



Department for
Communities and
Local Government

Merger of Wandsworth and Richmond Upon Thames Pension Funds

Government Response to Consultation



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December 2016

ISBN: 978-1-4098-4980-3

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Introduction

1. Under the Local Government Pension Scheme Regulations 2013¹, each London borough is an administering authority that is required to maintain a pension fund for its staff and other Scheme employers that operate within the relevant borough
2. In January 2015 the London Boroughs of Wandsworth and Richmond upon Thames announced plans to enter into shared staffing arrangements with the intention of delivering £10 million of savings to the council tax payers of each borough.² These arrangements have developed into a 'joint employment' model, whereby the majority of staff are jointly employed by both boroughs.
3. The benefits and rights of scheme members, whether active, deferred or pensioner, would continue to be set out in the scheme regulations, and the draft merger regulations would not alter them.

Background to the Consultation

4. On 4 August 2016 the Secretary of State for Communities and Local Government opened a consultation³ and published draft regulations to give effect to the proposed merger. These regulations were proposed to be made under the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013. Under Section 3(5) of the 2013 Act, the Regulations require the consent of HM Treasury before being made. Draft regulations 3 to 22 amend the Local Government Pension Scheme Regulations 2013 ("the 2013 Scheme Regulations").
5. The draft regulations provided for the merger of the boroughs' funds by making the fund maintained by the Borough of Wandsworth the appropriate fund for Local Government Pensions Scheme members in the Borough of Richmond upon Thames, and by transferring the assets and liabilities of the fund maintained by Richmond upon Thames to the fund maintained by Wandsworth. Richmond upon Thames will not longer be required to maintain a pension fund. That consultation closed on 15 September.
6. We received four responses, one from the Local Government Association and three from local authorities directly affected by the proposed merger.

¹ <http://www.legislation.gov.uk/ukxi/2013/2356/contents/made>

²

http://www.wandsworth.gov.uk/news/article/12707/councils_announce_plans_to_create_shared_staffing_structure

³ <https://www.gov.uk/government/consultations/merger-of-wandsworth-and-richmond-upon-thames-pension-funds>

Summary of the responses to the Consultation

7. All responses to the consultation were in agreement with the principle of the merger and the general approach taken in the regulations. However, a number of minor amendments to the draft regulations were proposed, largely to deal with transition issues.
8. For example, consultation responses addressed:
 - The appropriate date for the publication of a statement of respective allocation of assets and liabilities;
 - accounting treatment of the merger;
 - clarification of the status of joint vehicles that the councils have established with third parties.

Government response to the consultation

9. After careful consideration of all responses to the consultation, the Government has decided to make a number of minor changes to the draft regulations that were proposed.
10. In light of the responses received the Government has also agreed to require the statement of allocation of assets and liabilities, and the respective responsibilities of each borough to be made within three months of the regulations being made, rather than from the Merger date as originally proposed.
11. One response requested that the regulations clarify the appropriate accounting treatment of the merger. However it was felt that this went beyond the scope of the power under which these regulations were being made.

Conclusion: laying the draft Instrument

12. A revised statutory instrument has been signed by the Minister and Lords Commissioners of Her Majesty's Treasury and this will be laid before Parliament at the earliest opportunity, alongside an Explanatory Memorandum. These are at Annex A.
13. Additional information about the Regulations is at Annex B.

Annex A – Regulations and Explanatory Memorandum

STATUTORY INSTRUMENTS

2016 No. 1241

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

**The Local Government Pension Scheme (Wandsworth and
Richmond Fund Merger) Regulations 2016**

<i>Made</i>	- - - -	<i>19th December 2016</i>
<i>Laid before Parliament</i>		<i>22nd December 2016</i>
<i>Coming into force</i>	- -	<i>26th January 2017</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1, 2(1) and 3 of, and Schedules 1 to 3 to, the Public Service Pensions Act 2013(a).

In accordance with section 21 of that Act, the Secretary of State has consulted such persons, and the representatives of such persons, as appeared to the Secretary of State to be likely to be affected by these Regulations(b).

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government Pension Scheme (Wandsworth and Richmond Fund Merger) Regulations 2016.

(2) These Regulations come into force on 26th January 2017 but have effect from 1st October 2016.

(3) In these Regulations—

(a) “the 2013 Regulations” means the Local Government Pension Scheme Regulations 2013(c);

“the Earlier Regulations” has the meaning given by regulation 1(6) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014(d);

“Richmond” means the London Borough of Richmond upon Thames;

“Wandsworth” means the London Borough of Wandsworth;

“the merger date” means 1st October 2016; and

(b) other expressions have the same meaning as in the 2013 Regulations.

