



## City and County of Swansea

### Notice of Meeting

You are invited to attend a Meeting of the

## Pension Fund Committee

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

**On:** Wednesday, 11 September 2024

**Time:** 10.00 am

**Chair:** Councillor Mike Lewis

**Membership:**

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

Neath Port Talbot Council Co-opted Member: Philip Rogers

Advisors: Mike Johnson and Andre Ranchin

**Watch Online:** <http://tiny.cc/PensionFund11-9>

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### Agenda

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**Next Meeting:** Wednesday, 6 November 2024 at 10.00 am

*Huw Evans*

**Huw Evans**  
**Head of Democratic Services**  
**Wednesday, 4 September 2024**  

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**Contact: Democratic Services – 01792 636923**

# Agenda Item 3



City and County of Swansea

## Minutes of the Pension Fund Committee

Multi-Location Meeting - Lilian Hopkin Room, Guildhall / MS

Teams

Wednesday, 10 July 2024 at 10.00 am

### Present:

#### Councillor(s)

P N Bentu  
M B Lewis

#### Councillor(s)

J P Curtice  
W G Thomas

#### Councillor(s)

P Downing

#### Neath Port Talbot Council Co-opted Member

Philip Rogers

#### Advisors

Mike Johnson  
Andre Ranchin

Advisor - Hymans Robertson  
Advisor - Hymans Robertson

#### Officer(s)

Jeremy Parkhouse  
Jeffrey Dong

Democratic Services Officer  
Deputy Chief Finance Officer / Deputy Section 151  
Officer.  
Lawyer

Carolyn Isaac

#### Also present

Leanne Malough

Audit Wales

#### Apologies for Absence

Councillor(s): M W Locke

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### 1 To Elect the Chair of the Pension Fund Committee for the 2024-2025 Municipal Year.

**Resolved** that Councillor M B Lewis be elected Chair of the Pension Fund Committee for the 2024/25 Municipal year.

### 2 To Elect the Vice-Chair of the Pension Fund Committee for the 2024-2025 Municipal Year.

**Resolved** that Councillor P Downing be elected Vice-Chair of the Pension Fund Committee for the 2024/25 Municipal year.

**(Councillor P Downing presided)**

### **3 Disclosures of Personal and Prejudicial Interests.**

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

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

I Guy declared a personal interest in the agenda as a whole.

Officers:

J Dong, J Parkhouse and C Isaac declared personal interests in the agenda as a whole.

### **4 Minutes.**

**Resolved** that the Minutes of the Pension Fund Committee held on 20 March 2024, be signed and approved as a correct record.

**(Councillor M B Lewis presided)**

### **5 City and County of Swansea Pension Fund – Audit Plan 2024.**

Leanne Malough, Audit Wales presented the City and County of Swansea Pension Fund – Audit Plan 2024.

The report outlined the high level areas and approach Audit Wales would adopt during 2024 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'.

It was added that the findings of the audit would be reported in the ISA 260 report in November 2024. It was added that 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.

The Committee asked questions in relation to materiality and estimated values being included in the statement of accounts.

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

### **6 City and County of Swansea - Draft Pension Fund Annual Report and Statement of Accounts 2023/24.**

Jeff Dong, Deputy Chief Finance Officer / Deputy Section 151 Officer provided for approval the draft annual report & statement of accounts for the City & County of Swansea Pension Fund 2023/24.

Officers had presented a completed draft annual report & statement of accounts 2023/24 to Audit Wales to commence their audit. Audit Wales would commence their audit of the Pension Fund Draft Annual Report & Statement of Accounts 2023/24 in August 2024. Their subsequent ISA 260 report with audit opinion and audit findings would be presented to Pension Fund Committee at the conclusion of the audit in November 2024.

It was added that as the financial reporting and audit timetables return to pre- Covid timelines, inevitably more estimation and assumptions would need to be adopted when drafting the statement. Inevitably when 'actual' figures were received, they would be amended as appropriate. Audit Wales would report accordingly.

The City & County of Swansea Pension Fund Draft Annual Report & Statement of Accounts 2023/24 were attached at Appendix 1.

Staff within the Finance Department were thanked and congratulated for their work and commitment.

**Resolved** that the City & County of Swansea Pension Fund Draft Annual Report & Statement of Accounts 2023/24 be approved, subject to audit.

