent to which a delegation, or the absence of a delegation, complies with Sec of State guidance and, to the extent it does not so comply, state the reasons for not complying, and</li> <li>- the terms, structure and operational procedures appertaining to the local Pensions Board</li> </ul>		
R58	<b>Mandatory Policy:</b> <b>Decide on Funding Strategy for inclusion in funding strategy statement</b>	YES	See Funding Strategy Statement
R59(1) & (2)	Whether to have a written pensions administration strategy and, if so, the matters it should include		See Pension Administration Strategy Statement
R61	<b>Mandatory Policy:</b> <b>Communication policy must set out the policy on provision of information and publicity to, and communicating with, members, representatives of members, prospective members and Scheme employers; the format, frequency and method of communications; and the promotion of the Scheme to prospective members and their employers</b>	YES	See Pension Fund Communication Strategy
R64(2ZA)	Whether to extend the period beyond 3 months from the date an Employer ceases to be a Scheme Employer, by which to pay an exit credit		The Administering Authority will consider each case on its own merits; however will generally exercise this discretion

<b>R64(2A)</b>	Whether to suspend (by way of issuing a suspension notice), for up to 3 years, an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension		The Administering Authority will consider each case on its own merits; however will generally exercise this discretion
<b>R64(4)</b>	Whether to obtain revision of employer's contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer		The Administering Authority resolves to exercise this discretion in all such cases
<b>R69(1)</b>	Decide frequency of payments to be made over to Fund by employers and whether to make an admin charge.		The Administering Authority resolves to exercise the discretion available under Regulation 69 (1) & (5).
<b>R69(4)</b>	Decide form and frequency of information to accompany payments to the Fund		The Administering Authority resolves to exercise the discretion available under Regulation 69 (1) & (5).
<b>R70 &amp; TP22(2)</b>	Whether to issue employer with notice to recover additional costs incurred as a result of the employer's level of performance		The Administering Authority resolves to consider each case on its merits, with any decision on costs being delegated to the Section 151 Officer
<b>R71(1)</b>	Whether to charge interest on payments by employers which are overdue		The Administering Authority resolves to charge interest at the rate of 1% above base, compounded quarterly, in respect of the late receipt of pension contributions and combined benefit payments
<b>R76(4)</b>	Decide procedure to be followed by admin authority when exercising its stage two IDRPs and decide the manner in which those functions are to be exercised		The Administering Authority has resolved that Stage 2 IDRPs be carried out by the Monitoring Officer.
<b>R79(2)</b>	Whether Administering Authority should appeal against employer decision (or lack of a decision)		The Administering Authority resolves to consider each case on its individual merits

R80(1)(b) & TP22(1)	Specify information to be supplied by employers to enable administering authority to discharge its functions		The Administering Authority resolves to exercise this discretion through negotiation and agreement with each individual employer
R82(2)	Whether to pay the whole or part of the amount that is due to the personal representatives (including anything due to the deceased member at the date of death) to: <ul style="list-style-type: none"> <li>- the personal representatives, or</li> <li>- anyone appearing to be beneficially entitled to the estate</li> </ul> without need for grant of probate / letters of administration where payment is less than amount specified in S6 of the Administration of Estates (Small Payments) Act 1965		The Administering Authority resolves to pay the death grant under the instructions received via the ' <i>Death Grant – Expression of Wish form</i> '. Where there is any doubt as to the validity of the deceased member's wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.  Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.
R83	Whether, where a person is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit		The Administering Authority resolves to consider each case on its individual merits
R98(1)(b)	Agree to bulk transfer payment <b>Decision can be made by either employer, Admin Authority or trustees of new scheme</b>		The Administering Authority resolves to exercise its discretion and will consider each case on its merits
R100(6)	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS <b>Joint decision with Admin Authority</b>		Extensions only to be allowed in exceptional circumstances and where the delay was outside of the member's control
R100(7)	Allow transfer of pension rights into the Fund		The Administering Authority resolves to consider each case on its individual merits

TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B10(2)	Where a member to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member		Administering Authority will exercise its discretion on behalf of the deceased member
TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & TSch 1 & L23(9)	Make election on behalf of deceased member with a certificate of protection of pension benefits i.e. determine best pay figure to use in the benefit calculations (pay cuts / restrictions occurring pre 1.4.08.)		Administering Authority will exercise its discretion on behalf of the deceased member
RSch 1 & TP17(9)(a)	Decide to treat child (who has not reached the age of 23) as being in continuous full-time education or vocational training despite a break		The Administering Authority resolves to exercise its discretion and will consider each case on its merits.
RSch 1 & TP17(9)(b)	Decide evidence required to determine financial dependence of co-habiting partner on scheme member or financial interdependence of co-habiting partner and scheme member		The Administering Authority, upon the death of the member, will request evidence, as defined in the regulations
TP3(13) & A70(1) & A71(4)(c)	<b>Mandatory Policy: Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment</b>	YES (for A70(1))	The Administering Authority resolves to abate the pre 1 April 2014 element of pensions in payment following re-employment in accordance with the regulations
TP15(1)(c) & TSch1 & L83(5)	Extend time period for capitalisation of added years contract		The Administering Authority resolves to exercise the discretion available under Regulation 83(5). Each case to be considered on its merits.
R105(2)	Decide whether to delegate any administering authority functions under the Regulations		The Administering Authority will consider each function on its own merit
R106(3)	Decide whether to establish a joint local pension board (if approval has been granted by the Secretary of State)		The Administering Authority has considered this and have opted to set-up a separate board
R106(6)	Decide procedures applicable to the local pension board		The Administering Authority has considered this and has published its own procedures, which are subject to review.
R107(1)	Decide appointment procedures, terms of appointment and membership of local pension board.		The Administering Authority has considered this and has published its own procedures which are subject to review

