

LOCAL GOVERNMENT ASSOCIATION

TEMPLATE FULL PRIVACY NOTICE FOR LGPS FUNDS

1. This template privacy notice has been prepared for the Local Government Association. We understand that copies will be provided to the administering authorities of Local Government Pension Scheme funds in England and Wales. **This template will need to be tailored to the specific circumstances of each fund.** Accordingly we accept no liability to individual funds or their administering authorities unless we provide formal advice specific to that authority.
2. This template is not advice to other connected or stakeholder parties, their auditors or other advisers, or other third parties ("Third Parties"). Other than as noted in paragraph 1 above, no part of this template may be passed on to Third Parties without our written agreement but, if it is so passed, we accept no responsibility, and will have no liability in contract, tort or otherwise, to those Third Parties in relation to this template.
3. This template has been prepared based on an understanding of the law as at the date of issue. In particular, the Data Protection Bill is still going through Parliament and the Information Commissioner is expected to issue further guidance which may be relevant. Accordingly, it is possible that this template will need to be updated if the law changes or guidance is revised. However, we will only do so if the Local Government Association specifically give us written instructions to do so.
4. This template is intended to enable administering authorities, in their capacity as data controller of personal data relating to the Local Government Pension Scheme fund for which they are responsible, to satisfy their obligation under the General Data Protection Regulations ("GDPR") to inform affected individuals what personal data is held and how it is used for the purposes of the pension fund. We have not considered or advised on any tax or commercial implications that individual funds may wish to consider in conjunction with this notice.
5. This template takes into account guidance issued by the Information Commissioner and the EU Article 29 Data Protection Working Party as at the date of issue. In some cases we have taken a pragmatic view as to the level of detail included in the template, bearing in mind the need for the notice to be succinct and easy to understand. Individual funds will need to consider whether their own circumstances are such that more detail should be included. It is likely that best practice in this area will continue to develop and individual funds should review their privacy notices regularly and consider whether they should be updated and reissued.

Squire Patton Boggs (UK) LLP
8 March 2018

FULL PRIVACY NOTICE

for the members and beneficiaries of the **[-]**¹

This notice is for members **[and beneficiaries]** of the **[-]**² (the “Fund”)³. It has been prepared by **[-]**⁴ (the “Administering Authority”, or “we”) in its capacity as the administering authority of the Fund.⁵

This privacy notice is also provided at the following link:

[Insert link to relevant area of website]

Why we are providing this notice to you

As the Administering Authority of the Fund we hold certain information about you (“personal data”) which we use to administer the Fund and to pay benefits from it. This notice is designed to give you information about the data we hold about you, how we use it, your rights in relation to it and the safeguards that are in place to protect it.

The technical bit

The Administering Authority holds personal data about you in its capacity as data controller for the proper handling of all matters relating to the Fund, including its administration and management. This includes the need to process your data to contact you, to calculate, secure and pay your benefits, for statistical and financial modelling⁶ and for reference purposes (for example, when we assess how much money is needed to provide members’ benefits and how that money should be invested), and to manage liabilities and administer the Fund generally. Further information about how we use your personal data is provided below.

The legal basis⁷ for our use of your personal data will generally be one or more of the following:

- a) we need to process your personal data to satisfy our legal obligations as the Administering Authority of the Fund; **[and/or]**
- b) we need to process your personal data to carry out a task in the public interest or in the exercise of official authority in our capacity as a public body; **[and/or]**
- c) **[we need to process your personal data for the legitimate interests of administering and managing the Fund and liabilities under it, calculating, securing and paying benefits and performing our obligations and exercising any rights, duties and discretions the Administering Authority has in relation to the Fund][./; and/or⁸]**
- d) **[because we need to process your personal data to meet our contractual obligations to you in relation to the Fund (for example, under an agreement that you will pay**

¹ Please insert name of the Fund.

² Please insert name of the Fund.

³ Please let us know if members are paying AVCs and provide details of these arrangements.

⁴ Please insert name of the administering authority.

⁵ This Privacy Notice satisfies requirements of Articles 13 and 14 of the GDPR.