## **7 Admission Body Agreement Amendment.**

The Deputy Chief Finance Officer / Deputy S151 Officer provided a report which sought approval of the amendment of the admission body status for Mrs Bucket in respect of another school's employees, be it by amendment or new agreement.

It was explained that Mrs Bucket had previously been admitted as an employer into the scheme in respect of its contract with Ysgol Gynradd Gymraeg Tirdeunaw and the Pension Fund Committee approved its admission in July 2023. Mrs Bucket currently undertook similar services for schools in the Rhondda Cynon Taf (RCT) and Cardiff Council areas and had entered into admission agreements with RCT Council and Cardiff Council as the requisite LGPS Administering Authorities. It was proposed that the admission agreement be granted on a closed scheme basis, to include only the named staff (approx.10) in schedule 1 of the revised or new admission agreement.

It was added that the new or amended admission agreement would require the requisite indemnity bond or sponsoring employer guarantee be secured from the sponsoring employer, Swansea Council. The Administering Authority would also undertake the appropriate risk assessment of the admitted body Mrs Bucket as part of the Admission Body Agreement.

**Resolved** that: -

- 1) The variation of the existing Admission Body Agreement or drafting of a new Admission Agreement for Mrs Bucket in respect of the Dylan Thomas Community School Contract, subject to completion of a satisfactory Admission Agreement (which recognises the start date of the contract) as advised by legal advisors, be approved.

- 2) The Deputy Chief Finance Officer be given delegated authority to finalise the amended / new Admission Agreement with appointed legal advisors, as outlined in the report.

## **8 Breaches Report.**

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

Appendix A provided the details of breaches that had occurred since the previous Pension Fund Committee in March 2024. The details of the breaches and the actions taken by Management were noted.

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

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

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

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

**(Closed Session)**

## **10 Wales Pension Partnership Update.**

The Deputy Chief Finance Officer / Deputy S151 Officer presented a report which updated the Pension Fund Committee on the progress and work of the Wales Pension Partnership (WPP).

**Resolved** that the JGC Quarterly Update, WPP Operator's Update and Minister's Letter, be noted.

## **11 Quarterly Investment Monitoring Report.**

Andre Ranchin, Hymans Robertson presented the 'for information' quarterly investment and market update to the fund.

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

**12 City & County of Swansea - Currency Risk and Hedging Overview.**

Mike Johnson, Hymans Robertson provided a 'for information' report which presented the Currency Risk and Hedging Overview of the appointed investment consultant to the fund.

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

A presentation was made by Aiden Quinn, Majid Khan, Gerared Fitzpatrick, Andrew Koester and Alice Mugely of Russell Investments.

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

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

The meeting ended at 12.19 pm

**Chair**



## Report of the Section 151 Officer

Pension Fund Committee – 11 September 2024

### Controls Assurance Reports

<b>Purpose:</b>	To inform Pension Fund Committee of reported exceptional items contained within the internal control assurance reports of appointed fund managers/custodians.
<b>Consultation:</b>	Legal, Finance and Access to Services.
<b>Report Author:</b>	Jeff Dong
<b>Finance Officer:</b>	Jeff Dong
<b>Legal Officer:</b>	S Williams
<b>Access to Services Officer:</b>	N/A
<b>For Information</b>	

#### 1 Background

1.1 The internal control and governance framework in which a business operates comprises the systems, work processes and culture and values by which the business directs and controls its business to provide comfort to its customers, clients and shareholders and by extension to their regulators/auditors.

1.2 Asset managers and custodians and depositaries are subject to heavy regulation from a global, EU and UK context. They are required to report on their systems of internal control which are subject to external audit and comment by suitably qualified and independent audit companies. Scope of the internal control environment and are of inspection include:

Fund accounting • Fund set-up • Security Master File • Trade ordering  
Trade processing • Corporate Actions • Income • Expenses • TA activity  
processing • Cash and portfolio reconciliation • Pricing • Valuation and net  
asset value calculation • Hedging • Exchanges Traded Funds (ETF) •  
Investment restriction monitoring Transfer Agency • Fund set up • Investor  
Master set up • Distributor commission profile set up • TA transaction



processing • Application foreign exchange rates • Payments • Dividends • Cash reconciliation Investor Services Operations • Logical access • Solution delivery • Change management • Problem/Incident management • Computer Operations