**DISCRETIONS IN RELATION TO SCHEME MEMBERS (EXCLUDING COUNCILLOR MEMBERS) WHO CEASED ACTIVE MEMBERSHIP ON OR AFTER 1.4.08. AND BEFORE 1.4.14., BEING DISCRETIONS UNDER:**

- the Local Government Pension Scheme (Administration) Regulations 2008 [prefix A]
- the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) [prefix B]
- the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [prefix T]
- the Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 [prefix TP]
- the Local Government Pension Scheme Regulations 2013 [prefix R]
- the Local Government Pension Scheme Regulations 1997 (as amended) [prefix L]

REGULATION	DISCRETION	WRITTEN POLICY REQUIRED	RECOMMENDATION
TR15(1)( c) TSch1 & L83(5)	Extend time period for capitalisation of added years contract where the member leaves his employment by reason of redundancy		The Administering Authority has applied its discretion and agreed a capitalisation period of 3-years however, individual cases will be considered where extenuating circumstances apply.
A45(3)	Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits		The Administering Authority resolves to treat such amounts as simple debts recovered via Invoice for active members. However, for members entitled to the immediate payment of benefits, arrears will be recovered from benefits

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A52(2)	<p>Whether to pay the whole or part of the amount that is due to the personnel representatives (including anything due to the deceased member at the date of death) to:</p> <ul style="list-style-type: none"> <li>• Personal representatives or</li> <li>• Anyone appearing to be beneficially entitled to the estate</li> </ul> <p>Without need for grate of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965</p>		<p>The Administering Authority resolves to pay the death grant under the instructions received via the '<i>Death Grant – Expression of Wish form</i>'. Where there is any doubt as to the validity of the deceased member's wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.</p> <p>Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.</p>
A56(2)	Approve medical advisors used by employers (for early payment, on grounds of ill health, of a deferred benefit or a suspended Tier 3 ill health pension)		The Administering Authority has approved Independent Registered Medical Practitioners (IRMP) who are qualified in occupational health medicine for each employer on the Fund.
TP23 & R76(4)	Decide procedure to be followed by administering authority when exercising its stage two IDRPs functions and decide the manner in which those functions are to be exercised		The Administering Authority has resolved that Stage 2 IDRPs functions be carried out by the Monitoring Officer.
TP23 & R79(2)	Whether administering authority should appeal against employer decision (or lack of a decision)		The Administering Authority resolves to consider each case on its individual merits.
TP23 TP22(1) & R80(1)(b)	Specify information to be supplied by employers to enable administering authority to discharge its functions		The Administering Authority resolves to exercise this discretion through negotiation and agreement with each individual employer
TP3(13) & A70(1) & A71(4)(c)	<b>Mandatory Policy: Decide policy on abatement of pensions following re-employment</b>	YES for A70(1)	The Administering Authority resolves to abate pensions following re-employment in accordance with the regulations
B10(2)	Where member to whom B10 applies (use of average of 3 years pay within the period of 13 years ending with the last day of active membership for final pay purposes)		Administering Authority will exercise its discretion on behalf of the deceased member

	dies before making an election, whether to make that election on behalf of the deceased member		
<b>B27(5)</b>	Whether to pay the whole or part of a child's pension to another person for the benefit of that child		The Administering Authority resolves to exercise its discretion and will consider each case on its merits
<b>A52A</b>	Whether, where a person (other than an eligible child) is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.		The Administering Authority resolves to consider each case on its individual merits
<b>TPSch 2, para 1(2) &amp; 1(1)( c)</b>	<b>Mandatory Written Policy:</b> <b>Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60</b> <b>Admin Authority discretion if employer has become defunct</b>	YES	The Administering Authority will consider each case on its own merits
<b>B30(5), TPsCh 2, para 2(1)</b>	<b>Mandatory Written Policy:</b> <b>Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member) Admin Authority discretion if employer has become defunct</b>	YES	The Administering Authority will consider the merits of the application submitted and may only agree where there is a robust business case justifying the cost
<b>TPSch 2, para 1(2) &amp; 1(1)( c)</b>	<b>Mandatory Written Policy:</b> <b>Whether to "switch on" the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60</b> <b>Admin Authority discretion if employer has become defunct</b>	YES	The Administering Authority will determine eligibility in accordance with the LGPS regulations and, if appropriate, medical advice
<b>B30A(5), TPsCh 2, para 2 (1)</b>	<b>Mandatory Written Policy:</b> <b>Whether to waive, on compassionate grounds, the actuarial reduction applied</b>	YES	The Administering Authority will consider the merits of the application submitted and may only agree where there is a robust business case justifying the cost



	<b>to benefits paid early under B30A (pensioner member with deferred benefits) Admin Authority discretion if employer has become defunct</b>		
<b>TPSch 2, para 2(3)</b>	Whether to require any strain on Fund costs to be paid “up front” by employing authority if the employing authority “switches on” the 85 year rule for a member voluntarily retiring prior to age 60, or waives an actuarial reduction on compassionate grounds under TPSch 2, para 2(1)		The Administering Authority resolves that it will require employers to pay in full the cost of pension strain arising from early retirements, within a period not normally exceeding three years
<b>B31(4)</b>	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria <b>Admin Authority discretion if employer has become defunct</b>		The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice
<b>B31(7)</b>	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment <b>Admin Authority discretion if employer has become defunct</b>		The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice
<b>B23(2) &amp; B32(2) &amp; B35(2) &amp; TSch1 &amp; L155(4)</b>	Decide to whom death grant is paid		The Administering Authority resolves to pay the death grant under the instructions received via the ‘ <i>Death Grant – Expression of Wish form</i> ’. Where there is any doubt as to the validity of the deceased member’s wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.  Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.

