

LOCAL GOVERNMENT ASSOCIATION

TEMPLATE SHORT FORM 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 and updated based on an understanding of the law and guidance 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, together with the template full privacy notice, 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")~~ data protection legislation to inform affected individuals what personal data is held and how it is used for the purposes of the pension fund. Depending on the context in which this short form template is used, individual administering authorities may wish to include more or less information than is suggested. The footnotes in this short form template and the template full privacy notice should both be considered when tailoring this template. 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 European Data Protection Board (previously known as the EU Article 29 Data Protection Working Party<sub>2</sub> 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.
- 6 Please note that we have made some amendments to the template ~~Short Form~~ Summary Privacy Notice as at 15 May 2018– which was issued on 25 May 2018

(version 2). Administering ~~Authorities~~authorities should note that the updates that have been made to the template do not necessitate an immediate re-issue of the privacy notice and instead could be included in an annual update of the privacy notice. ~~The changes are noted below to assist Administering Authorities~~

67 Please note that we have made some amendments to version 2 of the template Summary Privacy Notice (version 3). Administering authorities should note that the updates that have been made to the template do not necessitate an immediate re-issue of the privacy notice and instead could be included in an annual update of the privacy notice. However, since the GDPR came into effect, the direction of travel is towards greater transparency. Administering authorities therefore may want to revisit how frequently and in what circumstances they circulate hard copies of the privacy notice to members and consider how they will bring the most up to date version of the privacy notice to members' attention. The changes are noted below to assist administering authorities who have already issued their privacy notice in determining whether and when to issue an update to the privacy notice.

~~(a) — In the section headed "What will we do with your personal data", we have clarified that it is recipients "of your personal data" that may be outside of the UK.~~

(a) We have inserted a new reference to "data protection legislation" in the first paragraph rather than referring to specific legislation throughout and have added a footnote to explain what the legislation is for the benefit of administering authorities. We have also included references to the GDPR and the UK GDPR as there are now effectively "two GDPRs": the EU version of the GDPR and the UK GDPR as incorporated into UK law. As at today's date, those provisions are near identical for most purposes. However, they may diverge over time following the UK's exit from the EU.

(b) In the section headed, "What will we do with your personal data?" we have amended the wording to reflect the fact that following Brexit, the UK now falls outside the European Economic Area. As such, appropriate safeguards must be implemented whenever there is a transfer of personal data from the UK to jurisdictions which may not offer an adequate level of protection to personal data as is required by the UK Government / EEA countries. Under the GDPR, there is a requirement to specify where data will be transferred to a third country and the existence or absence of an adequacy decision or reference to the appropriate safeguards used to protect it and the means by which the individual can obtain a copy of them. To comply with the GDPR, administering authorities will need to identify in the privacy notice the particular transfers involved and the safeguard used for them (e.g. model clauses).

~~(b) — In the section headed "Your rights" we have ~~amended~~expanded the wording about ~~the data subject's rights to object to processing to fit with disclosure obligations described in Article 21 as well as Articles 13 and 14 of the GDPR and included additional wording to better align with Article 13.1(e) of the GDPR by referring to the collection as well as the holding of data. The amendments:~~~~

~~(i) — clarify that members have a a data subjects' right to ask for personal data administering authorities to be corrected if it is incomplete;~~

- (c) ~~explain when members have~~restrict the ~~right to object to~~ processing of their personal data; as described in Article 18 GDPR.
  - (i) ~~expand upon the reasons why Administering Authorities collect and hold members personal data; and~~
  - (ii) ~~clarify that the ability of the Administering Authority to administer a member's benefits from the Fund may be affected if that member does not provide information requested, requests that the personal data held is deleted or that the processing of the personal data is restricted.~~
- (d) Footnotes have been inserted to reflect the footnotes that are set out in version 4 of the template Full Privacy Notice which apply to this template Summary Privacy Notice and updated to ensure that all legislative references are correct and complete following the updates made.