- 1.3 The audit and review timetable regime differs for each asset class and geographical jurisdiction. It is noted that for the listed asset classes, the reporting cycle and reporting framework is well established. All of the listed assets are managed via the Wales Pension Partnership and this represents over 70% of City & County of Swansea Pension Fund Assets, which are managed by Russell Investments with the passive investment being managed by Blackrock. The Russell Investments System and Organisation Control Report and The Report on Controls at Blackrock placed in Operation and Tests of Operating Effectiveness in Asset Management is attached at Appendix 1 and 2 in full. There are no issues of concern.
- 1.4 However, for the private market asset classes where fund structures do not have direct investor access rights and where the required disclosures are not as regimented, the assurance framework is less well documented. Appendix 3 outlines where the fund has received control assurance reports and where alternative provisions have been made available. Where control assurance reports have been provided, Appendix 4 outlines the exceptions to the control environment identified and the management action taken. It is noted that the exceptions have been addressed appropriately by management and are recognised as such with appropriate remedial action being undertaken. The exceptions highlighted are taken seriously but do not pose direct concern for the businesses concerned or the assets under management.

## **2 Legal Implications**

- 2.1 There are no legal implications arising from this report.

## **3 Financial Implications**

- 3.1 There are no financial implications arising from this report.

## **4 Equality and Engagement Implications**

- 4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage.
- Consider opportunities for people to use the Welsh language.

- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to their own needs.

4.2 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

4.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

4.4 There are no equality impact implications arising from this report.

**Background Papers:** None.

**Appendices:** Appendix 1 - The Russell Investments System and Organisation Control Report.

Appendix 2 - The Report on Controls at Blackrock placed in Operation and Tests of Operating Effectiveness in Asset Management.

Appendix 3 - Fund Manager Summary 2023/24.

Appendix 4 - Northern Trust System and Organisation Control (SOC1) Report (12 months ended 31/03/24).

# Agenda Item 5



## Report of the Section 151 Officer

Pension Fund Committee – 11 September 2024

### Breaches Report

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

#### 1. Introduction

1.1 The Reporting Breaches policy was adopted with effect from 9 March 2017.

1.2 The policy requires a report to be presented to the Pension Board and Pension Fund Committee on a quarterly basis, highlighting any new breaches which have arisen since the previous meeting and setting out:

- all breaches, including those reported to The Pensions Regulator and those unreported, with the associated dates
- in relation to each breach, details of what action was taken and the result of any action (where not confidential)
- any future actions for the prevention of the breach in question being repeated

1.3 Following the introduction of GDPR requirements and the requirements to report any breaches to the Information Officer and ICO, if required, it has been determined good practice and transparent to also include GDPR breaches also within this report

#### 2. Breaches

2.1 Under the policy, breaches of the law are required to be reported to the Pensions Regulator where there is reasonable cause to believe that:

- A legal duty which is relevant to the administration of the scheme has not been, or is not being, complied with
  - The failure to comply is likely to be of material significance to the regulator in the exercise of any of its functions
- 2.2 The Breaches Report is attached at Appendix A and the following further information is provided.
- 2.3 Under the LGPS regulations, interest is paid on retirement lump sum payments if the payment is made more than one month after retirement and calculated at one per cent above the base rate on a day to day basis from the due date of payment and compounded with three-monthly rests.
- 2.4 Since the last report in June 2024, 17% 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 17% of non-payment of retirement lump sums within the specified benchmark was due to the members not returning completed pension election forms within a timely manner. Communication sent to members at time of retirement has been reviewed to ensure that the importance of timely return of required documents is highlighted and reminder triggers put in place.
- 2.5 The basic objective of the General Data Protection Regulation (GDPR) is to enforce stronger data security and privacy rules among organisations when it comes to protecting an individual's personal data. The UK legislation is the Data Protection Act 2018 and mirrors many key principles of the Data Protection Act 1998. Where a breach of a member's personal data happens (a breach of personal data means that a security breach has taken place leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data, transmitted, stored or otherwise processed. [GDPR Article 4(12)]), the Pension Fund (who complies with Swansea Council GDPR Principles) has an obligation to undertake a full investigation within the initial 72-hours of acknowledging a data breach. When the Fund becomes aware of a breach, the appropriate investigation takes place within the stipulated timeframe and the findings presented to the Data Breach Panel for review. The requirements presented for improved working practices by the Data Breach Panel the Fund has incorporated within the day-to-day working practices. There has been no GDPR breach since last reporting date
- 2.6 The Fund requires that employers pay employee and employer contributions to the Fund on a monthly basis and no later than the 19<sup>th</sup> of the month after which the contributions have been deducted. There has 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. Integrated Impact Assessment Implications**

The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage.
- Consider opportunities for people to use the Welsh language.
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to their own needs.