<b>RSch1 &amp; TP17(9)(b)</b>	Decide evidence required to determine financial dependence of co-habiting partner on scheme member or financial interdependence of co-habiting partner and scheme member		The Administering Authority, upon the death of the member, will request evidence, as defined in the regulations.
<b>RSch 1 &amp; TP17(9)(a)</b>	Decide to treat child (who has not reached the age of 23) as being in continuous education or vocational training despite a break		The Administering Authority resolves to exercise its discretion and will consider each case on its merits
<b>B39(1)(a) &amp; T14(3)</b>	Decide whether to trivally commute a members pension under Section 166 of the Finance Act 2004		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.
<b>R39(1)(b)</b>	Decide whether to trivally commute a lump sum death benefit under Section 168 of the Finance Act 2004		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.
<b>R39(1)( c)</b>	Decide whether to pay a commutation payment under Regulations 6 (payment after relevant accretion), 11 (de minimis rule for pension schemes) or 12 (payments by larger pension schemes) of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (excludes survivor pensions and pension credit members)		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.
<b>B42(1)(c)</b>	Decide, in the absence of an election from the member, which benefit is to be paid where the member would be entitled to a benefit under 2 or more regulations in respect of the same period of Scheme membership		The Administering Authority resolves that it shall pay the member or their beneficiaries the highest value of benefit
<b>TSch 1 &amp; L23(9)</b>	Make election on behalf of deceased member with a certificate of protection of pension benefits i.e. determine best pay figure to use in the benefit calculations		Administering Authority will exercise its discretion on behalf of the deceased member

	(pay cuts / restrictions occurring pre 1.4.08.)		
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**DISCRETIONS UNDER THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 1997 (AS AMENDED) IN RELATION TO:**

a) active Welsh councillor members, and

b) councillor members who ceased active membership on or after 1.4.98., and

c) any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08

- The Local Government Pension Scheme Regulations 1997 (as amended) [SI 1997/1612]
- The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 [SI 2008/238] [prefix T]
- The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A]
- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R]
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [prefix TP]

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<b>REGULATION</b>	<b>DISCRETION</b>	<b>WRITTEN POLICY REQUIRED</b>	<b>RECOMMENDATION</b>
12(5)	Frequency of payment of councillors' contributions		The Administering Authority will require that councillor members' pension contributions are deducted at the same intervals determined by the frequency of their pay.
17(4),(7),(8), & 89(4) & Sch 1	Extend normal 12 month period following end of relevant reserve forces leave for "Cancelling notice" to be submitted by a councillor member requesting that the service should not be treated as relevant reserve forces service		The Administering Authority will consider each case on its own merits.

TPSch 2, para 1(2) & 1(1)(f) & R60	<p><b>Mandatory written policy:</b>  <b>Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.</b>  <b>Note: TPSch 2, para 2(2) does not reference para 1(1)(f) so strictly speaking there is no requirement to publish a policy under this regulation or R60. However, we understand that this is simply a regulatory omission and the appropriate party should publish a policy accordingly.</b></p>	YES	The Administering Authority will consider each case on its own merits and may only agree where there is a robust business case justifying the cost
31(5) & TPSch 2, para 2(1)	<p><b>Mandatory written policy:</b>  <b>Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.</b></p>	YES	The Administering Authority will consider the merits of the application submitted and may only agree where there is a robust business case justifying the cost
38(1) & 155(4)	Decide to whom death grant is paid in respect of councillor members and post 31.3.98. / pre 1.4.08. leavers		<p>The Administering Authority resolves to pay the death grant under the instructions received via the <i>‘Death Grant – Expression of Wish form’</i>. Where there is any doubt as to the validity of the deceased member’s wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.</p> <p>Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.</p>
Reg 17(9)(a) & RSch1 of the LGPS (Transitional Provisions)	Decide to treat child as being in continuous education or vocational training despite a break (children of councillor members and children of post 31.3.98. / pre 1.4.08. leavers)		The Administering Authority resolves exercise its discretion and will consider each case on its individual merits

and Savings) Regs 2014 and definition in Sch 1 of the LGPS Regulations 2013			
47(1)	Apportionment of children's pension amongst eligible children (children of councillor members and children of post 31.3.98. / pre 1.4.08. leavers)		The Administering Authority resolves to apportion pensions equally amongst eligible children.
47(2)	Pay child's pension to another person for the benefit of the child (children of councillor members and children of post 31.3.98. / pre 1.4.08. leavers)		The Administering Authority resolves to pay the surviving parent or legal guardian.
49(1) & T14(3)	Decide whether to trivially commute a member's pension under section 166 of the Finance Act 2004 (includes pre 1 April 2008 leavers or Pension Credit members where the effective date of the Pension Sharing Order was pre 1 April 2014 or where the effective date of the Pension Sharing Order is after 31 March 2014 but the debited member had no post 31 March 2014 membership of the 2014 Scheme).		The Administering Authority resolves to exercise the discretion to commute all small pensions up to the maximum prescribed.

