



Department  
for Work &  
Pensions

# The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014

Public consultation

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December 2013

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# Introduction

This consultation asks for views on the draft Regulations attached at **Annex A** which:

- set out the records that public service pension schemes covered by the Public Service Pensions Act 2013 will be required to keep from April 2015
- amend Regulation 16A of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996 No. 1715) in order to remove an exemption so that managers of these public service pension schemes must report the late payment of member contributions to the Pensions Regulator and members where such late payment is likely to be of material significance to the Pensions Regulator's functions

## About this consultation

### Who this consultation is aimed at

We welcome comments on the draft Regulations from those involved in designing and running public service pension schemes, pension industry professionals and advisors, pension scheme members and member representative organisations, and anyone with an interest in public sector pension regulation.

### Purpose of the consultation

This consultation seeks views on the attached draft Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014. These are expected to come into force in April 2015. Whilst we welcome comments on whether any of these Regulations should be expanded, reduced or otherwise amended, they form part of the Government's wider legislative and regulatory framework for public service pension schemes, which includes setting out the records that these schemes must keep and requiring scheme managers to report the late payment of member contributions to the Pensions Regulator and members.

### Scope of consultation

This consultation applies to England, Wales and Scotland. It is anticipated that Northern Ireland will make corresponding Regulations.

### Duration of the consultation

The consultation period begins on 10<sup>th</sup> December 2013 and runs until 17<sup>th</sup> February 2014. Please ensure your response reaches us by that date as any replies received after this may not be taken into account.

## How to respond to this consultation or raise queries about its content

Please send your consultation responses and any queries to:-

Paul Bovey

Department for Work and Pensions

1<sup>st</sup> Floor, Caxton House

6 – 12 Tothill Street

London

SW1H 9NA

Email [pensions.recordsconsultation@dwp.gsi.gov.uk](mailto:pensions.recordsconsultation@dwp.gsi.gov.uk)

Please ensure your response reaches us by 17<sup>th</sup> February 2014.

When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents, and where applicable, how the views of members were assembled. We will acknowledge your response.

## How we consult

### Freedom of information

The information you send us may need to be passed to colleagues within the Department for Work and Pensions, published in a summary of responses received and referred to in the published consultation report.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purposes of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this.

To find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Central Freedom of Information Team

Caxton House

6-12 Tothill Street

London SW1H 9NA

[Freedom-of-information-request@dwp.gsi.gov.uk](mailto:Freedom-of-information-request@dwp.gsi.gov.uk)

The Central Freedom of Information team cannot advise on specific consultation exercises, only on Freedom of Information issues. More information about the Freedom of Information Act can be found at <https://www.gov.uk/make-a-freedom-of-information-request>

## **Consultation principles**

This consultation is being conducted in line with the Government's Consultation Principles, which were introduced on 17<sup>th</sup> July 2012, and have been recently updated. The revised Principles are at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/255180/Consultation-Principles-Oct-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/255180/Consultation-Principles-Oct-2013.pdf)

The key principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

## **Feedback on the consultation process**

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Elias Koufou  
DWP Consultation Coordinator  
2<sup>nd</sup> Floor  
Caxton House  
Tothill Street  
London  
SW1H 9NA

Phone 020 7449 7439

[elias.koufou@dwp.gsi.gov.uk](mailto:elias.koufou@dwp.gsi.gov.uk)

In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

We will aim to publish the Government responses to the consultation before the end of May 2014 in a report on the consultations section of our website <https://www.gov.uk/government/publications>. The report will summarise the responses and the action that we will take in respect of them.

# The Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014

## Background

1. The Public Service Pensions Act 2013 (“the Act”) sets out a common framework for the creation of new public service pension arrangements; which are due to come into effect in April 2015 for most public service employees (civil servants, teachers, health service employees etc).
2. It provides HM Treasury with a number of powers in respect of these new pension arrangements, and gives (at section 16) the Secretary of State the power to specify the records that scheme managers responsible for running these new, and connected (existing), pension schemes, must keep. These records are set out in the draft Regulations at **Annex A**.
3. The Act also extends the powers of the Pensions Regulator, in respect of both new and existing public service pension schemes, in order to introduce a system of independent oversight in the operation of these schemes (see section 17 and Schedule 4 to the Act).
4. Under these new provisions, the Pensions Regulator is required to issue a Code, or Codes, of Practice containing practical guidance on the standards of conduct and practice expected of those governing and administering public service pension schemes in respect of a number matters (see paragraph 14 of Schedule 4 to the Act), including:
  - the discharge of duties imposed under section 16 (records) of the Act and other duties relating to record keeping; and
  - the discharge of the duty imposed by section 49(9)(b) of the Pensions Act 1995 (duty of trustees or managers of occupational pension schemes to report material failures by employers to pay contributions deducted from employee’s earnings timeously)