The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

There are no equality impact implications arising from this report.

### **4 Legal Implications**

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

### **5. Financial Implications**

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

**Background papers:** None.

**Appendices:** Appendix A: Breaches Register.

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

Date	Category (e.g. administration, contributions, funding)	Description and cause of breach	Possible effect of breach and wider implications	Reaction of relevant parties to breach	Reported / Not reported (with justification if not reported and dates)	Outcome of report and/or investigations	New Breach (since last report)
July – August 2022	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 to be an unauthorised payment. The above is subject to change and we are waiting for confirmation that the above	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	

			Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5-year anniversary ruling will be removed</b>				
July – August 2022	GDPR	No breaches to report					
July – August 2022	Contributions		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	
September – October 2022	Administration	14.29% of retirement lump sums not paid within 1 month of normal retirement or 2 months of early retirement; 100% was paid	The administering authority has accrued interest payments on retirement lump sums, paid more than one month after their due	% due to a delay with the return of the completed pension options (total number 3)		The Fund continues to remind its members of the importance of returning pension option forms in a timely manner	

		within 1 month of receipt of member option return	date, under the 2013 LGPS regulations				
September – October 2022	Administration	Frozen refunds unclaimed for this period is 89.19% .... This equates to a monetary value of £14,786.48	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 we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting</b>	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	



			<b>confirmation of Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5-year anniversary ruling will be removed</b>				
September – October 2022	GDPR	No breaches to report					
September – October 2022	Contributions	2 Employers 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	
November 2022 – February 2023	Administration	28.17% 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/late provision of pensionable pay figures by the members employer		The Fund continues to remind its members/employers of the importance of returning pension option forms/final pensionable pay figures in a timely manner	

November 2022 – February 2023	Administration	Frozen refunds unclaimed for this period is 37.10% .... This equates to a monetary value of £11,337.43	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 we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there</b>	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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			<b>will be no further requirement to report non-payment of refunds as the 5-year anniversary ruling will be removed</b>				
November 2022 – February 2023	GDPR	No breaches to report					
November 2022 – February 2023	Contributions	2	2 Employers have not paid contributions within required timescale – see below for detail	Loss of investment returns		Employers are contacted as soon as the deadline for submission of contributions has passed	
March 2023 – June 2023	Administration	17.77% 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/late provision of pensionable pay figures by the members employer		The Fund continues to remind its members/employers of the importance of returning pension option forms/final pensionable pay figures in a timely manner	
March 2023 – June 2023	Administration	Frozen refunds unclaimed for this period is 91.03% .... This	Regulations state, no further interest will accrue on or	High % due to member not making a positive election to claim	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year	

		equates to a monetary value of £20,258	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 we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-</b>	refund		anniversary from date of leaving	
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			<b>payment of refunds as the 5-year anniversary ruling will be removed</b>				
March 2023 – June 2023	GDPR	No breaches to report					
March 2023 – June 2023	Contributions	3	3 Employers have not paid contributions within required timescale – see below for detail	Loss of investment returns		Employers are contacted as soon as the deadline for submission of contributions has passed	
July – August 2023	Administration	4.55% (1 in total) of retirement lump sums not paid within 1 month of normal retirement. 100% of lump sum payments were made within 2-months of early retirement. 100% of lump sum payments were processed within 1 month of receipt of fully completed pension options	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 provision of final pensionable pay figures by the members employer. As a result of this completed pension options were received outside of the 1-month timeframe by a matter of days.		The Fund continues to remind its employers of the importance of providing final pensionable pay figures in a timely manner.	
July – August	Administration	Frozen refunds unclaimed for	Regulations state, no further	High % due to member not	Information has been recorded	Members are written to 3 months	

