

WILTSHIRE COUNCIL

WILTSHIRE LOCAL PENSION BOARD

13 February 2020

Data Retention Strategy

Purpose of the Report

1. To clarify the elements of the Fund's Data Retention Strategy report presented to Board members on 14th November 2019 which were raised during that meeting. A copy of the original report has been included within the meeting pack as an appendix to this report.

Background

2. The two elements requiring clarification are;
 - To engage with the Fund Actuary concerning the requirements of the Actuary's ongoing data needs and ensure that those needs are incorporated into the strategy;
 - To clarify the 100 years requirement in respect of members & dependents dates of birth;

Considerations for the Board

The Fund Actuary's data requirements

3. The Actuary indicated that a Data Retention Strategy wasn't an exact science & as a result tended towards adopting a similar approach to retention to that of HMRC in terms of timescale i.e. the last 6 years, plus a current year approach. This would at least mean that any retention and destruction policy adopted by the Fund would follow a similar pattern to that required by payroll services, as a form of best practice.

Hyman's other holistic observation was around the Fund's ability to respond to events outside of its control, such as "McCloud" or where retrospective changes to survivor entitlements for civil partners would be required in the event of records being destroyed too quickly. They indicated that the survivor benefits issue for civil partners were perhaps the most pertinent here, as it is via the Fund's own records that survivors might be identified in respect of any entitlement to a benefit, following the retrospective changes introduced in January 2019.

In essence, they suggested that a risk based strategy should be in place to ensure that those individuals who might make a claim against the Fund are considered, to avoid the Fund being unable to prove or justify entitlement to a benefit.

Officer Comment – Whilst Hyman's comments are welcomed, officers have concluded that they may have misunderstood the Fund's brief given to them. As set out in the officers report to members in November, only records that do not retain a direct liability (or linked liability) would be considered for deletion. This was the same information that was submitted to the Actuary.

Furthermore, where it had been established that a no liability record remained it would first be minimised after 4 years & then only deleted after 15 years, which was significantly longer than that suggested in Hyman's response of 7 years.

The Actuary provided no additional feedback in connection with their own requirements.

Clarification of the "duration of retained data"

4. The LGA's guidance from its legal advisers circulated to all LGPS Fund throughout England & Wales concerning data retention durations is stated below;

Part 1 – "100 years from date of birth" and "last payment of benefits to the Member/Beneficiary plus 15 years" definition.

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.

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.

Part 2 – "last payment of benefits plus 15 years" definition

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.

Officer Comment – In effect officers have observed the "last payment of benefits plus 15 years" definition in all cases for the purposes of the Fund's Data Retention Strategy & ignored the "100 years from date of birth" definition. Officers have taken the view that whilst a liability continues to exist, or any associated liability to the original liability, a record should not be deleted.

In arriving at this view officers felt that the "100 years from date of birth" definition could be seen as being inconsistent with the data retention requirement of retaining data for no longer than can be justified. For example, if a member dies in service on their 30th birthday & a dependent's pension becomes payable until the dependent dies, at say aged 60, all liability would then cease. In this eventuality officers could not see any scenario or justification in which the data would need to be retained after a further 15 years, even though under the 100 year definition the data could potentially be retained until the dependent's 100th birthday, plus 15 years.

This is of course notwithstanding the fact the protection of personal data ceases on the death of an individual.

Conclusions

5. Hyman's raised no comment over any actuarial requirement to retain data for the purposes of completing their work such as valuations, only in relation to the Fund's wider obligations. Therefore giving consideration to the fact that any actuarial work would only involve records containing a liability which the Fund would not be deleting, officers saw no conflict with the Fund's existing Data Retention Strategy in this area.

6. In respect of the 7 year term raised by Hyman's, officers have considered this in the context of minimisation rather than deletion and concluded that it would be prudent to extend the Fund's strategy concerning the implementation of minimising no liability data from 4 years to 7 years.

Environmental Impact of the Proposal

7. Not applicable.

Financial Considerations & Risk Assessment

8. There are no financial considerations in addition to those commented on in the original report.

Legal Implications

9. There are no material legal implications from this report.

Safeguarding Considerations/Public Health Implications/Equalities Impact

10. There are no known implications at this time.

Reasons for Proposals

11. To comply with GDPR & the Data Protection Act 2018.

Proposals

12. The Board is asked to endorse the change in term prior to the minimisation of a no liability record taking place from 4 years to 7 years.

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Unpublished documents relied upon in the production of this report: NONE