49(1)	Decide whether to trivially commute a lump sum death benefit under section 168 of the Finance Act 2004.		The Administering Authority resolves to exercise the discretion available under Regulation 49 to commute all small pensions up to the maximum prescribed.
50 and 157	Decide whether to commute benefits due to exceptional ill-health (including Pension Credit members where the effective date of the Pension Sharing Order was pre 1 April 2014 or where the effective date of the Pension Sharing Order is after 31 March 2014 but the debited member had no post 31 March 2014 membership of the 2014 Scheme) (councillor members and pre 1.4.08. leavers and pre 1.4.08 Pension Credit members)		The Administering Authority resolves to use discretion where a medical adviser has certified that the member's life expectancy is less than 1 year.
60(5)	Whether acceptance of AVC election is subject to a minimum payment (councillors only)		The Administering Authority resolves not to exercise discretion (i.e. will accept any amount).
80(5)	Whether to require any strain on Fund costs to be paid "up front" by employing authority following early voluntary retirement of a councillor (i.e. after age 50/55 and before age 60), or early payment of a deferred benefit on health grounds or from age 50 with employer consent (pre 1.4.08. leavers) – (see Note below)		The Administering Authority resolves that it will require employers to pay in full the cost of pension strain arising from early retirements, within a period not normally exceeding three years.
<b>TPSch 2, para 2(3)</b>	Whether to require any strain on Fund costs to be paid "up front" by employing authority if the employing authority "switches on" the 85 year rule for a member voluntarily retiring on or after age 55 and prior to age 60, or waives an		The Administering Authority resolves that it will require employers to pay in full the cost of pension strain arising from early retirements, within a period not normally exceeding three years

	actuarial reduction on compassionate grounds under <b>TPSch 2</b> , para 2(1).		
81(1)	Frequency of employer's payments to the fund (in respect of councillor members).		The Administering Authority resolves to exercise the discretion available under Regulation 81(1) & (5).
81(5)	Form and frequency of information to accompany payments to the Fund (in respect of councillor members)		The Administering Authority resolves to exercise the discretion available under Regulation 81(1) & (5).
82(1)	Whether to charge interest on payments by employers overdue by more than 1 month (in respect of councillor members)		The Administering Authority resolves to charge interest at the rate of 1% above base, compounded quarterly, in respect of the late receipt of pension contributions and combined benefit payments.
89(3)	Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits (councillors and pre 1.4.08. leavers)		The Administering Authority resolves to treat such amounts as simple debts recovered via Invoice for active members. However, for members entitled to the immediate payment of benefits, arrears will be recovered from benefits.
91(6)	Timing of pension increase payments by employers to fund (pre 1.4.08. leavers)		The Administering Authority will recover pension increases at intervals of no more than 12 months by mutual agreement with the bodies concerned.
95	Whether to pay the whole or part of the amount that is due to the personnel representatives (including anything due to the deceased member at the date of death) to: • personal representatives, or • anyone appearing to be beneficially entitled to the estate without need for grant of probate / letters of administration where payment is less than amount specified in s6 of the Administration of Estates (Small Payments) Act 1965 (death of councillor or pre 1.4.08. leaver)		<p>The Administering Authority resolves to pay the death grant under the instructions received via the '<i>Death Grant – Expression of Wish form</i>'. Where there is any doubt as to the validity of the deceased member's wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.</p> <p>Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.</p>
97(10)	Approve medical advisors used by employers (re ill health benefits for		The Administering Authority has approved Independent Registered Medical Practitioners (IRMP) who are

	councillors and re pre 1.4.08. preserved benefits payable on health grounds)		qualified in occupational health medicine for each employer on the Fund.
TP23 & R76(4)	Decide procedure to be followed by admin authority when exercising its stage two IDRP functions and decide the manner in which those functions are to be exercised		The Administering Authority has resolved that Stage 2 IDRP functions be carried out by the Monitoring Officer
TP23 & R79(2)	Whether administering authority should appeal against employer decision (or lack of a decision)		The Administering Authority resolves to consider each case on its individual merits
TP23 & TP22(1) & R80(1)(b)	Specify information to be supplied by employers to enable administering authority to discharge its functions.		The Administering Authority resolves to exercise this discretion through negotiation and agreement with each individual employer
106A(5)	Date to which benefits shown on annual deferred benefit statement are calculated		The Administering Authority will use the Pension Increase date for the appropriate year
TP3(13) A70(1) & A71(4)(c)	<b>Mandatory written policy Abatement of pensions following re-employment (councillors and pre 1.4.08. leavers)</b>	Yes (for 109)	The Administering Authority resolves to abate pensions following re-employment in accordance with the regulations
118	Retention of CEP where member transfers out (councillors and pre 1.4.08. leavers)		The Administering Authority resolves not to exercise discretion.
147	Discharge Pension Credit liability (in respect of Pension Sharing Orders for councillors and pre 1.4.08. Pension Sharing Orders for non-councillor members)		The Administering Authority resolves to consider each case on its individual merits.

Note: benefits paid on or after age 50 and before age 55 are subject to an unauthorised payments charge and, where applicable, an unauthorised payments surcharge under the Finance Act 2006. Also, any part of the benefits which had accrued after 5 April 2006 would generate a scheme sanction charge.



