

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.