(a) 2013 c.25. See section 28 of the Act which provides for regulations made under section 7 of the Superannuation Act 1972 (c. 11) to have effect as scheme regulations under section 3 of the Act.

(b) A statement of the persons whom the Secretary of State would normally expect to consult has been published and can be found at <https://www.gov.uk/government/publications/local-government-pension-scheme-regulations-information-on-who-should-be-consulted/local-government-pension-scheme-regulations-information-on-persons-to-be-consulted>.

(c) S.I. 2013/2356 as amended by S.I. 2014/44, S.I. 2014/1146, S.I. 2015/57 and S.I. 2015/755.

(d) S.I. 2014/525.

Modification of the Local Government Pension Scheme Regulations 2013

2. From the merger date, the 2013 Regulations apply in relation to Wandsworth and Richmond with the following modifications—

- (a) in paragraph 1(b) of Part 1 of Schedule 3 (pension funds), the reference to a London borough council does not include a reference to Richmond (which is accordingly no longer an administering authority and is not required to maintain a pension fund for the Scheme);
- (b) regulation 103 (changes of administering authority) does not apply in relation to the transfer of assets and liabilities described in regulation 3(1) of these Regulations; and
- (c) the table in Part 2 of Schedule 3 (pension funds) applies as if for any person for whom the appropriate administering authority has been or would be Richmond, the appropriate administering authority is Wandsworth.

Transfer of assets, liabilities and responsibilities

3.—(1) On the merger date all assets and liabilities of the pension fund maintained by Richmond become the assets and liabilities of the pension fund maintained by Wandsworth.

(2) No later than 3 months after the date these Regulations come into force, Wandsworth and Richmond must publish a statement setting out the assets and liabilities of their respective pension funds immediately before the merger date.

(3) After the merger date—

- (a) any payment received by Richmond relating to its function as an administering authority before that date, must be paid into the pension fund maintained by Wandsworth; and
- (b) any payment due to be made by Richmond relating to its function as an administering authority which had not been made before that date, must be paid from the pension fund maintained by Wandsworth.

(4) Any question concerning the rights or liabilities of any person under the 2013 Regulations or the Earlier Regulations which was decided by Richmond before the merger date is deemed to be a decision of Wandsworth for the purposes of any challenge to a decision.

(5) Any question concerning the rights or liabilities of any person under the 2013 Regulations or the Earlier Regulations which was due to be decided by Richmond but which was not decided before the merger date, must be decided by Wandsworth.

(6) Any admission agreement to which Richmond is a party continues to have effect with Wandsworth substituted for Richmond.

(7) Any arrangements under regulation 17 of the 2013 Regulations (additional voluntary contributions) under a scheme established by Richmond continue to have effect as if they had been entered into under a scheme established by Wandsworth.

We consent to the making of these Regulations

15th December 2016

Robert Syms
Stephen Barclay
Two of the Lords Commissioners of Her Majesty's Treasury

Signed by authority of the Secretary of State for Communities and Local Government

19th December 2016

Marcus Jones
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide for the merger of the local government pension funds held by the London Borough of Richmond upon Thames (“Richmond”) and the London Borough of Wandsworth (“Wandsworth”). From 1st October 2016 Richmond is no longer required to maintain a fund for the purposes of the Local Government Pension Scheme. All assets and liabilities relating to the fund held by Richmond up to that date are transferred to Wandsworth which becomes the appropriate administering authority for all members of the Scheme for whom the appropriate administering authority was previously Richmond.

Section 3(3) of the Public Service Pensions Act 2013 allows regulations to make retrospective provision.

No impact assessment has been produced for these Regulations because no impact on the private or voluntary sectors is foreseen.

EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT PENSION SCHEME (WANDSWORTH AND
RICHMOND FUND MERGER) REGULATIONS 2016

2016 No. 1241

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 To provide for the merger of the local government pension funds held by the London Boroughs of Wandsworth (“Wandsworth”) and Richmond upon Thames (“Richmond”).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 The Public Service Pensions Act 2013 (“the 2013 Act”) enables the Secretary of State to make regulations creating schemes of pensions for, amongst others, local government workers.
- 4.2 In England and Wales, such a scheme is created by the Local Government Pension Scheme Regulations 2013 (“the 2013 Regulations”). The 2013 Regulations were made exercising powers in the Superannuation Act 1972 but section 18 of the 2013 Act provides for them to take effect as scheme regulations.
- 4.3 The scheme created by the 2013 Regulations is a funded scheme administered by 89 administering authorities specified in Part 1 of Schedule 3 to those regulations and include London boroughs.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