⁶ The Article 29 Data Protection Working Party guidelines suggest that more detail of any statistical and financial modelling should be provided where known.

⁷ This satisfies requirements of Articles 13(1)(c) of the GDPR.

⁸ The GDPR does not permit public authorities to rely on legitimate interests for any processing they undertake in their capacity as a public authority. However, where the public authority has other legitimate purposes outside of their tasks as a public authority e.g. a contract between the administering authority and individual where AVCs are being made, it may be possible to rely on legitimate interests as a legal basis for collecting and processing that personal data. Legal advice should be taken.

additional voluntary contributions to the Fund), or to take steps, at your request, before entering into a contract.]

What personal data we hold, and how we obtain it⁹

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

- Contact details, including name, address, telephone numbers and email address.
- Identifying details, including date of birth, national insurance number and employee and membership numbers.
- Information that is used to calculate and assess eligibility for benefits, for example, length of service or membership and salary information.
- Financial information relevant to the calculation or payment of benefits, for example, bank account and tax details.
- Information about your family, dependents or personal circumstances, for example, marital status and information relevant to the distribution and allocation of benefits payable on death.
- Information about your health, for example, to assess eligibility for benefits payable on ill health, or where your health is relevant to a claim for benefits following the death of a member of the Fund.¹⁰
- Information about a criminal conviction if this has resulted in you owing money to your employer or the Fund and the employer or Fund may be reimbursed from your benefits.¹¹

We obtain some of this personal data directly from you.¹² We may also obtain data (for example, salary information) from your current or past employer(s) or companies that succeeded them in business, from a member of the Fund (where you are or could be a beneficiary of the Fund as a consequence of that person's membership of the Fund) and from a variety of other sources including public databases (such as the Register of Births, Deaths and Marriages), our advisers and government or regulatory bodies, including those in the list of organisations that we may share your personal data with set out below.¹³

Where we obtain information concerning certain “special categories” of particularly sensitive data, such as health information, extra protections apply under the data protection legislation. We will only process your personal data falling within one of the special categories with your consent, unless we can lawfully process this data for another reason permitted by that legislation. You have the right to withdraw your consent to the processing at any time by notifying the Administering Authority in writing¹⁴. However, if you do not give consent, or

⁹ Please consider whether any personal data other than that listed is held or processed. Please note that Article 9 of the GDPR applies different treatment to the processing of special categories of personal data.

¹⁰ Explicit consent will be required in the processing of health data and ill health early retirement applications. This privacy notice does not seek such consent, which should be obtained at the time of any application. It should not generally be necessary to renew consents obtained under the Data Protection Act 1998 in respect of past ill health early retirement applications provided that the requirements of GDPR were complied with. However, legal advice should be taken. As a pragmatic approach, Administering Authorities should consider renewing consent when communicating with individuals about special category data collected prior to 25 May 2018.

¹¹ Explicit consent will also be needed to process information about criminal convictions. See note 10 above.

¹² This satisfies requirements of Articles 14(1)(f) of the GDPR. Please note that where members are asked to provide health related data, explicit member consent to the processing of that data should be obtained at the time it is requested. See note 10 above.

¹³ Please note Article 14 sets out specific information obligations on the administering authority where it obtains information from a third party unless one of the exceptions under Article 14(5) apply. The Article 29 Working Party guidelines state that where possible specific sources of personal data should be listed – consider if any more need to be added (particularly any that a member might not generally be aware of).

¹⁴ If pre-GDPR consents did not inform members of this right (which is likely, given that it is a new explicit right under GDPR) then it may not be possible to rely on them. Retrospectively informing members may not be adequate therefore legal advice should be taken. See note 10 above.

subsequently withdraw it, the Administering Authority may not be able to process the relevant information to make decisions based on it, including decisions regarding the payment of your benefits.

Where you have provided us with personal data about other individuals, such as family members, dependants or potential beneficiaries under the Fund, please ensure that those individuals are aware of the information contained within this notice.

