



Department for
Communities and
Local Government

Local Government Pension Scheme

Local Government Pension Scheme
(Wandsworth and Richmond upon Thames
Fund Merger) Regulations 2016 –
Consultation

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August 2016

ISBN: 978-1-4098-4880-6

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Scope of the consultation

Topic of this consultation:	<p>The Local Government Pension Scheme (Wandsworth and Richmond upon Thames upon Thames) Regulations 2016</p> <p>These draft regulations amend the Local Government Pension Scheme Regulations 2013 (SI/2356), in order to merge the pension funds maintained by the London Boroughs of Wandsworth and Richmond upon Thames.</p>
Scope of this consultation:	<p>Section 21 of the Public Service Pensions Act 2013 requires consultation with parties that may be affected by the scheme regulations. This consultation seeks responses from interested parties on amendments to Local Government Pension Scheme Regulations 2013 which came into force on 1 April 2014.</p>
Geographical scope:	<p>The London Boroughs of Wandsworth and Richmond upon Thames, and Local Government Pension Scheme Employers with those Boroughs are within scope.</p>
Impact Assessments:	<p>No impact assessment is needed because the effects of these amendments are outside the scope of the Better Regulation Framework¹. These draft regulations do not change the effect of the regulations on either the scheme members or employers</p> <p>Equalities</p> <p>Under section 149 of the Equality Act 2010, the Department is required to give due regard to the impact of any policy decisions that it enacts on persons with protected characteristics. The protected characteristics are:</p> <ul style="list-style-type: none"> • Age; • Disability; • Gender Reassignment; • Pregnancy and Maternity; • Race; • Religion or belief; • Sex; • Sexual Orientation; and • Marriage and Civil Partnership (but only in respect of the first aim of the Equality Duty: eliminating unlawful discrimination). <p>The general public sector equality duty requires public authorities to have 'due regard' to the need to:</p> <ol style="list-style-type: none"> a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

¹ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf

	None of the policies or amendments proposed in this consultation would adversely impact on a protected group, and all of the protected groups and people not in a protected group will benefit from the amendments equally.
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Basic Information

To:	This consultation is aimed at Local Government Pension Scheme interested parties in the London Boroughs of Wandsworth and Richmond upon Thames. The Boroughs will distribute the consultation document to the employers in their funds, and make it available to scheme members,
Body/bodies responsible for the consultation:	The Secretary of State for Communities and Local Government
Duration:	This is a six week consultation which starts on 4 August 2016 and will conclude on 15 September 2016.
Enquiries:	For enquiries and to respond to this consultation, please e-mail LGPSReform@communities.gsi.gov.uk
How to respond:	When responding, please ensure you have the words Local Government Pension Scheme Wandsworth and Richmond upon Thames Merger Amendment Regulations in your reply. Alternatively you can write to: Teresa Clay Workforce, Pay and Pensions Department for Communities and Local Government SE Quarter Fry Building 2 Marsham Street LONDON SW1P 4DF For more information, please see https://www.gov.uk/government/organisations/department-for-communities-and-local-government
Additional ways to become involved:	As this is a largely technical issue that has arisen in discussions with the London Boroughs, this will be a purely written exercise.
After the consultation:	The government's response will be published alongside the substantive amending regulations
Compatibility with the Consultation Principles:	This consultation complies with the Cabinet Office's consultation principles. ²

Background

Getting to this	The London Boroughs of Wandsworth and Richmond upon Thames are
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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf

stage:	entering into arrangements to share local service delivery mechanisms, which will involve staff being employed by both Boroughs. Wandsworth and Richmond upon Thames have both requested the merger of their pension funds to mitigate unintended consequences of the new service delivery arrangements.
Previous engagement:	Officers of the Boroughs have met with officials of the Department and provided background information on the new arrangements to the Department, in support of their request.

ABOUT THIS CONSULTATION

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent and, where relevant, who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact CLG Consultation Co-ordinator.

Department for Communities and Local Government
Fry Building
2 Marsham Street
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or by e-mail to: consultationcoordinator@communities.gsi.gov.uk

Chapter 1

Introduction

1. The Secretary of State for Communities and Local Government is consulting on these proposed regulations which will be made under the powers conferred by sections 1 and 3 of, and Schedule 3 to, the Public Service Pensions Act 2013. Under Section 3(5) of the 2013 Act, the Regulations require the consent of HM Treasury before being made. Draft regulations 3 to 22 amend the Local Government Pension Scheme Regulations 2013 (“the 2013 Scheme Regulations”).
2. The provisions contained in the draft regulations require the merging of the pension funds of the London Boroughs of Wandsworth and Richmond upon Thames. Wandsworth will have responsibility for maintaining a pension fund that fulfils the Scheme functions currently discharged by Richmond upon Thames.
3. Your comments are invited on the set of draft regulations at **Annex A**
4. **The closing date for responses on the draft regulations at Annex A is 15 September 2016.**

Chapter 2

Summary

1. In January 2015 the London Boroughs of Wandsworth and Richmond upon Thames announced plans to enter into shared staffing arrangements with the intention of delivering £10 million of savings to the council tax payers of each borough.³ These arrangements have developed into a 'joint employment' model, whereby the majority of staff are jointly employed by both boroughs.
2. Staff employed under the 'joint employment' Shared Staffing Arrangement (SSA) will be deployed across the boroughs according to the priorities set by the elected representatives of each borough. Each borough will remain a separate entity and be responsible for the costs associated with the service delivery in each of their respective boroughs, through the SSA.
3. Under the Local Government Pension Scheme Regulations 2013⁴, 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. The staff employed under the SSA will contribute to one of the boroughs' pension funds. Both the Boroughs of Wandsworth and Richmond upon Thames have made representation that it will not be possible to properly account for and allocate costs to each sovereign borough if a 'joint employment' SSA operates across both boroughs, employing staff who contribute to either pension fund. They have requested that one administering authority, and one fund serve both boroughs to enable the appropriate cost allocation, and financial accountability of the SSA.