**DISCRETIONS UNDER THE LOCAL GOVERNMENT PENSION SCHEME REGULATIONS 1995 (AS AMENDED) IN RELATION TO SCHEME MEMBERS WHO CEASED ACTIVE MEMBERSHIP BEFORE 1.4.98**

- The Local Government Pension Scheme Regulations 1995 (as amended) [SI 1995/1019]
- The Local Government Pension Scheme Regulations 1997 (as amended) [SI 1997/1612] [prefix L]
- The Local Government Pension Scheme (Transitional Provisions) Regulations [SI 1997/1613] [prefix TL]
- The Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] [prefix A]
- The Local Government Pension Scheme Regulations 2013 [SI 2013/2356] [prefix R]
- The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] [prefix TP]

REGULATION	DISCRETION	WRITTEN POLICY REQUIRED	RECOMMENDATION
TP3(5A)(vi), TL4, L106(1) & D11(2)(c)	<p><b>Mandatory written policy</b>  <b>Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds. Although the common provisions of the 1997 Transitional provisions regulations do not specify regulation D11(2)(c), there intention was that it should apply to this regulation. (Admin Authority discretion if employer has become defunct)</b></p>		The Administering Authority resolves to consider each case on its individual merits
E8	Decide to whom death grant is paid in respect of pre 1.4.98. retirees / pre 1.4.98. deferred		The Administering Authority resolves to pay the death grant under the instructions received via the ' <i>Death Grant – Expression of Wish form</i> '. Where there is any doubt as to the validity of the deceased member's wishes; where an expression of wish is challenged; or where the expression of wish is unreasonable, will consider each case on its merits.

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			Payment will be made to any person appearing to the authority to have been a relative or dependent of the deceased at any time.
F7	Whether to pay spouse's pensions for life for pre 1.4.98 retirees / pre 1.4.98 deferred who die on or after 1.4.98. (rather than ceasing during any period of remarriage or co-habitation)		The Administering Authority to exercise its discretion to allow payment of appropriate spouse's pensions for life
TP17(9)(a) & RSch 1	Decide to treat child (who has not yet reached the age of 23) as being in continuous education or vocational training despite a break (children of pre 1.4.98. retirees / pre 1.4.98. deferred)		The Administering Authority resolves to exercise its discretion and will consider each case on its merits.
G11(1)	Apportionment of children's pension amongst eligible children (children of pre 1.4.98. retirees / pre 1.4.98. deferred)		The Administering Authority resolves to apportion the pension equally amongst eligible children.
G11(2)	Pay child's pension to another person for the benefit of the child (children of pre 1.4.98. retirees / pre 1.4.98. deferred)		The Administering Authority resolves to pay the child's pension to the surviving parent or guardian.
<b>TP3(13), A70(1) &amp; A71(4)(c)</b>	<b>Mandatory written policy Abatement of pensions following re-employment.</b>	<b>YES for A70(1)</b>	The Administering Authority resolves to abate pensions following re-employment in accordance with the Regulations
<b>TP23 &amp; R76(4)</b>	Decide procedure to be followed by admin authority when exercising its stage two IDRPs and decide the manner in which those functions are to be exercised		The Administering Authority has resolved that Stage 2 IDRPs be carried out by the Monitoring Officer
<b>TP23 &amp; R79(2)</b>	Whether administering authority should appeal against employer decision (or lack of a decision)		The Administering Authority resolves to consider each case on its individual merits

<b>TP23, TP22(1) &amp; R80(1)(b)</b>	Specify information to be supplied by employers to enable administering authority to discharge its functions.		The Administering Authority resolves to exercise this discretion through negotiation and agreement with each individual employer.

**DISCRETIONS UNDER THE LOCAL GOVERNMENT (EARLY TERMINATION OF EMPLOYMENT) (DISCRETIONARY COMPENSATION)  
(ENGLAND AND WALES) REGULATIONS 2000 (AS AMENDED)**

Under Regulation 26 of the Discretionary Compensation Regulations, each authority (other than an Admitted Body) is required to formulate and keep under review a policy which applies in respect of exercising their discretion in relation to:

REGULATIONS	DISCRETION	WRITTEN POLICY REQUIRED	RECOMMENDATION
31(2)	Agree to pay annual compensation on behalf of employer and recharge payments to employer		The Administering Authority resolves to exercise its discretion and pay as described.

**DISCRETIONS UNDER THE LOCAL AUTHORITIES (ALLOWANCES FOR MEMBERS) (WALES) REGULATIONS 2007 [SI 2007/1086]**

<b>ADMIN AUTHORITY</b>	<b>REGULATIONS</b>	<b>DISCRETION</b>	<b>WRITTEN POLICY REQUIRED</b>	<b>RECOMMENDATION</b>
<b>Relevant Authority</b>	38	Scheme of allowances made by a county council or county borough council must specify which members will be eligible to join the LGPS and that the basic and special responsibility allowances will be pensionable		The Administering Authority resolves that all Councillor Members are eligible to join the LGPS.

**DISCRETIONS UNDER THE REGISTERED PENSION SCHEMES (MODIFICATION of SCHEME RULES) REGULATIONS 2011 [SI 2011/1791]**

ADMIN AUTHORITY	REGULATIONS	DISCRETION	WRITTEN POLICY REQUIRED	RECOMMENDATION
<b>Relevant Authority</b>	2	To decide whether it is legally able to offer voluntary scheme pays (to determine legality see paragraph 223 onwards of the Annual Allowance guide published under the 'Guides and sample documents' page of <a href="http://www.lgpsregs.org">www.lgpsregs.org</a> ); and, if so, to decide the circumstances (if any) upon which it would do so.		The Administering Authority resolves to exercise its discretion in consultation with the Scheme member

# Agenda Item 4b



## Report of the Section 151 Officer

Pension Fund Committee - 7 September 2022

### Breaches Report

<b>Purpose:</b>	The report presents any breaches which have occurred in the period in accordance with the Reporting Breaches Policy.
<b>Report Author:</b>	Claire Elliott, Pension Manager
<b>Finance Officer:</b>	Jeff Dong – Deputy S 151 Officer
<b>Legal Officer:</b>	Stephanie Williams – Principal Lawyer
<b>Access to Services Officer:</b>	N/A
<b>For Information</b>	

