



Dinas a Sir Abertawe

Hysbysiad o Gyfarfod

Fe'ch gwahoddir i gyfarfod

Y Bwrdd Pensiwn Lleol

Lleoliad: Cyfarfod Aml-Leoliad - Ystafell Gloucester, Neuadd y Ddinas / MS Teams

Dyddiad: Dydd Mercher, 5 Hydref 2022

Amser: 10.00 am

Cadeirydd: Ian Guy

Aelodaeth:

Cynrychiolwyr Cyflogwr

C R Doyle a/ac S A Knoyle

Cynrychiolwyr Aelodau'r Bwrdd Pensiwn Lleol

R Broad a/ac D White

Gwyltio ar-lein: <https://bit.ly/3qENyID>

Agenda

Rhif y Dudalen.

- 1 Ethol Is-gadeirydd ar gyfer blwyddyn ddinesig 2022-2023.**
- 2 Ymddiheuriadau am absenoldeb.**
- 3 Datgeliadau o fuddiannau personol a rhagfarnol.**
www.abertawe.gov.uk/DatgeluCysylltiadau
- 4 Cofnodion.** **1 - 5**
Cymeradwyo a llofnodi, fel cofnod cywir, gofnodion y cyfarfod(ydd) blaenorol.
- 5 Adroddiad(au) Swyddog Adran 151.**
a Adroddiad Disgresiynau Awdurdod. **6 - 34**
b Adroddiad am Doriadau. **35 - 58**
- 6 Gwahardd y Cyhoedd.** **59 - 62**
- 7 Adroddiad(au) Swyddog Adran 151.**
a Diweddariad am Bartneriaeth Pensiwn Cymru. **63 - 69**
b Crynodeb Buddsoddi. **70 - 71**
- 8 Adroddiad Disgresiynau Awdurdod.**
a Adroddiad Chwarterol yr Ymgynghorydd Buddsoddi. **72 - 90**

Cyfarfod nesaf: Dydd Mercher, 30 Tachwedd 2022 am 10.00 am

Huw Evans

**Huw Evans
Pennaeth y Gwasanaethau Democrataidd
Dydd Mercher, 28 Medi 2022**

Cyswllt: Gwasanaethau Democrataidd: - 636923

Agenda Item 4



City and County of Swansea

Minutes of the **Local Pension Board**

Multi-Location Meeting - Gloucester Room, Guildhall / MS

Teams

Wednesday, 27 July 2022 at 10.00 am

Present:

Employer Representatives

S A Knoyle

C R Doyle

Local Pension Board Member Representatives

I Guy

D White

Officer(s)

Jeffrey Dong

Deputy Chief Finance Officer / Deputy Section 151 Officer.

Stephanie Williams

Principal Lawyer

Karen Cobb

Senior Accountant

Jeremy Parkhouse

Democratic Services Officer

Apologies for Absence

R Broad

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

Resolved that Ian Guy be elected Chair for the 2022-2023 Municipal Year.

(Ian Guy presided)

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

Resolved that David White be appointed Interim Vice-Chair subject to further discussions at the next scheduled meeting.

3 Disclosures of Personal and Prejudicial Interests.

In accordance with the Code of Conduct adopted by the City and County of Swansea, the following interests were declared: -

Councillors C R Doyle and S A Knoyle declared personal interests in the whole agenda as members of the Pension Fund.

Ian Guy and David White declared personal interests in the whole agenda as members of the Pension Fund.

Karen Cobb, Jeff Dong, Jeremy Parkhouse and Stephanie Williams declared personal interests in the whole agenda as members of the Pension Fund.

4 Minutes.

Resolved that the Minutes of the Local Pension Board meeting held on 1 April 2022 be approved and signed as a correct record.

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

The Deputy Chief Finance Officer / Deputy Section 151 Officer 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.

The Chair noted the revised timetable and it was stated that Audit Wales were expecting to provide their report in autumn 2022.

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 presented a 'for information' report which provided 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 / Local Pension Board 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 Board commented upon the excellent results, the rise in pension contributors, how the Fund is protected by legislation from Central Government incursions, the money paid out from the Fund supporting the local economy and the need to highlight this in the future.