Impact On Other Employers in the Funds and on Scheme Members

4. 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 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, maintained by Wandsworth and be subject to the scheme regulations as they were when their pensions were administered by each borough and contributed to each borough's fund. The assets and liabilities of employers in the Richmond upon Thames fund will be transferred to the Wandsworth fund and be managed by Wandsworth as the appropriate administering authority, and will not be otherwise affected by the merger. It should be noted that the merger coincides with the triennial valuation of the scheme, which may in of itself affect the contribution rates that employers experience, and is a separate issue from the merger.
5. The benefits and rights of scheme members, whether active, deferred or pensioner, will continue to be set out in the scheme regulations, and the proposed amending regulations do not alter them.
6. Currently Richmond upon Thames, as an administering authority, discharges its pension's administration function through an agreement with Wandsworth. Consequently employees and employers should experience minimal disruption or change in the service that they receive when Wandsworth formally becomes the administering authority. Additionally there may be a small cost saving as only one pension fund will have to be maintained in the future.

³

http://www.wandsworth.gov.uk/news/article/12707/councils_announce_plans_to_create_shared_staffing_structure

⁴ <http://www.legislation.gov.uk/ukxi/2013/2356/contents/made>

Alternative Solutions – Maintenance of Two Pension Funds

7. The current scheme regulations allows for two potential solutions that would keep both boroughs' pension funds. However the boroughs have argued that both have serious flaws that make them undesirable, or impossible to implement on a practical level, and would lead to significant, unnecessary, additional costs.

Allocating All Staff to One Pension Fund.

8. Active members of the shared staffing arrangements may contribute to one of the boroughs' funds. Pensioners and members with deferred rights who have not accessed their benefits would continue to be administered by their current authority. Under this model one fund would lose a large proportion of active members who make contributions to the fund, and would be left with a much higher proportion of pensioner members drawing from the scheme. This would require a revised investment strategy that focusses on short term income yield to ensure pensions are paid, at the expense of asset growth. This will lead to reduced long term returns and increased costs for that funds host borough and potentially for the other employers in that fund.

Allocating Staff to One or Other of the Pension Funds.

9. Alternative the boroughs may request a direction from the Secretary of State that makes one or other of the boroughs the appropriate administering authority for a scheme member or class of members. This will allow members to contribute to one or other of the boroughs' funds in an attempt to balance of liabilities for the shared staffing arrangements between the funds in a way that reflects the balance of costs of the shared staffing arrangements. However employees in the SSA will attract different pension's liabilities depending on their age, length of service, and pensionable pay. In addition each pension fund will generate different investment returns as a result of their different investment and deficit recovery strategies. The boroughs believe that this would result in costs not being correctly allocated to services, with a non-statutory balancing of costs across all services being needed. As new staff are recruited to the SSA they will bring in differing amounts of pensions liabilities and assets depending on past service history. This will require constant rebalancing of the membership, liabilities, and assets of each pension fund. Furthermore, Service managers will experience variable costs depending on how many staff from each pension fund are working for them on a day to day basis. This could lead to a cross subsidisation between different services of each borough. This solution will need extensive monitoring both of financial assumptions and the ongoing liabilities and asset position. This will be both complex and costly and as pension funds are valued on a 3 year basis, will be difficult, if not impossible, to reconcile with in year accounting for each borough.

Wandsworth and Richmond upon Thames's Proposed Solution – Merger of Pension Funds and Treatment of Pensions Liabilities

10. Each borough will retain responsibility for the past service liabilities that they have accrued, and meet these liabilities through the contributions that they pay to the pensions fund as separate employers, in order to avoid cross subsidies between the boroughs.
11. Pension costs that accrue from staff service under the SSA will fall to the borough that commissioned that service.
12. The staff under the shared arrangement will be one workforce, allowing for pensions costs determined as a percentage of the payroll of all of those employed within each borough.

13. These elements of the shared staffing arrangement will ensure that each borough retains responsibility for its historic deficits and also for the appropriate share of future pensions liabilities accrued as a result of the service provisions determined by elected representatives.
14. These elements of the solution are not governed by the proposed amending regulations, but by the agreements between Wandsworth and Richmond upon Thames. The proposed amending regulations provide for the merger of the boroughs' funds by making the fund maintained by the Borough of Wandsworth the appropriate fund for Local Government Pensions Scheme members in the Borough of Richmond upon Thames, and by transferring the assets and liabilities of the fund maintained by Richmond upon Thames to the fund maintained by Wandsworth. Richmond upon Thames will not longer be required to maintain a pension fund. The amendments do not require the boroughs to enter into any shared staffing arrangements, but only allow for the appropriate accounting and cost allocation that a shared staffing arrangement requires to be able to deliver costs savings within local government's legal and financial framework. If the shared staffing arrangement is discontinued the merged fund will continue and each borough will continue in it as separate employers, with completely separate workforces.
15. The committee responsible for the management of the new fund will have representatives from boroughs, in proportion to the size of each boroughs fund as at the 2013 valuation exercise. Wandsworth will have 6 members and Richmond upon Thames will have 3 members.
16. In the opinion of both boroughs 'the merged fund approach benefits from producing outcomes which would be legal from an accounting and actuarial perspective and avoid any risks of challenge to each authorities' annual accounts. Any other approach lacks legal certainty and creates risks and insurmountable overheads that mean we do not believe that there is any other choice but to merge the two Pension Funds'.