

Cambridgeshire Pension Fund



Pension Fund Committee

Date: 28 March 2019

Report by: Head of Pensions

Subject:	Revised Overpayment of Pension Policy
Purpose of the Report	To present the Overpayment of Pension Policy to the Pension Fund Committee.
Recommendations	<p>That the Pension Fund Committee:</p> <ol style="list-style-type: none"> 1. Delegates the authority for officers to write off all overpayments that are up to £250.00 (gross). (Paragraph 2.2). 2. Delegates the authority for officers to not seek recovery of overpayments resulting from the incorrect application of Guaranteed Minimum Pension. (Paragraph 2.3.2). 3. All other amendments to the policy as detailed in appendix 2.
Enquiries to:	<p>Name – Jo Walton, LGSS Pensions Governance and Regulations Manager</p> <p>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 and has in place steps to prevent and also investigate potential fraudulent activity.
- 1.2 An Overpayment of Pension Policy will also strengthen the Fund's position should a complaint be made using the Internal Dispute Resolution Procedure (IDRP) which if exhausted without resolution, can be referred by the scheme member or their representative to the Pensions Ombudsman. Scheme members can also seek assistance from the Pensions Advisory Service (tPAS) at any stage.

- 1.3 An Overpayment of Pensions Policy was initially agreed by the Pension Fund Committee in October 2015 and was reviewed in June 2018. It is now deemed an appropriate time to review this policy due to the imminent commencement of the rectification stage of the Guaranteed Minimum Pension reconciliation project and in light of the course of action taken by other public service pension schemes in connection with this.

2. Changes to the existing Overpayment of Pension Policy

- 2.1 The intention of the revised policy remains the same as the existing policy whereby the Fund will attempt to recover all overpayments but with three key proposed changes.
- 2.2 The first proposed change to the policy is to increase the amount that officers have the delegated authority from the Pension Fund Committee to write off due to the recovery process being uneconomical to pursue. The current limit is £100.00 (gross), however it feels appropriate to raise this amount to no more than £250.00 (gross) as this is in line with the amount set by HMRC as being exempt from the unauthorised payment charge and will be at the same level as the policy allows overpayments as a result of a death scheme member to be written off.
- 2.3 The second proposed change to the policy is for the Pension Fund Committee to delegate authority to officers to write off overpayments that have been caused directly as a result of the non or misapplication of the Guaranteed Minimum Pension (GMP) element of a member's pension.
- 2.3.1 The application of GMP to a member's pension requires a high degree of technical understanding that can only reasonably be expected of a pensions practitioner. As such, and where there has been no explicit communication to the member that would mean that they could have known that their pension was being paid incorrectly as a result of the non or misapplication GMP, the overpayment of any value should be written off without the requirement for authorisation of senior officers as detailed in 17.1 of the policy.
- 2.3.2 Common practice across public service pension schemes following the national requirement to reconcile GMP liability held by pension schemes with that held by HMRC following the introduction of the new flat-rate state pension in April 2016 is that any overpayments that have resulted from the non or misapplication of GMP are written off. This action is further supported by the Local Government Pensions Committee (LGPC) of the Local Government Association (LGA).
- 2.3.3 ITM Limited, who were procured to reconcile the Fund's GMP liabilities have provided an early and estimated indication that the Cambridgeshire Pension Fund may have in the region of 80 members that have been overpaid as a result of the non or misapplication of GMP. It has been estimated that these overpayments equate to approximately £45,000 since the errors began to the end of 2018.
- 2.4 The remaining changes to the policy that the Pension Fund Committee are asked to approve are:
- That there is no stipulated maximum time period within which to recover an overpayment although the preferred time period would be the same duration that the overpayment was made. This recognises that a restricted time period could have significant impact on the member's standard of living and affect the Fund's ability to recover the overpayment at all(Section 13).

- That the Section 151 Officer, in the capacity of Treasurer to the Fund, should have delegated authority from the Pension Fund Committee to write off overpayments greater than £5,000 as opposed to the Director of Finance.