2023		this period is 83.87% .... This equates to a monetary value of £14,390.73	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 we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further</b>	making a positive election to claim a refund of pension contributions within the 5-year timeframe	within the breach register	prior to the date of their 5-year anniversary from date of leaving	
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			<b>requirement to report non-payment of refunds as the 5-year anniversary ruling will be removed</b>				
July – August 2023	GDPR	A possible data breach was investigated and recorded during the month of August	Data breach happened because a staff member failed to complete a process in its entirety.	Training procedures are in place for all tasks actioned. In this instance a staff member updated a members address on our database however during the process the member status i.e. a pensioner member was not identified. The training procedure clearly states that when a member status is listed as a pensioner member, we are obliged to inform Pension Payroll of this change. Unfortunately, the final stage of the process was not adhered to which resulted in three separate hardcopy	The breach was reported to a Data Protection Officer for Swansea Council for consideration. Following a review of all of the information presented it was determined that the data breach did not reach the threshold for reporting to the ICO. The judgement is based on the risk to the data subject being minimal	Recommendation received from the DPO was to remind staff members of the process guidelines documented with the Change of Address procedure.	

				correspondence containing being sent to the members previous address.			
July – August 2023	Contributions	2	2 Employers have not paid contributions within required timescale – see below for detail	Loss of investment returns		Employers are contacted as soon as the deadline for submission of contributions has passed	
Sept – October 2023	Administration	16% 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 by the member, disinvestment of AVC pot and / or late provision of final pensionable pay details by employer (total number 4)		The Fund continues to remind its members of the importance of returning pension option forms in a timely manner, reminding employers of their KPI requirements to provide final pensionable pay figures. Delay with the disinvestment of AVC monies due to the crossover with the final AVC payment.	
Sept – October 2023	Administration	Frozen refunds unclaimed for this period is 71.70% .... This	Regulations state, no further interest will accrue on or	High % due to member not making a positive election to claim	Information has been recorded within the breach register	Members are written to 3 months prior to the date of their 5-year	



		equates to a monetary value of £4,213.84	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 we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of Regulatory change; going forward there will be no further requirement to report non-</b>	refund		anniversary from date of leaving. Member coms has been revised with extra emphasis placed on tax implications i.e. 40% taxation to be applied to net value of refund of contributions as payment is deemed to be an unauthorised payment by HMRC.	
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			<b>payment of refunds as the 5-year anniversary ruling will be removed</b>				
April – October 2023	Administration	Swansea Council have not provided an i-Connect file since March 2023.	<p>As an Administering Authority the Fund has failed to meet its commitment in terms of member engagement. This applied to all new starters and those members who have left employment during this period. Total number of members affected was approx. 1,200.</p> <p>The Fund failed to comply with the KPI's published within the Pension Admin Strategy in terms of member engagement.</p>	Non provision of i-Connect file is resulting from the failure to export accurate data following the instal of a new payroll system.	Information has been recorded within the breach register	<p>New starters were set-up manually on the Pension database and a pension welcome pack issued.</p> <p>Members who have left employment were issued with options pertaining to the membership vesting period i.e. refund of contributions / deferred benefits.</p> <p>Due to the volume of cases a number of staff worked one weekend to deal with the backlog of caseloads as this would have encroached on their day-to-day workload.</p>	

Sept – October 2023	GDPR	No breaches to report					
Sept – October 23	Contributions	2	2 Employers have not paid contributions within required timescale – see below for detail	Loss of investment returns		Employers are contacted as soon as the deadline for submission of contributions has passed	
Nov 2023 – Feb 2024	Administration	56% of retirement lump sums not paid within 1 month of normal retirement & 16.07% of retirement lump sums not paid within 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 issues with i-Connect File from Swansea Council, a delay with the return of the completed pension options by the member and a % of deferred benefits being put into payment.		The Fund continues to remind its members of the importance of returning pension option forms in a timely manner, reminding employers of their KPI requirements to provide final pensionable pay figures. Due to issues with Swansea Council i-Connect file starters are being set-up on the system manually and leaver information is being actioned from a spreadsheet provided by SC Payroll. There is an expectation that the	

						ongoing I-Connect issues will soon be resolved.	
Nov 2023 – Feb 2024	Administration	Frozen refunds unclaimed for this period is 76.74% .... This equates to a monetary value of £16,600.35	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 we are waiting for confirmation that the above Regulation has been amended to support this. <b>Awaiting confirmation of</b>	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. Member coms has been revised with extra emphasis placed on tax implications i.e. 40% taxation to be applied to net value of refund of contributions as payment is deemed to be an unauthorised payment by HMRC.	

