

**CAMBRIDGESHIRE
PENSION FUND**



PENSION COMMITTEE

22 October 2015

Report by: THE DEPUTY HEAD OF PENSIONS

Subject:	Overpayment of Pension Policy
Purpose of the Report	To approve the Overpayment of Pension Policy following the set of principles that was agreed at the Pension Committee meeting on 25 June 2015.
Recommendations	<p>That the Pension Committee:</p> <ol style="list-style-type: none"> 1. Approves the Overpayment of Pension Policy; and 2. Delegates to the Deputy Head of Pensions in consultation with the Chairman and Vice Chairman any immaterial amendments to the Overpayment of Pension Policy.
Enquiries to:	<p>Jo Walton, LGSS Pensions Governance & Regulations Manager Tel – 01604 367030 E-mail – jwalton@northamptonshire.gov.uk</p>

1 Background

- 1.1 It is important for the Fund to have a policy on how overpayments of pension are managed once identified. Such a policy will provide assurance to the Fund's stakeholders that all overpayments are treated in a fair and equitable manner and that the Fund seeks to recover overpayments of pension and has in place steps to prevent and investigate potential fraudulent activity.
- 1.2 At the meeting of the Pension Committee on 25 June 2015 a report was presented to identify how the Committee would want to treat an overpayment of pension which could occur under a range of different circumstances.
- 1.3 At this meeting the Pension Committee agreed a set of principles which have now been adopted into a formal policy which Officers will apply to all overpayment cases that are identified. The Overpayment of Pension Policy has now been drafted and can be found in **appendix 1**.

- 1.4 Paragraph 1.4 of the 26 June Overpayment of Pension report identified that clarification would need to be sought on Her Majesty's Revenue and Custom's treatment of overpayments. Clarification has now been sought which determines that HMRC will regard some overpayments as unauthorised payments and as such a tax charge can be levied against the scheme member and the Fund. In the context of the types of overpayments that are covered by this policy an unauthorised payment will only occur if a pension is continued to be paid at an incorrect rate for an unreasonable period of time or if a pension is continued to be paid to a deceased member 6 months after their date of death. Should the Fund find an overpayment that meet these criterion the case would need to be dealt with on an individual basis with HMRC.
- 1.5 Paragraph 1.4 of the previous report also detailed the need for the Policy to be reviewed by both LGSS Internal Audit and LGSS Law. Both LGSS Internal Audit and LGSS Law have reviewed the Policy and provided comment which where necessary has been incorporated.

2. National Guidance on overpayments of pension

- 2.1 Following the notice by Government that the ability to contract out of the State Pension Scheme will cease on 5 April 2016, every pension scheme will need to carry out a reconciliation exercise to ensure that the correct contracting out liability is held for every member of the scheme compared with the records held by HMRC.
- 2.2 Nationally, it is recognised that the reconciliation exercise will identify a number of overpayments of pension due to inaccurate contracting out data being held by a pension scheme and how that data interacts with the annual increase that is applied to a pension.
- 2.3 Initially it was felt that guidance on how to treat overpayments that have occurred for this reason would be provided to administering authorities by DCLG. However, DCLG deemed the issuing of guidance inappropriate as they did not wish to take away from administering authorities the ability to make local decisions on managing overpayments.
- 2.4 Following further consideration and appreciation for the scale of the reconciliation exercise and the demand from pension professionals in the industry, it is likely that guidance will now be issued. However, this guidance will take a number of months to produce and it is unclear at this stage whether it will become statutory guidance.
- 2.5 The Pension Committee is therefore asked to be aware that it may be necessary to revisit this Policy once guidance has been issued.

3. Relevant Pension Fund Objectives

Perspective	Outcome
Governance	<ul style="list-style-type: none">To have robust governance arrangements in place to facilitate informed decision making supported by appropriate advice, policies and strategies.