5. The Pensions Regulator is simultaneously undertaking a consultation on its draft Code of Practice in respect of all the matters it must cover, as well as a draft of its Strategy explaining how it will approach the regulation of public service schemes ([www.tpr.gov.uk/psconsultation](http://www.tpr.gov.uk/psconsultation))

## The Draft Regulations: Records

6. The draft Regulations set out the key pieces of information that the managers of public service pension schemes covered by the Act (in respect of both the new schemes being established and the existing connected schemes) must retain, in order to ensure that these schemes are effectively administered with the correct benefits being speedily paid when due.
7. Our expectation is that well run schemes would keep the majority of the information covered by the draft Regulations as a matter of good scheme administration practice, and that consequently the draft Regulations are unlikely to impose significant additional burdens on the schemes covered by the Act or participating employers.

**Question 1:** Do the draft Regulations impose any unnecessary burdens on schemes or participating employers? If you think they do, could you please provide information on the nature of the burden, the costs of complying, and any alternative options that would reflect good administrative practice.

## Citation, Commencement and Interpretation

8. Draft Regulation 1 sets out the formal name of the Regulations and provides that they will come into force in April 2015, when most of the new schemes set up under section 1 of the Act are planned to become operational.
9. Draft Regulation 2 defines a number of terms used in the Regulations which are not set out in the Act.

**Question 2:** Do you have any comments on the contents of draft Regulation 1 or 2?

## Records of Member Information

10. Draft Regulation 3 sets out the records that schemes will need to keep on individual members / beneficiaries in order to correctly calculate accrued rights and benefit entitlement.
11. This includes basic information on members and beneficiaries (name, address, date of birth etc); relevant employer and identification numbers and periods of pensionable employment with each participating employer.
12. It also requires schemes to keep records for each member's total pensionable earnings each year. This is particularly relevant for the new pension arrangements being introduced for most public service employees from April 2015, which will be Career Average Revalued Earnings (CARE) schemes.
13. The draft Regulation also sets out the key information that schemes will need to hold in respect of the different types of pension arrangements covered by the new regulatory structure: all Defined Benefit; CARE; Final Salary (for those members who continue to accrue benefits under this arrangement); and Defined Contribution, in order to correctly calculate accrued rights and benefits.

**Question 3:** Do you have any comments on the content of draft Regulation 3? Are there any additional records that should be added; any records that should be removed; or any other amendments that should be made?

## Records of Transactions

14. Draft Regulation 4 sets out various records that scheme managers must keep in order to account for the finances of the scheme. These include contributions received; benefits paid; transfers and other payments made to or by the scheme etc.
15. Draft Regulation 4(a) provides that the scheme manager must keep records of any contributions paid in relation to a member of the scheme. This will apply to all schemes covered by the Act, including Defined Benefit schemes, and is considered necessary in order to protect schemes and improve data, given that participation in public service schemes is being extended to various non-public organisations.
16. It is also considered necessary in order to help scheme managers comply with the legal duty to report the late payment of member contributions by participating employers to the Pensions Regulator and members (see draft Regulation 7 below). The Pensions Regulator's draft Code of Practice



provides guidance on how to comply with this duty (as required by paragraph 14 of Schedule 4 to the Act).

**Question 4:** Do you have any comments on the content of draft Regulation 4? Are there any additional ‘transaction’ records that should be added; any that should be removed; or any other amendments that should be made?

**Question 5:** Are there any alternative ways in which Defined Benefit schemes can be satisfied that member contributions are being correctly deducted and paid on time by participating employers, and which will satisfy the duty to report the late payment of member contributions to the Pensions Regulator and the member?

