

LONDON BOROUGH OF CROYDON

REPORT:	Pension Committee
DATE OF DECISION	19 March 2024
REPORT TITLE:	Croydon Council Pension Fund Data Retention and GDPR
CORPORATE DIRECTOR / DIRECTOR:	Jane West, Corporate Director of Resources (Section 151 Officer)
LEAD OFFICER:	Matthew Hallett – Acting Head of Pensions and Treasury
CONTAINS EXEMPT INFORMATION?	NO
WARDS AFFECTED:	‘N/A’

1. SUMMARY OF REPORT

- 1.1 Croydon Council, as administering authority for the Local Government Pension Scheme, must periodically review and update documentation relating to the UK General Data Protection Regulations (UKGDPR) and the Data Protection Act 2018 (DPA) to ensure compliance with the regulations.

2. RECOMMENDATIONS

- 2.1 The Committee is asked to approve the updated documentation listed below:

- Full Privacy Notice attached as Appendix A
- Summary Privacy Notice attached as Appendix B
- Personal Data Retention Policy attached as Appendix C
- Personal Data Retention Policy Expectations attached as Appendix D
- Memorandum of Understanding for Employers attached as Appendix E

3. REASONS FOR RECOMMENDATIONS

- 3.1 The UKGDPR is the version of the General Data Protection Regulation (EU) 2016/679 as retained by UK law under section 3 of the European Union (Withdrawal) Act 2018 and as amended by Schedule 1 of the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419). The UKGDPR requires organisations to give individuals certain information about how their personal data is collected and used. The DPA also contains obligations in relation to personal data.

3.2 To demonstrate compliance with UK GDPR and the DPA we are required to publish and keep under review certain documentation that should be made available to all members and their dependents.

4. BACKGROUND AND DETAILS

4.1 We use personal data, provided by scheme employers, to administer the scheme and calculate member and dependent pension benefits.

4.2 Consideration must be given to the data we hold, the transfer of data and the retention of data by the Fund and scheme employers.

4.3 We hold significant amounts of personal data for scheme members and their dependents. The type 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 members health.

4.4 This information must be transferred in a safe and secure manner from scheme employers or their payroll providers.

4.5 Given the nature of the scheme design employers are required to retain information that may be required many years after an employee has left the employer. For example, a deferred member may request ill health retirement and the employer must be able to provide details about their employment such as job descriptions or working hours.

4.6 The Fund must retain certain data for as long as is required to ensure correct benefits have been paid to the member and any dependents after their death or to answer queries that may arise in the future or possible legal claims.

4.7 The Local Government Association (LGA) have published templates of the required documents, prepared by Squire Patton Boggs, to assist administering authorities. We have used the latest versions of these templates published by the LGA as part of this review to ensure we are compliant.

4.8 The following documents have been reviewed and updated.

- Full Privacy Notice attached as Appendix A
- Summary Privacy Notice attached as Appendix B
- Personal Data Retention Policy attached as Appendix C
- Personal Data Retention Policy Expectations attached as Appendix D
- Memorandum of Understanding for Employers attached as Appendix E

4.9 Existing Fund documents will be reviewed to ensure there is reference to data protection and the privacy notice including a link to the full privacy notice on the website.

4.10 Scheme Employers will be contacted to inform them we have reviewed our documentation and provide links to the documents on our website. Particular attention

will be paid to the Personal Data Retention Policy Expectations documents for employers to review and update if needed.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 N/A

6. CONSULTATION

6.1 Pursued in response to the Governance Review Recommendations by the Fund's governance advisers, Aon.

7. CONTRIBUTION TO COUNCIL PRIORITIES

7.1 Ensuring regulatory compliance, good stewardship and best practice are applied to the Council's Pension Fund.

8. IMPLICATIONS

8.1 FINANCIAL IMPLICATIONS

8.1.1. Non-compliance with UK GDPR and Data Protection requirements could result in fines from the Information Commissioner.

8.1.2. Insert at the end of the section: Comments approved by Andrew Lord, Interim Finance Consultant on behalf of Allister Bannin, the Director of Finance. (Date 06/03/2024)

8.2 LEGAL IMPLICATIONS

8.2.1. Burges Salmon LLP (a legal adviser appointed to the Fund) note there are no legal concerns highlighted in this report. However, compliance with UKGDPR and DPA is a very important requirement for the Fund to perform and demonstrate given the amount of personal data which the Fund may hold or transfer from time to time. Furthermore, ensuring that the Fund communicates clearly with members and dependants, and employers, as to how data is held and processed is an important part of this compliance process

8.2.2. Comments approved by Burges Salmon LLP (Date 06/03/2024)

8.3 EQUALITIES IMPLICATIONS

8.3.1. Under the Public Sector Equality Duty of the Equality Act 2010, decision makers must evidence consideration of any potential impacts of proposals on groups who share the protected characteristics, before decisions are taken.

8.3.2. Section 149 of the Act requires public bodies to have due regard to the need to

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act

- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

8.3.3. Protected characteristics defined by law include race and ethnicity, disability, sex, gender reassignment, age, sexual orientation, pregnancy and maternity and religion or belief.

8.3.4. Having due regard means there is a requirement to consciously address the three tenets of the Equality Duty within decision-making processes.

8.3.5. By law, assessments must be carried out throughout planning and delivery and contain sufficient information to enable the local authority to show it has paid 'due regard' to the equality's duties; and identified methods for mitigating or avoiding adverse impact on people sharing protected characteristics.

8.3.6. There have been no direct negative Equalities impact on protected groups within this report.

8.3.7. Comments approved by Felisha Dussard, Senior Communities Officer on behalf of Helen Reeves, Head of Strategy & Policy. (Date 06/03/2024)

8.4 HUMAN RESOURCES IMPACT

8.4.1. It is essential the council observes GDPR requirements relating to employees, and pensioner employees' personal data, which must only be used for the purposes for which it was given to the council and should be handled observing all necessary confidentiality requirements.

8.4.2. Comments approved by: Dean Shoesmith, Chief People Officer. (Date 29/2/2024)

8.5 DPA AND UK GDPR IMPLICATIONS

8.5.1. The DPO has reviewed this report and its appendices.

8.5.2. The DPO is happy that the report and processes are compliant with UK GDPR and Data Protection.

8.5.3. Comments approved by Chris Dyson, DPO on behalf of the Director of Resident Access and Chief Digital Officer (Date 08/03/2024)

9. APPENDICES

9.1 A Full Privacy Notice

9.2 B Summary Privacy Notice

9.3 C Personal Data Retention Policy

9.4 D Personal Data Retention Policy Expectations

9.5 E Memorandum of Understanding for Employers

10. BACKGROUND DOCUMENTS

10.1 None