How we will use your personal data¹⁵

We will use this data to deal with all matters relating to the Fund, including its administration and management¹⁶. This can include the processing of your personal data for all or any of the following purposes:

- to contact you.
- to assess eligibility for, calculate and provide you (and, if you are a member of the Fund, your beneficiaries upon your death) with benefits.
- to identify your potential or actual benefit options.
- **[to allow alternative ways of delivering your benefits, for example, through the use of insurance products and transfers to or mergers with other pension arrangements.]**
- for statistical and financial modelling and reference purposes (for example, when we assess how much money is needed to provide members' benefits and how that money should be invested).
- to comply with our legal and regulatory obligations as the administering authority of the Fund.
- to address queries from members and other beneficiaries and to respond to any actual or potential disputes concerning the Fund.
- the management of the Fund's liabilities, including the entering into of insurance arrangements and selection of Fund investments.
- in connection with the sale, merger or corporate reorganisation of or transfer of a business by the employers that participate in the Fund and their group companies.¹⁷

Organisations that we may share your personal data with¹⁸

From time to time we will share your personal data with advisers and service providers so that they can help us carry out our duties, rights and discretions in relation to the Fund. Some of those organisations will simply process your personal data on our behalf and in accordance with our instructions. Other organisations will be responsible to you directly for their use of personal data that we share with them. They are referred to as data controllers and we have highlighted them in the table below. You will be able to find out about their own data protection policies (which will apply to their use of your data) on their websites¹⁹.

These organisations include the Fund's:²⁰

¹⁵ This satisfies requirements of Articles 13(1)(c) of the GDPR.

¹⁶ Reference to the external pension provider in respect of AVCs should be added if applicable. See note 3 above.

¹⁷ Please insert and identify any other purposes for which the personal data may be used in individual circumstances.

¹⁸ This satisfies requirements of Articles 13(1)(e) of the GDPR.

¹⁹ This is suggested as a pragmatic approach in order to keep the Fund's privacy notice as succinct and easy to understand as possible, rather than adding any specific information another data controller may ask the Administering Authority to include on its behalf. However, Administering Authorities should consult with their own providers (e.g. the Fund actuary).

²⁰ The suggested list of service providers will need to be tailored and completed. We have suggested whether a particular type of provider is a data processor or a data controller but this will need to be verified when the Administering Authority completes its data mapping exercise (to analyse what personal data is held in connection with the Fund and how it is processed). We have taken what we consider to be a reasonable view of whether entities are controllers or processors but that this is a complex matter and very grey area so we would recommend that the Administering Authority seeks legal advice.

<p>Data processors</p> <ul style="list-style-type: none"> • Administrator – (currently [-]) • [Third party administrators – (currently [-])] • Accountants – (currently [-]) • Communications adviser – (currently [-]) • Tracing bureaus for mortality screening and locating members²¹ – (currently [-]) • Overseas payments provider to transmit payments to scheme member with non-UK accounts – (currently [-]) • Printing companies – (currently [-]) • Pensions software provider – (currently [-]) • Suppliers of IT, document production and distribution services 	<p>Data controllers²²</p> <ul style="list-style-type: none"> • Actuarial consultant – (currently [-]) • Scheme benefit consultant – (currently [-]) • Investment adviser – (currently [-]) • [Additional Voluntary Contribution providers – (currently [-])]²³ • Legal adviser – (currently [-]) • Fund Actuary – (currently [-]) • Statutory auditor – (currently [-]) • External auditor – (currently [-]) • Internal auditor – (currently [-]) • Insurance companies in connection with ill health benefits – (currently [-]) • LGPS National Insurance database – (South Yorkshire Pensions Authority) • The Department for Work and Pensions • The Government Actuary's Department • The Cabinet Office – for the purposes of the National Fraud Initiative • HMRC • The Courts of England and Wales – for the purpose of processing pension sharing orders on divorce
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In each case we will only do this to the extent that we consider the information is reasonably required for these purposes.

