

Non-Executive Report of the: Pensions Committee Thursday, 10 March 2022	 TOWER HAMLETS
Report of: Corporate Director, Resources	Classification: Open (Unrestricted)
The General Data Protection Regulation	

Originating Officer(s)	Miriam Adams
Wards affected	(All Wards);

Executive Summary

This report sets out the requirements for the Council, as administering authority for the Local Government Pensions Scheme, to comply with the General Data Protection Regulation (GDPR).

Recommendations:

The Committee is recommended to:

1. Note the content of this report
2. Note the updated Full GDPR Privacy Notices and Employer's Memorandum of Understanding issued by the LGA (Appendices 1-5).

1. REASONS FOR THE DECISIONS

- 1.1 This report ensures full compliance to legislation.

2. ALTERNATIVE OPTIONS

- 2.1 There is no alternative option, this is a legislative requirement.

3. DETAILS OF THE REPORT

- 3.1 The General Data Protection Regulation (GDPR) came into effect since May 2018 previously the UK relied on the Data Protection Act 1998. Pension schemes necessarily hold and process significant amounts of personal data

relating to members. As a matter of good governance, it is important that member data is safeguarded. There is already a legal obligation on LGPS fund Administering Authorities to keep member data secure. Since GDPR came into effect potential penalties also apply if they get it wrong.

- 3.2 The basic objective of the GDPR is to enforce stronger data security and privacy rules among organisations when it comes to protecting personal data.
- 3.3 Administering Authorities are responsible for the personal data held by their LGPS funds, meaning the GDPR changes are related to them. Administering Authorities must demonstrate compliance with the GDPR in relation to their LGPS funds. The London Borough of Tower Hamlets Pension Fund is administered by Tower Hamlets Council and leverages off many of the support services of that organisation and shares many of its control functions.
- 3.4 Further details can be found in the Fund's administration strategy.

What personal data do we hold?

- 3.5 Initial data received by the Fund is provided by scheme employers whilst members are active members. The types of data we hold and process will typically include: contact details, including name, address, telephone numbers and email address, identifying details, including date of birth and national insurance number, information relating to scheme member benefits in the Fund, including length of service or membership and salary, other information in relation to scheme member membership like bank account details, information about scheme member family, dependents or personal circumstances for example marital status, death and other information relevant to the distribution and allocation of benefits payable on death and information about scheme member health.

What will the Fund do with scheme member personal data?

- 3.6 The Tower Hamlets Pension Fund will use personal data to administer the Fund and to calculate and provide members and beneficiaries with benefits. In some cases, recipients may be outside of the UK. If this occurs, the Fund will ensure appropriate safeguards are in place to protect scheme member data with applicable laws. Employer responsibilities can be found in the administration strategy.
- 3.7 In September 2021, the Local Government Association emailed administering authorities letting them know that updated versions of the following GDPR documents were now available. The changes have been made by Squire Patton Boggs. The revised documents have been updated to reflect Brexit, the Schrems II decision on transfers of data outside the European Economic Area and guidance on data sharing agreements issued by the Information Commissioner's Office.
 - Template full privacy notice (v4)
 - Template summary privacy notice (v3)

- Template data retention policy (funds) (v2)
- Template data retention policy (employers) (v2)
- Memorandum of understanding (v2)

Memorandum of Understanding for Scheme Employers

- 3.8 The LGA produced an updated version of the template for a memorandum of understanding (MOU) for Scheme Employers (appendix 5) in September 21. This document sets out expectations and standards required between the Fund and scheme employer.

Action for Administering Authorities

- 3.9 Administering Authorities are required to review the changes to each document and update local versions of privacy notices to ensure greater transparency to member's attention. The templates have been shared with the Administering Authority's Information Governance Team for comments. GDPR requires additional content to be included in all privacy notices regarding how personal data will be used by data controllers. The administering authority, as a data controller, must tell anyone whose personal data they collect, what information is held, how it is used, who it may be shared with and what safeguards are in place.

Existing Fund documents, fact sheets, new member information packs and letters will be reviewed to ensure the privacy notice is now included on all Fund documents and reference to data protection and privacy notice with a link to the full privacy notice on the website.

Monitoring

- 3.10 The Fund will continue a program of continuous review of GDPR and good management of members' personal data. Annual updates on compliance will be provided to the Board and Committee. The Pensions Administration Team Leader - Data and Pensions Administration Team Leader – Employers will be the Data Champions for the team. Both team leaders will review and develop any additional changes to processing activities including the management of third-party requests for member data (e.g. transfer out requests), which also helps strengthen the Fund's ability to protect members from fraud and scam activity.

4. EQUALITIES IMPLICATIONS

- 4.1 There are no direct equalities impact as a result of this report.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are

required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:

- Best Value Implications,
- Consultations,
- Environmental (including air quality),
- Risk Management,
- Crime Reduction,
- Safeguarding.
- Data Protection / Privacy Impact Assessment.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report considers the introduction of additional responsibilities for the administering authorities in respect of data protection. There are significant fines for non-compliance with these additional regulatory requirements.

7. COMMENTS OF LEGAL SERVICES

- 7.1 Changes to legislation and statutory guidance are detailed in the report. Failure by the Fund to comply with legislation and/or statutory guidance can result in enforcement action and fines from the Pensions Regulator and the Information Commissioner. The Fund could also be the subject of claims for compensation from persons who are the subject of data breaches. Furthermore the Fund may also be subject to legal action such as judicial review claims and there is the risk of reputational damage to the Fund should it be found to be in breach of GDPR.

Linked Reports, Appendices and Background Documents

Linked Report

Pension Fund Administration Strategy

- [http://democracy-internal.towerhamlets.gov.uk/mgConvert2PDF.aspx?ID=165447&ISATT=1&LO\\$=1#search=%22GDPR%22](http://democracy-internal.towerhamlets.gov.uk/mgConvert2PDF.aspx?ID=165447&ISATT=1&LO$=1#search=%22GDPR%22)

Appendices

- GDPR Privacy Notice Summary
- GDPR Full Privacy Notice
- GDPR Memorandum of Understanding for Employers
- GDPR Personal Data Retention Policy
- GDPR Personal Data Retention Policy Expectations

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- NONE

Officer contact details for documents:

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