Staff within the Finance Department were thanked and congratulated for their work and commitment in producing the report and Statement of Accounts 2021/22.

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 Local Pension Board in April 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 'for information' report which sought to determine an annual training programme for Pension Fund Committee and Local Pension Board members and officers of the Pension Fund.

The Chair endorsed the importance and the excellent quality of the training provided to date. He also highlighted the benefits of joint training sessions with the Pension Fund Committee Members.

9 Exclusion of the Public.

The Board 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 Board 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 'for information' report which updated the Board 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.

The Board commented on the 3-year valuation exercise currently being undertaken and the very positive funding level at 31 March 2022.

11 Net Zero Journey Plan.

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which provided the Net Zero Journey Plan, objectives and timeline.

The Board recognised the importance of on-going engagement and the positive news that the Fund was progressing towards its 2037 net zero target.

The Chair also noted correspondence from Friends of the Earth. It was added that correspondence to local Senedd Members in relation to net zero targets would be circulated to the Board by the Deputy Chief Finance Officer / Deputy S151 Officer.

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 'for information' report which provided a framework to the Wales Pension Partnership (WPP) programme of work for 2022-2025.

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.

The Deputy Chief Finance Officer / Deputy S151 Officer presented a 'for information' report which provided 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.

17 Letters of Thanks.

The Chair proposed that letters of thanks be forwarded to Councillor Alan Lockyer and former Councillor Peter Jones for their contributions as previous Local Pension Board Members.

Resolved that the Democratic Service Officer liaises with the Chair and forwards the letters to the former Local Pension Board Members.

18 Dates of Future Meetings.

It was highlighted that the Local Pension Board meetings scheduled for September 2022 and March 2023 clashed with Wales Pension Partnership meetings.

Resolved that the Democratic Services Officer circulates alternative dates for the meetings.

The meeting ended at 12.30 p.m.

Chair

Agenda Item 5a



Report of the Section 151 Officer

Local Pension Board - 5 October 2022

Administering Authority Discretions

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| Purpose: | In accordance with LGPS Regulations, for the Pension Fund Committee to formulate and approve adopted Administering Authority Discretions. |
| Consultation: | Legal, and Finance |
| Report Author: | Jeff Dong |
| Finance Officer: | Jeff Dong |
| Legal Officer: | Carolyn Isaac |
| Access to Services Officer: | N/A |
| For Information | |

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 & 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 |
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| 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"> - insolvency, winding up or liquidation of the body, - breach by that body of its obligations under the admission agreement' - failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so | | The Administering Authority will exercise its discretion and terminate the admission agreement where such circumstances arise. |

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| 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. |
| 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) | Mandatory Policy: Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement 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) | Mandatory Policy: 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 31st March 2014 membership) 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. |

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| | voluntarily draws before normal pension age or to benefits drawn on flexible retirement | | |
| TPSch 2, paras 1(2) and 1(1)(C) | Mandatory policy: 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) Admin Authority discretion if employer has become defunct | | 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) | Mandatory Policy: 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): 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, 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, c) on compassionate grounds (pre 01 April 2016 membership) and / or in whole or in part on any grounds (post | | 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 |

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| | <p>31 March 2016 membership) if the member was in the Scheme before 01 October 2006 and will be 60 by 31 March 2016,</p> <p>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</p> <p>Admin Authority discretion if employer has become defunct</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. |

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| | 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 Admin Authority discretion if employer has become defunct | | 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 Admin Authority discretion if employer has become defunct | | 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 Admin Authority discretion if employer has become defunct | | The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice |

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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>Mandatory Policy: 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 - 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 |

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| | <ul style="list-style-type: none"> - whether representatives of employing authorities or members are included and, if so, whether they have voting rights The policy must also state - 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 - the terms, structure and operational procedures appertaining to the local Pensions Board | | |
| R58 | Mandatory Policy: Decide on Funding Strategy for inclusion in funding strategy statement | 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 | Mandatory Policy: 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 | 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 |

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| R64(2A) | 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 |
| R64(4) | 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 |
| R69(1) | 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). |
| R69(4) | 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). |
| R70 & TP22(2) | 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 |
| R71(1) | 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 |
| R76(4) | 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 functions be carried out by the Monitoring Officer. |
| 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 |