In addition, where we make Fund investments or seek to provide benefits for Fund members in other ways, such as through the use of insurance, then we may need to share personal data with providers of investments, insurers and other pension scheme operators. In each case we will only do this to the extent that we consider the information is reasonably required for these purposes.²⁴

From time to time we may provide some of your data to your employer and their relevant subsidiaries (and potential purchasers of their businesses) and advisers for the purposes of enabling your employer to understand its liabilities to the Scheme. Your employer would generally be a controller of the personal data shared with it in those circumstances. For example, where your employment is engaged in providing services subject to an outsourcing arrangement, the Administering Authority may provide information about your pension benefits to your employer and to potential bidders for that contract when it ends or is renewed.

²¹ The Tracing bureaus may consider themselves to be data controllers – the Administering Authority may wish to check this with the tracing bureau directly.

²² This notice assumes there are no joint controller relationships. If that is the case, this notice will require amendment as Article 26 requires joint controllers to have an “arrangement” between them setting out their respective responsibilities and that the “essence of the arrangement shall be made available to the data subject”.

²³ This may require amendment depending on the pension arrangement used for AVCs. See note 3 above.

²⁴ The paragraph may be required where, for example, the Administering Authority secures benefits via insurance or a transfer to another pension arrangement.

Where requested or if we consider that it is reasonably required, we may also provide your data to government bodies and dispute resolution and law enforcement organisations, including those listed above²⁵, the Pensions Regulator, the Pensions Ombudsman and Her Majesty's Revenue and Customs (HMRC). They may then use the data to carry out their legal functions.

The organisations referred to in the paragraphs above may use the personal data to perform their functions in relation to the Fund as well as for statistical and financial modelling (such as calculating expected average benefit costs and mortality rates) and planning, business administration and regulatory purposes. They may also pass the data to other third parties (for example, insurers may pass personal data to other insurance companies for the purpose of obtaining reinsurance), to the extent they consider the information is reasonably required for a legitimate purpose.

In some cases these recipients may be outside the UK. This means your personal data may be transferred outside the EEA to a jurisdiction that may not offer an equivalent level of protection as is required by EEA countries. If this occurs, we are obliged to verify that appropriate safeguards are implemented with a view to protecting your data in accordance with applicable laws. Please use the contact details below if you want more information about the safeguards that are currently in place.²⁶

[We do not use your personal data for marketing purposes and will not share this data with anyone for the purpose of marketing to you or any beneficiary.]²⁷

How long we keep your personal data²⁸

We will only keep your personal data for as long as we need to in order to fulfil the purpose(s) for which it was collected and for so long afterwards as we consider may be required to deal with any questions or complaints that we may receive about our administration of the Fund, unless we elect to retain your data for a longer period to comply with our legal and regulatory obligations. In practice, this means that your personal data will be retained for such period as you (or any beneficiary who receives benefits after your death) are entitled to benefits from the Fund and for a period of **[15 years]²⁹** after those benefits stop being paid. For the same reason, your personal data may also need to be retained where you have received a transfer, or refund, from the Fund in respect of your benefit entitlement.

²⁵ Please confirm names of other organisations, including government agencies, with whom personal data may be shared.

²⁶ This is intended to satisfy the requirements of Articles 13(1)(f) and 14(1)(f) of the GDPR. The Article 29 Working Party guidelines state that known third countries should be specified, but this may not be practical. Administering Authorities should consider their own circumstances and take legal advice where appropriate.

²⁷ The use of personal data for direct marketing purposes is addressed at Article 21 of the GDPR and automated processing and profiling at Article 22. We assume there will be no automated processing which has a legal effect or significant impact on the data subject's rights but Administering Authorities should assess whether that is in fact the case and include appropriate wording where necessary to satisfy Article 13(2)(f) of the GDPR. There is no obligation to include a statement about the use of personal data for direct marketing purposes but Administering Authorities may wish to do so. Note, however, that if such a statement is included then it would be difficult in the future to change this position.