#### 1. Introduction

- 1.1 The Reporting Breaches policy was adopted with effect from 9 March 2017.
- 1.2 The policy requires a report to be presented to the Pension Board and Pension Fund Committee on a quarterly basis, highlighting any new breaches which have arisen since the previous meeting and setting out:
  - all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates
  - in relation to each breach, details of what action was taken and the result of any action (where not confidential)
  - any future actions for the prevention of the breach in question being repeated
- 1.3 Following the introduction of GDPR requirements and the requirements to report any breaches to the Information Officer and ICO, if required, it has been determined good practice and transparent to also include GDPR breaches also within this report

#### 2. Breaches

- 2.1 Under the policy, breaches of the law are required to be reported to the Pensions Regulator where there is 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

- The failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions
- 2.2 The Breaches Report is attached at Appendix A and the following further information is provided.
  - 2.3 Under the LGPS regulations, interest is paid on retirement lump sum payments if the payment is made more than one month after retirement and calculated at one per cent above the base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.
  - 2.4 Since the last report in June 2022, 5% of retirement lumps sums have not been paid within the benchmark (it should be noted that 100% of payments were made within 1 month when all documentation was received). The % of non-payment of retirement lump sums within the specified benchmark was due to the members not returning completed pension election forms within a timely manner. Communication sent to members at time of retirement has been reviewed to ensure that the importance of timely return of required documents is highlighted and reminder triggers put in place.
  - 2.5 The basic objective of the General Data Protection Regulation (GDPR) is to enforce stronger data security and privacy rules among organisations when it comes to protecting an individual's personal data. The UK legislation is the Data Protection Act 2018 and mirrors many key principles of the Data Protection Act 1998. Where a breach of a member's personal data happens (a breach of personal data means that a security breach has taken place leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data, transmitted, stored or otherwise processed. [GDPR Article 4(12)]), the Pension Fund (who complies with Swansea Council GDPR Principles) has an obligation to undertake a full investigation within the initial 72-hours of acknowledging a data breach. When the Fund becomes aware of a breach, the appropriate investigation takes place within the stipulated timeframe and the findings presented to the Data Breach Panel for review. The requirements presented for improved working practices by the Data Breach Panel the Fund has incorporated within the day-to-day working practices. There has been no GDPR breach since last reporting date
  - 2.6 The Fund requires that employers pay employee and employer contributions to the Fund on a monthly basis and no later than the 19<sup>th</sup> of the month after which the contributions have been deducted. There have been a single instance during the reporting period where breaches have occurred. In this case, Treasury Management staff have written to the employers to request payment and provide a reminder of the responsibilities to submit on time.
  - 2.7 With regards to performance data in respect of processing refunds, in most cases, the sums are quite small and the problem is locating the member/former member to process the refund, quite often they may have moved address or even passed away.



### **3. Equality and Engagement Implications**

3.1 N/A

### **4 Legal Implications**

4.1 Where breaches have occurred, the legal implications are outlined in Code of Practice no.14 and GDPR legislation

### **5. Financial Implications**

5.1 Minimal loss of investment income and a possible penalty charge from TPR.

**Background papers:** None

**Appendices:**

Appendix A - Breaches Register

## Appendix A - City and County of Swansea Breaches Register

Date	Category (e.g. administration, contributions, funding)	Description and cause of breach	Possible effect of breach and wider implications	Reaction of relevant parties to breach	Reported / Not reported (with justification if not reported and dates)	Outcome of report and/or investigations	New Breach (since last report)
Nov 20 – Feb 2021	Administration	19.23% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 96.84% of member option forms returned were paid within 1 month of date of return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations .	% due to members retiring from age 55 but before normal pension age and late return of options confirming early access of retirement benefits. % due to a delay in the return of member pension options/completed in full for the month of December.		Communication to members regarding retirement options are constantly reviewed to ensure the importance of returning completed documents in a timely manner is highlighted.	
Nov 20 – Feb 21	Administration	Frozen refunds unclaimed for this period equates to 86% .... This equates to a monetary value of £7,488.70.	Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of the 5-year anniversary of date of leaving	

			<p>be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this.</p> <p><b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed</b></p>				
Nov 20 – Feb 21	GDPR Breaches	No breaches to report during this quarter					

Nov 20 – Feb 21	Contributions	1 Employer has not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Mar 2021	Administration	30.55% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 91.89% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	A % of late payments was in main due to the Pru failing to disinvest AVC monies and forward payments in a timely manner. The Pru have migrated to a new system and are experiencing ongoing problems. Members failed to return pension election forms in a timely manner/completed in full and late issue of pensionable pay information from the member's employers payroll section, which has led to the late provision of pension options to		The Fund has maintained regular contact with the Pru chasing payments of monies / requesting updates to communicate to members. Communication to members regarding retirement options are subject to review on a regular basis. Members are made aware of the importance of returning completed documents in a timely manner. The Pension Section provide member	

				the member.		employer payroll sections with a listing of outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	
Mar 2021	Administration	Frozen refunds unclaimed for this period equates to 94.3% .... This equates to a monetary value of £3,189	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year anniversary from date of leaving	

			we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.</b>				
Mar 2021	GDPR Breaches	No breaches to report					
Apr - Jun 2021	Administration	15.91% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 97.78% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	A % of late payments was in main due to the Pru failing to disinvest AVC monies and forward payments in a timely manner. The Pru have migrated to a new system and are experiencing ongoing problems.		The Fund has maintained regular contact with the Pru chasing payments of monies / requesting updates to communicate to members. Communication to members	

				Members failed to return pension election forms in a timely manner/completed in full and late issue of pensionable pay information from the member's employers payroll section, which has led to the late provision of pension options to the member		regarding retirement options are subject to review on a regular basis. Members are made aware of the importance of returning completed documents in a timely manner. The Pension Section provide member employer payroll sections with a listing of outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	
Apr - Jun 2021	Administration	Frozen refunds unclaimed for this period equates to 84.6% .... This equates to a monetary value of £4,770.17	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year anniversary from date of leaving	

aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this.

**Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.**



Apr - Jun 2021	GDPR Breaches	No breaches to report					
Apr 21 – May 21	Contributions	2 Employers have not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
July – August 2021	Administration	7% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	A % of late payments was in main due to the Pru failing to disinvest AVC monies and forward payments in a timely manner. The Pru have continued to experience problems with the new system however going forward it is anticipated that these issues should now be resolved. Members failed to return pension election forms in a timely manner		The Fund has maintained regular contact with the Pru chasing payments of monies / requesting updates to communicate to members. Communication to members regarding retirement options are subject to review on a regular basis. Members are made aware of the importance of returning completed documents in a timely manner. The Pension	

						Section provide member employer payroll sections with a listing of outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	
July – August 2021 Page 48	Administration	Frozen refunds unclaimed for this period equates to 94% .... This equates to a monetary value of £16,808.32	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year anniversary from date of leaving	

			above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.</b>				
July – August 2021	GDPR Breaches	No breaches to report					
June – July 21	Contributions	1 Employer has not paid contributions within required timescale	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Sept – Oct	Administration	14% of	The	% (3 in total) due		Member coms	

2021		retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	to late receipt of confirmation of retirement from the members employer / members failing to return pension options in a timely manner		highlight the importance of returning the completed forms / certificates in a timely manner. Payroll sections are issued with a monthly spreadsheet listing all outstanding termination forms and are reminded of the importance of providing accurate information on a timely basis.	
Sept – Oct 2021	Administration	Frozen refunds unclaimed for this period is 80% .... This equates to a monetary value of £4,826.52	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is	% due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year anniversary from date of leaving	

			<p>claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this.</p> <p><b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed.</b></p>				
Sept – Oct 2021	GDPR breaches	No breaches to report					
August – Sept 21	Contributions	3 Employer have not paid contributions within required	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for	

		timescale				submission of contributions has passed	
Nov 21 – Feb 2022	Administration	20.6% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 97.06% of member option forms returned were paid within 1 month of date of return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to the late provision of final pensionable pay figures from members employer payroll section / late return of completed option forms by member.		Communications to employers HR / Payroll Section and members regarding the provision of termination forms, final pensionable pay figures is subject to ongoing review and the importance of returning completed forms in a timely manner and the consequences of failure to comply is highlighted	
Nov 21 – Feb 2022	Administration	Frozen refunds unclaimed for this period equates to 75% .... This equates to a monetary value of £7,579.74	Regulations, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not	High % due to member not making a positive election to claim refund or transfer a cash transfer sum (CTS) to an alternative pension arrangement	Information has been recorded within the breach register	Members are written to 3 months prior to the date of the 5-year anniversary of date of leaving	

			<p>be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this.</p> <p><b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed</b></p>				
Nov 21 – Feb 2022	GDPR Breaches	No breaches to report during					

		this quarter					
Nov 21 – Feb 2022	Contributions	5 Employer have not paid contributions within required timescale – see below for detail	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	
Mar 2022	Administration	12.50% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	Members failed to return pension election forms in a timely manner/completed in full and late issue of pensionable pay information from the member's employers payroll section, which has led to the late provision of pension options to the member.		The Fund continues to remind its members of the importance of returning pension option forms in a timely manner. The Pension Section provide member employer payroll sections with a listing of outstanding termination forms on a monthly basis. All communications are subject to review.	
Mar 2022	Administration	Frozen refunds unclaimed for this period equates to 82.36% .... This	Regulations state, no further interest will accrue on or after 5-year	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year	



		equates to a monetary value of £1,862.60	anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of</b>			anniversary from date of leaving	
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			<b>refunds as the 5 year anniversary ruling will be removed.</b>				
Mar 2022	GDPR Breaches	No breaches to report					
Apr – Jun 2022	Administration	16.28% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to a delay with the return of the completed pension options		The Fund continues to remind its members of the importance of returning pension option forms in a timely manner	
Apr – Jun 2022	Administration	Frozen refunds unclaimed for this period equates to 94.12% .... This equates to a monetary value of £2581.94	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year anniversary from date of leaving	

			a refund is claimed there will be tax implications as this is deemed to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5 year anniversary ruling will be removed</b>				
Apr – Jun 2022	GDPR Breaches	No breaches to report					
March – May 22	Contributions	3 Employer have not paid contributions within required	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for	

		timescale – see below for detail				submission of contributions has passed	
July – August 2022	Administration	5% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid within 1 month of receipt of member option return	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due date, under the 2013 LGPS regulations	% due to a delay with the return of the completed pension options		The Fund continues to remind its members of the importance of returning pension option forms in a timely manner	✓
July – August 2022 Page 58	Administration	Frozen refunds unclaimed for this period equates to 84.37% .... This equates to a monetary value of £12,043.54	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment membership cannot be aggregated, the member will not be able to transfer the benefit out and if a refund is claimed there will be tax implications as this is deemed	High % due to member not making a positive election to claim refund	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year anniversary from date of leaving	✓

			to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5-year anniversary ruling will be removed</b>				
July – August 2022	GDPR	No breaches to report					✓
July – August 2022	Contributions	3 Employer have not paid contributions within required timescale – see below for detail	Loss of investment returns	Employers are contacted once breach has occurred		Employers are contacted as soon as the deadline for submission of contributions has passed	✓