	<ul style="list-style-type: none"> • Ensure the Fund and its stakeholders have the appropriate skills and receive training to ensure those skills are maintained in a changing environment.
Communications	<ul style="list-style-type: none"> • Promote the Scheme as a valuable benefit. • Deliver a clear and consistent message; that is simple, relevant and impactful, uses plain English throughout and engages all levels of stakeholders' understanding. • Provide clear information about the Scheme, including changes to the Scheme, and educate and engage with members so that they can make informed decisions about their benefits. • Seek and review regular feedback from all stakeholders about communication and shape future communications appropriately. • Look for efficiencies in delivering communications including through greater use of technology and partnership working.
Administration	<ul style="list-style-type: none"> • Provide a high quality, friendly and informative administration service to the Funds' stakeholders. • Administer the Funds in a cost effective and efficient manner utilising technology. • Ensure the Funds and its stakeholders are aware of and understand their roles and responsibilities under the LGPS regulations and in the delivery of the administration functions of the Funds. • Put in place standards for the Fund and its employers and ensure these standards are monitored and developed as necessary. • Ensure benefits are paid to, and income collected from, the right people at the right time in the right amount. • Maintain accurate records and ensure data is protected and has authorised use only. • Understand the issues affecting scheme employers and the LGPS in the local and national context and adapt strategy and practice in response to this.
Funding and Investment	<ul style="list-style-type: none"> • To ensure that the Fund is able to meet its liabilities for pensions and other benefits with the minimum, stable level of employer contributions. • To ensure that sufficient resources are available to meet all liabilities as they fall due. • To maximise the returns from its investments within reasonable risk parameters.

4. Finance & Resources Implications

- 4.1 As detailed in section 1.4 of this report in some cases an overpayment can constitute an unauthorised payment under HMRC legislation. An unauthorised payment can lead to a tax charge being imposed on both the Scheme member and the Scheme itself. However, as the majority of overpayments are not of a deliberate nature it should not have a bearing on the decisions made to formulate this policy.

5. Risk Implications

- a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
It is not possible to identify all overpayment scenarios for the Committee to take a view on in the formulation of this policy.	This report identifies a wide range of scenarios which will allow for a best fit judgement to be made on how best to manage an overpayment.	Amber

b) Risk(s) associated with not undertaking the proposal

Risk	Risk Rating
If an overpayment of pension policy is not approved and implemented it could be argued that the Fund may be demonstrating a lack of direction and consistent approach to dealing with overpayments which is ultimately public money. The absence of a policy may also increase the amount of cases that are referred to the Pensions Ombudsman which could lead to reputational damage.	Amber

6. Communication Implications

Website	<p>The Overpayment of Pension Policy will be published on the LGSS Pensions website and therefore be available to the public.</p> <p>The Fund will need to report the values of pension overpayments that are both written off and recovered in the Annual Report and also to each meeting of the Pension Committee via a suitable reporting mechanism. These documents will be available for the public to view on the LGSS Pensions website and on the County Council's website respectively.</p>
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7. Legal Implications

7.1 The final draft of the Pension Overpayment Policy has been reviewed by the LGSS Law to ensure compliance with legislation.

8. Consultation with Key Advisers

8.1 LGSS Law and LGSS Internal Audit have been consulted in the formulation of this policy.

8.2 Independent advice has also been sought from Karen McWilliam of Aon Hewitt who are providers of advice on governance matters to the Fund.

9. Alternative Options Considered

9.1 There are no alternative options to be considered as it is good governance to have a policy in place that ensures transparency and equity of treatment. Not having a policy can leave the Fund open to criticism and unfavourable decisions made by the Pensions Ombudsman.

10. Background Papers

- 10.1 Report on overpayments of pension as presented at the 25 June 2015 meeting of the Pension Committee.

11. Appendices

- 11.1 Appendix 1 – Overpayment of Pension Policy

Checklist of Key Approvals	
Is this decision included in the Business Plan?	No
Will further decisions be required? If so, please outline the timetable here	No
Is this report proposing an amendment to the budget and/or policy framework?	No
Has this report been cleared by Director of Finance/Section 151 Officer?	Chris Malyon – 05/10/2015
Has this report been cleared by Deputy Head of Pensions?	Mark Whitby – 18/09/2015
Has the Chairman of the Pension Committee been consulted?	Councillor Hickford – 29/09/2015
Has this report been cleared by Legal Services?	Copy sent to Quentin Baker – 09/10/2015