²⁸ This is intended to satisfy the requirements of Article 13(2)(a) of the GDPR. The Article 29 Working Party guidelines state that meaningful information about the likely period of retention should be provided and a generic statement is not appropriate. While the GDPR does not prescribe a time period beyond which data must not be kept, the data controller is under an obligation to inform individuals of the period for which data will be kept or, if this is not possible, the criteria that will be used to determine the retention period. The GDPR states that while the data is being retained, the data controller is also under an obligation to keep personal data up to date and to take every reasonable step to ensure that inaccurate data is either erased or rectified without delay. Further that data must not be kept in a form that is capable of identifying an individual for longer than is necessary. In practice, we anticipate that Administering Authorities will need to retain personal data held for the purposes of the Fund for extended periods because of the long-term nature of the pension liabilities. Consideration should, however, be given to "filleting" the data held so that individual items are not retained for longer than actually required. Administering Authorities will need to consider the extent to which the suggested wording matches their actual practice.

See Articles 5(1) and 5(2), and in particular Article 5(1)(c) - (e) of the GDPR. Please also see Recital 39 of the GDPR.

²⁹ See note 28 above.

Your rights³⁰

You have a right to access and obtain a copy of the personal data that the Administering Authority holds about you and to ask the Administering Authority to correct your personal data if there are any errors or it is out of date. In some circumstances you may also have a right to ask the Administering Authority to restrict³¹ the processing of your personal data until any errors are corrected, to object to processing or to transfer or (in very limited circumstances) erase³² your personal data. You can obtain further information about these rights from the Information Commissioner's Office at: www.ico.org.uk or via their telephone helpline (0303 123 1113).

If you wish to exercise any of these rights or have any queries or concerns regarding the processing of your personal data, please contact the Fund Administrator as indicated below.³³ You also have the right to lodge a complaint in relation to this privacy notice or the Administering Authority's processing activities with the Information Commissioner's Office which you can do through the website above or their telephone helpline.³⁴

The personal data we hold about you is used to administer your Fund benefits and we may from time to time ask for further information from you for this purpose. If you do not provide such information, or ask that the personal data we already hold is deleted or restricted this may affect the payment of benefits to you (or your beneficiaries) under the Fund. In some cases it could mean the Administering Authority is unable to put your pension into payment or has to stop your pension (if already in payment).³⁵

Updates

We may update this notice periodically. Where we do this we will inform members of the changes and the date on which the changes take effect.

Contacting us³⁶

Please contact the Fund administrator **[-]** for further information.

³⁰ This satisfies requirements of Articles 13(2)(b) of the GDPR. Please note the privacy notice will need to be amended and simplified if it is to be sent to children in order to ensure they can understand the content. We are expecting guidance from the Information Commissioner's Office in relation to the processing of personal data belonging to children.

³¹ See Article 18 of the GDPR. The Administering Authority should restrict the processing of the personal data (subject to certain exceptions e.g. storage or to defend a legal claim or for reasons of important public interest) where the individual has contested the accuracy of the personal data. The processing would also have to be restricted in this way where the individual has raised an objection for any reason, and the Administering Authority's justification is based on the necessity to: perform a task in the public interest or pursuant to an official authority; or (if applicable) in its legitimate interests. The restriction will last until the administering authority is able to verify the accuracy of the personal data or demonstrate the justification for its processing respectively. For reference, note: Article 21(1) contains the right of the data subject to object to the processing of personal data in circumstances relating to the individual, where the controller is relying on the justifications in Article 6(1)(e) or (f), which includes those mentioned immediately above. Under Article 21(2), the right to object also includes where personal data is used for direct marketing purposes and profiling for that purpose.

³² See Articles 17(1) and 17(2) of the GDPR. This information has to be included notwithstanding that in relation to the LGPS it is not anticipated that members will in practice have a right of erasure (due to the legal basis for which personal data is collected and processed).

³³ The controller is also under an obligation to inform other data recipients that personal data has been restricted or erased, and inform the member of such data recipients on request. See Article 19 of the GDPR.

³⁴ This satisfies requirements of Articles 13(2)(b) of the GDPR.

³⁵ See Article 17(3) of the GDPR. Article 18(2) and 18(3) provide exceptions to the right of the member to restrict the processing of personal data in certain circumstances.

³⁶ This satisfies requirements of Articles 13(1)(a) of the GDPR.

Version 1: issued on **[insert date]**

Data Protection Officer

You may also contact our data protection officer **[-]** for further information.³⁷

³⁷ This satisfies requirements of Article 14(1)(b) of the GDPR.