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| 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"> - the 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 | | 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 Decision can be made by either employer, Admin Authority or trustees of new scheme | | 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 Joint decision with Admin Authority | | 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 |

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| 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) | Mandatory Policy: Decide policy on abatement of pre 1 April 2014 element of pensions in payment following re-employment | 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"> • Personal representatives or • Anyone appearing to be beneficially entitled to the estate <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) | Mandatory Policy: Decide policy on abatement of pensions following re-employment | 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 |

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| | dies before making an election, whether to make that election on behalf of the deceased member | | |
| B27(5) | 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 |
| A52A | 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 |
| TPSch 2, para 1(2) & 1(1)(c) | Mandatory Written Policy: Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 Admin Authority discretion if employer has become defunct | YES | The Administering Authority will consider each case on its own merits |
| B30(5), TPSch 2, para 2(1) | Mandatory Written Policy: 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 | 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 |
| TPSch 2, para 1(2) & 1(1)(c) | Mandatory Written Policy: 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 Admin Authority discretion if employer has become defunct | YES | The Administering Authority will determine eligibility in accordance with the LGPS regulations and, if appropriate, medical advice |
| B30A(5), TPSch 2, para 2 (1) | Mandatory Written Policy: Whether to waive, on compassionate grounds, the actuarial reduction applied | 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 |

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| | to benefits paid early under B30A (pensioner member with deferred benefits) Admin Authority discretion if employer has become defunct | | |
| 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 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 |
| B31(4) | Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria Admin Authority discretion if employer has become defunct | | The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice |
| B31(7) | Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment Admin Authority discretion if employer has become defunct | | The Administering Authority will determine eligibility in accordance with the LGPS regulations and medical advice |
| B23(2) & B32(2) & B35(2) & TSch1 & L155(4) | 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. |

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| RSch1 & 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. |
| RSch 1 & TP17(9)(a) | 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 |
| B39(1)(a) & T14(3) | 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. |
| R39(1)(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. |
| R39(1)(c) | 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. |
| B42(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 |
| 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 |

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]

| REGULATION | DISCRETION | WRITTEN POLICY REQUIRED | RECOMMENDATION |
|--------------------------------|--|-------------------------|--|
| 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. |

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| TPSch 2, para 1(2) & 1(1)(f) & R60 | <p>Mandatory written policy: 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. 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.</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>Mandatory written policy: Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early.</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 |

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| 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. |

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| 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. |
| 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 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 |

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| | actuarial reduction on compassionate grounds under TPSch 2 , 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: <ul style="list-style-type: none"> • 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 |

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| | 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 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 |
| 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) | Mandatory written policy Abatement of pensions following re-employment (councillors and pre 1.4.08. leavers) | 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>Mandatory written policy 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)</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. |
| TP3(13), A70(1) & A71(4)(c) | Mandatory written policy Abatement of pensions following re-employment. | YES for A70(1) | The Administering Authority resolves to abate pensions following re-employment in accordance with the Regulations |
| TP23 & R76(4) | 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 |
| 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 |

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| 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. |

**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]

| ADMIN AUTHORITY | REGULATIONS | DISCRETION | WRITTEN POLICY REQUIRED | RECOMMENDATION |
|-------------------------------|--------------------|---|--|---|
| Relevant Authority | 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 |
|-----------------------|-------------|--|-------------------------------|--|
| Relevant Authority | 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 www.lgpsregs.org); 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 5b



Report of the Section 151 Officer

Local Pension Board – 5 October 2022

Breaches Report

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

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 19th 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: City & County of Swansea 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 | |

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| | | | <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>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</p> | | | | |
| Nov 20 – Feb 21 | GDPR Breaches | No breaches to report during this quarter | | | | | |

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|-----------------|----------------|--|---|---|--|--|--|
| 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 | |

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|----------------|----------------|--|--|---|--|--|--|
| | | | 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. | | | | |
| 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 | |

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|----------------|----------------|--|---|--|--|---|--|
| | | | | 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 | |

| | | | | | | | |
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| | | | | | | 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 46 | 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 | |

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|--------------------|----------------|---|--|--|--|--|--|
| | | | 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. | | | | |
| 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 | |