2.5 These proposed changes and which sections of the policy have been amended as a result are detailed in appendix 2 of this report.

3. Next steps

3.1 It is the intention of LGSS Pensions to add to this policy sections on overpayments of retirement lump sums, death grants and transfer values as well as underpayments of pensions to provide assurance that any incorrect payment from the Fund has an established process for correction.

3.2 It is anticipated that these additional components to the policy will be presented at the June 2019 meeting of the Pension Fund Committee.

4. Relevant Pension Fund Objectives

Have robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies and strategies, whilst ensuring compliance with appropriate legislation and statutory guidance.
Manage the Fund in a fair and equitable manner, having regard to what is in the best interest of the Fund's stakeholders, particularly the scheme members and employers.
Ensure the relevant stakeholders responsible for managing, governing and administering the Fund, understand their roles and responsibilities and have the appropriate skills and knowledge to ensure those attributes are maintained in a changing environment.
Continually monitor and measure clearly articulated objectives through business planning.
Deliver consistent plain English communications to stakeholders.
Seek and review regular feedback from all stakeholders and use the feedback appropriately to shape the administration of the Fund.
Ensure cash flows in to and out of the Fund are timely and of the correct amount.

5. Risk Management

5.1 The Pension Fund Committee has approved previous versions of the Overpayments of Pension Policy, most recently in June 2018 and officers keep the policy under constant review to ensure it remains equitable to scheme members, the scheme itself and the taxpayer.

5.2 The policy will also be reviewed in line with the outcomes of related cases dealt with by the Pensions Ombudsman and as a result of case law to ensure it remains compliant with all prevailing legislation. The Pension Fund Committee will be advised at every regular meeting of any overpayments that have been written off and this information also appears in the Fund's Annual Report and Statement of Accounts.

- 5.3 The risks associated with failing to identify and manage overpayments of pension and acting not in accordance with appropriate legislation have been captured in the Fund's risk register as detailed below.

Risk register	Risk mitigated	Residual risk
Governance (risk 1)	The scheme would not be administered in line with regulations and policies	Green
Governance (risk 16)	Failure to understand and monitor risk and compliance	Green
Governance (risk 17)	Failure by the Fund or employers to meet requirements (including statutory) to ensure members are not disadvantaged.	Green
Administration and Communications (risk 18)	Records are not accurate or do not reflect changes in circumstances.	Green

- 5.4 The Fund's full risk register can be found on the Fund's website at the following link:
<http://pensions.northamptonshire.gov.uk/governance/key-documents/cambridgeshire/>

6. Finance & Resources Implications

- 6.1 The cost of unrecoverable overpayments of pension will be ultimately met by the respective scheme employers as reflected in their individual funding positions.

7. Communication Implications

Website	The policy, once approved by the Pension Committee, will be made publically available on the LGSS Pensions website
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8. Legal Implications

- 8.1 Reference must be made to the Limitation Act and previous court cases such as Webber v Department of Education when making a claim for the repayment of overpaid pensions.

9. Consultation with Key Advisers

- 9.1 Eversheds Sutherland has provided legal advice on the previous version of this policy.

10. Alternative Options Considered

- 10.1 There are no alternative options to be considered.

11. Appendices

- 11.1 Appendix 1 (Revised) Overpayment of Pension Policy (2019)
 11.2 Appendix 2 Changes between the existing and revised Overpayments of Pension Policy

Checklist of Key Approvals	
Is this decision included in the Business Plan?	Not applicable
Will further decisions be required? If so, please outline the timetable here	Not applicable
Is this report proposing an amendment to	No

the budget and/or policy framework?	
Has this report been cleared by Head of Pensions?	Mark Whitby – 5 March 2019
Has this report been cleared by Section 151 Officer?	Sarah Heywood – 15 March 2019
Has the Chairman of the Pension Committee been consulted?	Councillor Terry Rogers – 13 March 2019
Has this report been cleared by Legal Services?	Fiona McMillan – 12 March 2019