What is being done and why

- 7.1 Under the 2013 Regulations, each London borough is an administering authority that is required to maintain a pension fund for its staff and other Scheme employers that operate within the relevant borough
- 7.2 Wandsworth and Richmond have developed a ‘joint employment’ model, whereby the majority of staff are jointly employed by both boroughs. A single staffing structure across the two councils could deliver savings of up to £10 million per year for local tax payers in Wandsworth and similar amounts in Richmond.
- 7.3 Staff employed under their ‘joint employment’ Shared Staffing Arrangement (SSA) will be deployed across the boroughs according to the priorities set by the elected representatives of each borough. Wandsworth and Richmond have requested the establishment of one administering authority for all staff employed under their SSA and that one fund serve both boroughs to enable the appropriate cost allocation, and financial accountability of the SSA. Merging the two funds offers a better solution and avoids adverse consequences of transferring the vast bulk of active members from one fund into another.
- 7.4 These regulations provide for the merger of the boroughs’ funds by making the fund maintained by Wandsworth the appropriate fund for Local Government Pensions Scheme members in Richmond, and by transferring the assets and liabilities of the fund maintained by Richmond to the fund maintained by Wandsworth. Richmond will no longer be required to maintain a pension fund. If the shared staffing arrangement were to be discontinued the merged fund would continue and each borough would continue in it as separate employers.
- 7.5 The benefits and rights of scheme members, whether active, deferred or pensioner, will continue to be set out in the 2013 Regulations, and these regulations do not alter them.
- 7.6 The statement required by regulation 3(2) will be used to set separate employer contribution rates that reflect each borough’s responsibility for the past service liabilities that they have accrued, and to meet these liabilities through the contributions that they pay. This is in order to avoid cross subsidies between the boroughs.
- 7.7 Currently both boroughs are the administering authority for employers within the boroughs, other than the boroughs themselves. These employers are either listed as scheme employers in the 2013 Regulations, such as academies, or have entered in to admission agreements with either of the boroughs to allow staff to accrue pensions under the scheme. These employers will contribute to the new merged fund.

Consolidation

- 7.8 These regulations do not make textual amendment to any other instrument and the issue of consolidation does not therefore arise.

8. Consultation outcome

- 8.1 We received four responses, one from the Local Government Association and three from local authorities directly affected by the proposed merger. All responses to the consultation were in agreement with the principle of the merger and the general

approach taken in the regulations. However, a number of minor amendments to the draft regulations were proposed, largely to deal with transition issues.

- 8.2 After careful consideration of all responses to the consultation, the Government has decided to make a number of minor changes to the draft regulations that were proposed, largely to clarify the necessary transitional arrangements.
- 8.3 In light of the responses received the Government has also agreed to require the statement of allocation of assets and liabilities, and the respective responsibilities of each borough to be made within three months of the regulations being made, rather than from the merger date as originally proposed.
- 8.4 One response requested that the regulations clarify the appropriate accounting treatment of the merger. However it was felt that this went beyond the scope of the power under which these regulations were being made.
- 8.5 A copy of the original consultation document and the Government response is available at <https://www.gov.uk/government/consultations/merger-of-wandsworth-and-richmond-upon-thames-pension-funds>.

9. Guidance

- 9.1 No guidance is necessary to accompany these regulations.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is minimal – there will be a saving in administrative expenses for the boroughs involved.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The merged fund will continue to be covered by the 2013 Act and 2013 Regulations. No additional monitoring or review of these arrangements is necessary.

13. Contact

- 13.1 Jeremy Hughes at the Department for Communities and Local Government, telephone: 0303 444 3131 or email: Jeremy.Hughes@communities.gsi.gov.uk, can answer any queries regarding the instrument.

Annex B - Additional information on the Regulations

Matters of Interest to the House of Commons

14. As the draft regulations are subject to negative resolution procedure and have not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

Extent and Territorial Application

15. The extent of this instrument is England and Wales. The territorial application of this instrument is England only.

European Convention on Human Rights

16. As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

Guidance

17. No guidance is necessary to accompany this Order.

Impact

18. There is no impact on business, charities or voluntary bodies.
19. The impact on the public sector is minimal – there will be a saving in administrative expenses for the boroughs involved.
20. An Impact Assessment has not been prepared for this instrument.

Regulating small business

21. The legislation does not apply to activities that are undertaken by small businesses.

Contact

22. Jeremy Hughes at the Department for Communities and Local Government, telephone: 0303 444 3131 or email: Jeremy.Hughes@communities.gsi.gov.uk, can answer any queries regarding this instrument.