✓ New breaches since the previous meeting

The details of the three late Contributors :

No. of Contributors	Due Date	Date Paid	No of Months	Amount £	Organisation Type	Reason
2	19 <sup>th</sup> July 19 <sup>th</sup> August	21 <sup>st</sup> July NYP	2	458 458	Small Town Council	Persistently late in paying
6,072	19 <sup>th</sup> July	20 <sup>th</sup> July	1	3.3m	Local Authority	One off late payment-clerical error-wrong date entered on bacs payment, too late to change
11	19 <sup>th</sup> August	NYP	1	6,400	Small Town Council	Not the first late payment, reminder to pay on time has been sent.

# Agenda Item 5



## Report of the Chief Legal Officer

Pension Fund Committee – 7 September 2022

### Exclusion of the Public

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	<b>Item No's.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	6a, 6b, 7a	14
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Tracey Meredith – Chief Legal Officer (Monitoring Officer)	

#### 1. Introduction

- 1.1 Section 100A (4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, allows a Principal Council to pass a resolution excluding the public from a meeting during an item of business.
- 1.2 Such a resolution is dependant on whether it is likely, in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 100I of the Local Government Act 1972.

## **2. Exclusion of the Public / Public Interest Test**

- 2.1 In order to comply with the above mentioned legislation, Cabinet will be requested to exclude the public from the meeting during consideration of the item(s) of business identified in the recommendation(s) to the report on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Exclusion Paragraphs of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.
- 2.2 Information which falls within paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended is exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 2.3 The specific Exclusion Paragraphs and the Public Interest Tests to be applied are listed in **Appendix A**.
- 2.4 Where paragraph 16 of the Schedule 12A applies there is no public interest test. Councillors are able to consider whether they wish to waive their legal privilege in the information, however, given that this may place the Council in a position of risk, it is not something that should be done as a matter of routine.

## **3. Financial Implications**

- 3.1 There are no financial implications associated with this report.

## **4. Legal Implications**

- 4.1 The legislative provisions are set out in the report.
- 4.2 Councillors must consider with regard to each item of business set out in paragraph 2 of this report the following matters:
  - 4.2.1 Whether in relation to that item of business the information is capable of being exempt information, because it falls into one of the paragraphs set out in Schedule 12A of the Local Government Act 1972 as amended and reproduced in Appendix A to this report.
  - 4.2.2 If the information does fall within one or more of paragraphs 12 to 15, 17 and 18 of Schedule 12A of the Local Government Act 1972 as amended, the public interest test as set out in paragraph 2.2 of this report.
  - 4.2.3 If the information falls within paragraph 16 of Schedule 12A of the Local Government Act 1972 in considering whether to exclude the public members are not required to apply the public interest test but must consider whether they wish to waive their privilege in relation to that item for any reason.

**Background Papers:** None.

**Appendices:** Appendix A – Public Interest Test.



## Public Interest Test

No.	Relevant Paragraphs in Schedule 12A
<b>12</b>	<b>Information relating to a particular individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 12 should apply. Their view on the public interest test was that to make this information public would disclose personal data relating to an individual in contravention of the principles of the Data Protection Act. Because of this and since there did not appear to be an overwhelming public interest in requiring the disclosure of personal data they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>13</b>	<b>Information which is likely to reveal the identity of an individual.</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 13 should apply. Their view on the public interest test was that the individual involved was entitled to privacy and that there was no overriding public interest which required the disclosure of the individual's identity. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
<b>14</b>	<b>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</b>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 14 should apply. Their view on the public interest test was that:</p> <ul style="list-style-type: none"> <li>a) Whilst they were mindful of the need to ensure the transparency and accountability of public authority for decisions taken by them in relation to the spending of public money, the right of a third party to the privacy of their financial / business affairs outweighed the need for that information to be made public; or</li> <li>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</li> </ul> <p>This information is not affected by any other statutory provision which requires the information to be publicly registered.</p> <p>On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

No.	Relevant Paragraphs in Schedule 12A
15	<p><b>Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 15 should apply. Their view on the public interest test was that whilst they are mindful of the need to ensure that transparency and accountability of public authority for decisions taken by them they were satisfied that in this case disclosure of the information would prejudice the discussion in relation to labour relations to the disadvantage of the authority and inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
16	<p><b>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</b></p>
	<p>No public interest test.</p>
17	<p><b>Information which reveals that the authority proposes:</b>  <b>(a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</b>  <b>(b) To make an order or direction under any enactment.</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 17 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by the public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>
18	<p><b>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</b></p>
	<p>The Proper Officer (Monitoring Officer) has determined in preparing this report that paragraph 18 should apply. Their view on the public interest test was that the authority's statutory powers could be rendered ineffective or less effective were there to be advanced knowledge of its intention/the proper exercise of the Council's statutory power could be prejudiced by public discussion or speculation on the matter to the detriment of the authority and the inhabitants of its area. On that basis they felt that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. Members are asked to consider this factor when determining the public interest test, which they must decide when considering excluding the public from this part of the meeting.</p>

# Agenda Item 6a

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

Document is Restricted

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

Document is Restricted

# Agenda Item 6b

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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# Agenda Item 7a

By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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By virtue of paragraph(s) 14 of Schedule 12A  
of the Local Government Act 1972  
as amended by the Local Government (Access to  
Information) (Variation) (Wales) Order 2007.

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