			<b>Regulatory change; going forward there will be no further requirement to report non-payment of refunds as the 5-year anniversary ruling will be removed</b>				
Nov 2023 – Feb 2024	GDPR	No breaches to report					
Dec 23 – Feb 24	Contributions	4 Employers made late payments	Employers have not paid contributions within required timescale – see below for detail	Loss of investment returns		Employers are contacted as soon as the deadline for submission of contributions has passed	
March – June 2024	Administration	58.6% of retirement lump sums not paid within 1 month of normal retirement & 12.2% of retirement lump sums not paid within 2 months of early retirement;	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 issues with i-Connect File from Swansea Council, a delay with the return of the completed pension options by the member and a % of deferred benefits being put into payment.	Information has been recorded within the breach register	The Fund continues to remind its members of the importance of returning pension option forms in a timely manner, reminding employers of their KPI requirements to provide final pensionable pay	

		100% was paid within 1 month of receipt of member option return				figures. Due to issues with Swansea Council i-Connect file starters are being set-up on the system manually and leaver information is being actioned from a spreadsheet provided by SC Payroll. There is an expectation that the ongoing I-Connect issues will soon be resolved.	
March – June 2024 Page 28	Administration	Frozen refunds unclaimed for this period is 79.55% .... This equates to a monetary value of £17,403.64	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. Member coms has been revised with extra emphasis placed on tax implications i.e. 40% taxation to be applied to net value of refund of contributions as payment is deemed to be an unauthorised payment by HMRC.	

			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				
March – June 2024	GDPR	No breaches to report					
March – June 2024	Contributions	2 Employers made late payments	Employers have not paid contributions within required timescale – see below for detail	Loss of investment returns		Employers are contacted as soon as the deadline for submission of contributions has passed	

July – August 2024	Administration	17% of retirement lump sums not paid within 1 month of normal retirement & 0% of retirement lump sums not paid within 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 issues with i-Connect File from Swansea Council, a delay with the return of the completed pension options by the member and a % of deferred benefits being put into payment.	Information has been recorded within the breach register	The Fund continues to remind its members of the importance of returning pension option forms in a timely manner, reminding employers of their KPI requirements to provide final pensionable pay figures. Due to issues with Swansea Council i-Connect file starters are being set-up on the system manually and leaver information is being actioned from a spreadsheet provided by SC Payroll. There is an expectation that the ongoing I-Connect issues will soon be resolved.	✓
July – August 2024	Administration	Frozen refunds unclaimed for this period is 81.03% .... This equates to a monetary value of £14,613.28	Regulations state, no further interest will accrue on or after 5-year anniversary. Should the member enter re-employment	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. Member coms has been revised with extra emphasis	✓



			<p>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 refunds as the 5-year anniversary ruling will be removed</p>			<p>placed on tax implications i.e. 40% taxation to be applied to net value of refund of contributions as payment is deemed to be an unauthorised payment by HMRC</p>	
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July – August 2024	GDPR	No breaches to report					✓
July – August 2024	Contributions	No breaches to report					✓

✓ New breaches since the previous meeting

# Agenda Item 6



## Report of the Chief Legal Officer

Pension Fund Committee – 11 September 2024

### Exclusion of the Public

<b>Purpose:</b>	To consider whether the Public should be excluded from the following items of business.	
<b>Policy Framework:</b>	None.	
<b>Consultation:</b>	Legal.	
<b>Recommendation(s):</b>	It is recommended that:	
<b>1)</b>	The public be excluded from the meeting during consideration of the following item(s) of business on the grounds that it / they involve(s) the likely disclosure of exempt information as set out in the Paragraphs listed below of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007 subject to the Public Interest Test (where appropriate) being applied.	
	<b>Item No's.</b>	<b>Relevant Paragraphs in Schedule 12A</b>
	7-9	14
<b>Report Author:</b>	Democratic Services	
<b>Finance Officer:</b>	Not Applicable	
<b>Legal Officer:</b>	Tracey Meredith – Chief Legal Officer (Monitoring Officer)	

#### 1. Introduction

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

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

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

## **3. Financial Implications**

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

## **4. Legal Implications**

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

**Background Papers:** None.

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

## Public Interest Test

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

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

# Agenda Item 7

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

Document is Restricted

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

Document is Restricted

# Agenda Item 8

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

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

Document is Restricted

# Agenda Item 9

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

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