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|-----------------|----------------|--|--|--|--|---|--|
| 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 | |

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|------------------|---------------|--|---|--|--|---|--|
| | | | <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>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.</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>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</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 | |

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|--|--|--|--|--|--|----------------------------------|--|
| | | 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. Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of | | | anniversary from date of leaving | |
|--|--|--|--|--|--|----------------------------------|--|

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|----------------|----------------|--|--|---|--|---|--|
| | | | refunds as the 5 year anniversary ruling will be removed. | | | | |
| 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 | |

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|----------------|---------------|--|---|--|--|---|--|
| | | | 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 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 55 | 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. 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 | | | | |
| 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 th July 19 th August | 21 st July NYP | 2 | 458 458 | Small Town Council | Persistently late in paying |
| 6,072 | 19 th July | 20 th July | 1 | 3.3m | Local Authority | One off late payment-clerical error-wrong date entered on bacs payment, too late to change |
| 11 | 19 th August | NYP | 1 | 6,400 | Small Town Council | Not the first late payment, reminder to pay on time has been sent. |

Agenda Item 6



Report of the Chief Legal Officer

Local Pension Board – 5 October 2022

Exclusion of the Public

| | | |
|---------------------------|--|--|
| Purpose: | To consider whether the Public should be excluded from the following items of business. | |
| Policy Framework: | None. | |
| Consultation: | Legal. | |
| Recommendation(s): | It is recommended that: | |
| 1) | 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. | |
| | Item No's. | Relevant Paragraphs in Schedule 12A |
| | 7-8a | 14 |
| Report Author: | Democratic Services | |
| Finance Officer: | Not Applicable | |
| Legal Officer: | 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 |
|-----------|--|
| 12 | Information relating to a particular individual. |
| | <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> |
| 13 | Information which is likely to reveal the identity of an individual. |
| | <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> |
| 14 | Information relating to the financial or business affairs of any particular person (including the authority holding that information). |
| | <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> <p>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</p> <p>b) Disclosure of the information would give an unfair advantage to tenderers for commercial contracts.</p> <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>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.</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>Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> |
| | <p>No public interest test.</p> |
| 17 | <p>Information which reveals that the authority proposes: (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) To make an order or direction under any enactment.</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>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</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 7a

Yn rhinwedd paragraff(au) 14 Atodlen 12A
o Ddeddf Llywodraeth Leol 1972
fel y'i diwygiwyd gan Orchymyn Llywodraeth Leol (Mynediad at
Wybodaeth) (Amrywiad) (Cymru) 2007.

Document is Restricted

Yn rhinwedd paragraff(au) 14 Atodlen 12A
o Ddeddf Llywodraeth Leol 1972
fel y'i diwygiwyd gan Orchymyn Llywodraeth Leol (Mynediad at
Wybodaeth) (Amrywiad) (Cymru) 2007.

Document is Restricted

Agenda Item 7b

Yn rhinwedd paragraff(au) 14 Atodlen 12A
o Ddeddf Llywodraeth Leol 1972
fel y'i diwygiwyd gan Orchymyn Llywodraeth Leol (Mynediad at
Wybodaeth) (Amrywiad) (Cymru) 2007.

Document is Restricted

Yn rhinwedd paragraff(au) 14 Atodlen 12A
o Ddeddf Llywodraeth Leol 1972
fel y'i diwygiwyd gan Orchymyn Llywodraeth Leol (Mynediad at
Wybodaeth) (Amrywiad) (Cymru) 2007.

Document is Restricted

Agenda Item 8a

Yn rhinwedd paragraff(au) 14 Atodlen 12A
o Ddeddf Llywodraeth Leol 1972
fel y'i diwygiwyd gan Orchymyn Llywodraeth Leol (Mynediad at
Wybodaeth) (Amrywiad) (Cymru) 2007.

Document is Restricted

Yn rhinwedd paragraff(au) 14 Atodlen 12A
o Ddeddf Llywodraeth Leol 1972
fel y'i diwygiwyd gan Orchymyn Llywodraeth Leol (Mynediad at
Wybodaeth) (Amrywiad) (Cymru) 2007.

Document is Restricted