**Squire Patton Boggs (UK) LLP**  
**18 May 2018**  
17 September 2021

## PRIVACY NOTICE (SUMMARY)

for the members and beneficiaries of the [-]<sup>1</sup>

As the Administering Authority of the Fund we hold certain information about you and from which you can be identified ("personal data") which we need to administer the Fund.

~~We~~In this privacy notice, we have summarised some of the key ways in which we ~~deal~~collect and use personal data in accordance with ~~this information below~~our requirements under data protection legislation<sup>2</sup>. Further information can be found in the Full Privacy Notice at the following link:

**[Insert link to relevant area of website]**

It is important that you read this privacy notice together with any other privacy notice or fair processing policy we may provide on specific occasions when we are collecting or processing personal data about you so that you are fully aware of how and why we are using your data. This privacy notice replaces any general privacy notice we may have previously issued and supplements any other notices and privacy policies we issue that are specific to particular data collection / processing activities

### What personal data do we hold?<sup>3</sup>

The types of data we hold and process ~~will typically~~about you can include:

- Contact details, including name, address, telephone numbers and email address.
- Identifying details, including date of birth and national insurance number.
- Information relating to your benefits in the Fund, including length of service or membership and salary.
- Other information in relation to your membership of the Fund or to enable the calculation or payment of benefits, for example bank account details.
- Information about your family, ~~dependents~~dependants or personal circumstances, for example, marital status and information relevant to the distribution and allocation of benefits payable on death.

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<sup>1</sup> Please insert name of the Fund.

<sup>2</sup> Please note that the relevant data protection legislation includes:

- the UK Data Protection Act 2018;
- the UK GDPR (as defined in the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019/419);
- the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) (as amended and incorporated into the laws of England & Wales, Scotland and Northern Ireland);
- the General Data Protection Regulation 2016/679; and
- all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

<sup>3</sup> Please consider whether any personal data other than that listed is held or processed. Please note that Article 9 of the UK GDPR applies different treatment to the processing of special categories of personal data. In addition, the Administering Authority should conduct a separate review of the correspondence and documentation provided to members and beneficiaries at the point in time that the personal data is requested, such as new joiner forms. In particular: (a) the documentation will need to flag why there is a requirement to provide the information, whether the individual is obliged to do so and the possible consequences of failing to provide that data (see Article 13 of the UK GDPR) - this isn't explicitly covered in the template privacy notice which is drafted on the basis that the Administering Authority already holds personal data about the data subject; and (b) the Administering Authority will also need to consider how the privacy notice is incorporated into the data collection process.

- 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.<sup>4</sup>
- 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.<sup>5</sup>

We obtain some of this personal data directly from you<sup>6</sup>. We may also obtain data from your employer (for example, salary information) and from other sources including public databases ~~and the advisers and service providers that we may share your personal data which are listed in the Full Privacy Notice.~~

### What will we do with your personal data?

We will use this personal data to administer the Fund and to calculate and provide you (and, if you are a member of the Fund, your beneficiaries if you die) with benefits. We will also use this personal data 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), and to comply with our legal obligations.

From time to time we will share your personal data with third parties, including our contractors, advisors, government bodies and dispute resolution and law enforcement agencies and insurers in order to comply with our obligations under ~~law~~ data protection legislation, and in connection with the provision of services that help us carry out our duties, rights and discretions in relation to the Fund. These organisations are listed in the ~~full~~ Full Privacy Notice.

In some cases recipients of your personal data may be outside the UK. If this occurs, we will make sure that ~~appropriate~~ additional safeguards are in place to protect your data in accordance with applicable data protection laws. Please use the contact details below if you want more information in connection with this.<sup>7</sup>

### What is the legal basis for our use of your personal data?

The legal basis<sup>8</sup> for our use of your personal data will ~~generally~~ usually be ~~one or more of the following:~~

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<sup>4</sup> Explicit consent may 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 the UK GDPR/ new UK data protection legislation 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. An appropriate policy document may also be required where special category information is processed.