## Records of Pension Board Meetings and Decisions

17. Under the new governance structure being put into place for public service pension arrangements by the Act, schemes will have pension boards to assist the scheme manager in relation to a number of matters, including ensuring the scheme complies with its rules and other legislation relating to the governance and administration of the scheme and any connected scheme.
18. Draft Regulation 5 sets out the records that the scheme manager must keep in respect of pension board meetings including details of when the meetings are held, attendees and any decisions taken.

**Question 6:** Are there any additional pension board records that should be added; any that should be removed; or any other amendments that should be made to draft Regulation 5?

**Question 7:** Are there any other bodies, in addition to pension boards, involved in the governance of these schemes whose meetings should be included? If there are, who are they and which, if any, of their records or decisions should be included in draft Regulation 5?

## Period for which Records must be kept

19. Draft Regulation 6 provides that the records referred to in Regulations 3 and 4(a) and (b) must be retained for Defined Benefit arrangements for a period of 6 years after any entitlement to benefits has ceased and, for Defined

Contribution arrangements, 6 years after the member's funds have been converted into retirement income. For the remainder of Regulation 4 and Regulation 5, the period is 6 years from the end of the scheme year they relate to.

**Question 8:** Do you agree / disagree with the periods that records must be held for as set out in draft Regulation 6? If you disagree, how long do you think schemes should be required to retain these records?

## **The Draft Regulations: Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996**

20. Draft Regulation 7 uses the power, in section 49 of the Pensions Act 1995, to amend Regulation 16A of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996 No. 1715) (“the 1996 Regulations”). The amendment removes an exemption so that scheme managers of public service pension schemes covered by the 2013 Act are required to report the late payment of member contributions by participating employers to the Pensions Regulator and scheme members. This report will be required when the scheme manager believes that the failure is likely to be of ‘material significance’ to the Pensions Regulator.
21. This change will bring scheme managers of public service pension schemes covered by the Act into line with the duty on trustees of private sector pension schemes, and is part of the Government’s policy on the future regulation of public service schemes.
22. The Pensions Regulator’s draft Code of Practice (which is being consulted on at the same time as these draft Regulations) includes advice to scheme managers on how they can discharge this new duty and the Regulator’s view on how to interpret the phrase ‘materially significant’. The requirement for the Pensions Regulator to issue a Code of Practice on this duty is set out in paragraph 14 of Schedule 4 to the 2013 Act.

**Question 9:** Do you have any comments on the draft amendments to the 1996 Regulations?

## Summary of consultation Questions

### The Draft Regulations: Records

1. Do the draft Regulations impose any unnecessary burdens on schemes or participating employers? If you think they do, could you please provide information on the nature of the burden, the costs of complying, and any alternative options that would reflect good administrative practice.

### Citation, Commencement and Interpretation

2. Do you have any comments on the contents of draft Regulation 1 or 2?

### Records of member information

3. Do you have any comments on the content of draft Regulation 3? Are there any additional records that should be added; any records that should be removed; or any other amendments that should be made?

### Records of transactions

4. Do you have any comments on the content of draft Regulation 4? Are there any additional 'transaction' records that should be added; any that should be removed; or any other amendments that should be made?
5. Are there any alternative ways in which defined benefit schemes can be satisfied that member contributions are being correctly deducted and paid on time by participating employers, and which will satisfy the duty to report the late payment of member contributions to the Pensions Regulator and the member?

### Records of pension board meetings and decisions

6. Are there any additional pension board records that should be added; any that should be removed; or any other amendments that should be made to draft Regulation 5?
7. Are there any other bodies, in addition to pension boards, involved in the governance of these schemes whose meetings should be included? If there are, who are they and which, if any, if their records or decisions should be included in draft Regulation 5?

### Period for which records must be kept

8. Do you agree / disagree with the periods that records must be held for as set out in draft Regulation 6? If you disagree, how long do you think schemes should be required to retain these records?

## **The Draft Regulations: Amendment of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (“the 1996 Regulations”)**

9. Do you have any comments on the draft amendments to the 1996 Regulations?

## **Annex A: Draft of the Public Service Pensions (Record Keeping and Miscellaneous Amendments) Regulations 2014**

Draft regulations are published on gov.uk at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/264316/public-service-pensions-regulations-record-keeping-2nd-draft.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264316/public-service-pensions-regulations-record-keeping-2nd-draft.pdf)