<sup>5</sup> Explicit consent may also be needed to process information about criminal convictions/offences. An appropriate policy document will also be required in almost all cases where information about criminal convictions is processed. Extra information will have to be provided to the individual as and when the consent is obtained or the Administering Authority receives personal data concerning criminal convictions/offences. The Administering Authority may wish to review and update any current communications and documentation and/or take legal advice in relation to the same. See note 4 above.

<sup>6</sup> Please note that where members or beneficiaries are asked to provide health related data, explicit consent to the processing of that data should be obtained at the time it is requested. See note 4 above.

<sup>7</sup> This generic wording does not fully meet the requirements of the UK GDPR and the standards of the ICO but is intended to address the requirements of Articles 13(1)(f) and 14(1)(f) of the UK GDPR. The European Data Protection Board (previously Article 29 Working Party) guidelines state that known third countries should be specified, along with the UK GDPR-compliant mechanism that is being used to protect the personal data, but this may not be practical. If Administering Authorities have further details about the international transfers of personal data and the safeguards in place to protect that data, then this paragraph should be amended. Administering Authorities should consider their own circumstances and take legal advice where appropriate.

<sup>8</sup> This is intended to address the requirements of Articles 13(1)(c) and 14(1)(c) of the UK GDPR. However, please note it is possible this may contain insufficient detail. Given the ICO's increasing focus on transparency, where Funds have carried out extensive, detailed mapping of their processing activities (which we recommend), consider including further information (for example, a detailed table that identifies each of the processing activities carried out by the Fund) in this section or at the end of this privacy notice.

that we need to process your personal data to satisfy our legal obligations as the Administering Authority of the Fund; ~~and/or~~ However, where that legal basis does not apply then the legal basis for our use of your personal data will be one or more of the following<sup>9</sup>:

- a) 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~~
- b) 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/or<sup>10</sup>
- c) [because we need to process your personal data to meet our contractual obligations in relation to the Fund (for example, under an agreement that you will pay additional voluntary contributions to the Fund), or to take steps, at your request, before entering into a contract.]

### How long will we hold your data?

We will only keep your personal data for as long as we need it to administer the Fund and to deal with any questions or complaints that we may receive about this, unless the law requires us to keep it for a longer period. In practice, this means that your personal data may be retained for ~~as long as~~ the greater of<sup>11</sup>:

- 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]<sup>12</sup> 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; ~~or~~
- [100 years from a member's date of birth]<sup>13</sup>; ~~or~~
- [100 years from the date of birth of any beneficiary who received benefits from the Fund after the member's death].

### Your rights<sup>14</sup>

You have a right to access and obtain a copy of the personal data that we hold about you and to ask us to correct your personal data if there are any errors or it is out of date or incomplete.

<sup>9</sup> We have assumed that the Administering Authority or its advisers/service providers are not carrying out any automated decision making (including profiling). Administering Authorities should check the position because any automated decision making that is being carried out will need to be flagged in the privacy notice (see Article 13(2)(f) and Article 14(2)(g) of the UK GDPR). The Administering Authority should also be made aware that if they carry out automated decision making in the future then that further information will need to be provided to the individuals concerned. The Administering Authority should take legal advice before undertaking any automated decision making (including profiling).

<sup>10</sup> The UK 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.

<sup>11</sup> The greater of "100 years from date of birth" and "last payment of benefits to the Member/Beneficiary plus 15 years", is intended to ensure that Administering Authorities are acting in line with the Pensions Regulator's Code of Practice 14 (Public Service Pension Schemes) which notes that data will need to be held for long periods of time and schemes will need to retain some records for a member even after that individual has retired, ensuring that pension benefits can be properly administered over the lifetime of the member and their beneficiaries (paragraph 135).

<sup>12</sup> The suggested period of "last payment of benefits plus 15 years" is based on the current maximum statutory limitation period, as any complaints about the payment of those benefits would usually need to be brought within that timeframe.

<sup>13</sup> The suggested period of "100 years from date of birth" is based on the guidelines by the National Archives and the ICO's retention policy.

<sup>14</sup> This is intended to address the requirements of Articles 13(2)(b) and 14(2)(c) of the UK GDPR. The privacy notice will need to be amended and simplified if it is to be sent to children (and potentially other vulnerable individuals) in order to ensure they can understand the content.



In very limited circumstances, you may also have a right to ask us to restrict<sup>15</sup> the processing of your personal data or to transfer or (in extremely limited circumstances, such as where your personal data is no longer needed for the purpose for which it is being processed) erase<sup>16</sup> your personal data. You should note that we are not obliged to erase your personal data if we need to process it for the purposes of administering the Fund.

In certain circumstances you have the right to object to the processing of your personal data; for example you have the right to object to processing of your personal data which is based on the public interest or legitimate interests identified in the section above headed "*What is the legal basis for our use of your personal data?*", or where the processing is for direct marketing purposes. ~~In some cases you may also have a right to ask us to restrict the processing of your personal data until any errors are corrected or to transfer or (in very limited circumstances) erase your personal data.~~

You can obtain further information about ~~these~~ your rights from the Information Commissioner's Office at: [www.ico.org.uk](http://www.ico.org.uk) or via its telephone helpline (0303 123 1113).

If you wish to exercise any of these rights, please contact the Fund Administrator below<sup>17</sup>. You also have the right to lodge a complaint in relation to this summary notice, the ~~full~~ Full Privacy Notice or our processing activities with the Information Commissioner's Office, which you can do through the website above or their telephone helpline.<sup>18</sup>

One of the reasons we collect and hold your personal data is to administer your benefits from the Fund<sup>19</sup>. If you do not provide the information we request, or ask that the personal data we already hold is deleted or that the processing of the personal data be restricted, this may affect our ability to administer your benefits, including the payment of benefits from the Fund. In some cases it could mean that we are unable to put your pension into payment or have to stop your pension (if already in payment).<sup>20</sup>

## Contacting us

Please contact the Fund administrator ~~[ - ]~~ for further information.<sup>21</sup>

## Data Protection Officer

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<sup>15</sup> See Article 18 of the UK 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. In practice we anticipate Administering Authorities are likely to have another justification for processing data (i.e. to satisfy their legal obligations under the LGPS regulations) and so members will not be able to restrict processing of accurate data. However, any applicable 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.

<sup>16</sup> See Articles 17(1) and 17(2) of the UK GDPR. This information has to be included notwithstanding that in relation to the LGPS it is not anticipated that members/beneficiaries will in practice have a right of erasure (due to the legal basis for which personal data is collected and processed).

<sup>17</sup> The controller is also under an obligation to inform other data recipients that personal data has been rectified, restricted or erased, and inform the individual of such data recipients on request. See Article 19 of the UK GDPR.

<sup>18</sup> This is intended to satisfy the requirements of Articles 13(2)(d) and 14(2)(e) of the UK GDPR.

<sup>19</sup> In order to satisfy Article 13(2)(e) of the UK GDPR, correspondence/documentation asking for personal data should contain specific information about why such information needs to be provided and whether the individual is obliged to provide the information. Legal advice should be taken to ensure any such correspondence/documentation is compliant.

<sup>20</sup> See Article 17(3) of the UK GDPR. Article 18(2) and 18(3) provide exceptions to the right of the individual to restrict the processing of personal data in certain circumstances.

<sup>21</sup> Details on how the Fund administrator can be contacted e.g. a contact number/email address should be provided here. This is intended to satisfy the requirements of Articles 13(1)(a) and 14(1)(a) of the UK GDPR.

Version 4.3: valid from ~~insert date~~ 20 September 2021

You may also contact our data protection officer [ - ] for further information.<sup>22</sup>

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<sup>22</sup> [Details on how the data protection officer can be contacted e.g. a contact number/email address should be provided here This is intended to satisfy the requirements of Articles 13\(1\)\(b\) and 14\(1\)\(b\) of the UK GDPR.](#)