

CAMBRIDGESHIRE PENSION FUND



Local Pension Board

Date: 22 July 2016

Report by: Head of Pensions

Subject:	Pension Ombudsman – Case Study – Payment of Death Grant
Purpose of the Report	To present members with information on a Local Government Pension Scheme Ombudsman case study as part of building skills and knowledge.
Recommendations	That the Local Pension Board notes the content.
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1. Introduction

- 1.1 Section 248A of The Pensions Act 2004 as incorporated within The Pensions Regulator's Code of Practice (Governance and administration of public service pension schemes) requires all members of the Local Pension Board to maintain the necessary skills and knowledge to undertake their role effectively.
- 1.2 In order to facilitate the acquisition of skills and knowledge, the following Pensions Ombudsman determination which is attached in appendix 1 and summarised below is presented to inform the Local Pension Board of the appropriate action that should be taken concerning payment of death grants to avoid both unauthorised payments and complaints of maladministration.

2. Complaint Summary

- 2.1 The Pensions Ombudsman determination detailed in this report concerns a complaint of maladministration put forward by Ms P Lettman, mother of the late Mr K Lettman, a deferred member of the London Borough of Hammersmith and Fulham Pension Fund (LBHF). Mr Lettman passed away on 21 November 2008, aged 44, leaving 3 children but no eligible adult survivor. The benefits payable from the scheme were a death grant of £21,095.52 payable on production of Grant of Probate of Letters of Administration as the member has died intestate.
- 2.2 The basis of the complaint was that the late member's mother complained about the death benefits payable from the LGPS in respect of her late son, being subject to a 40% tax charge as an unauthorised payment, due to not settling the death benefit within two years.
- 2.3 The late member's mother wrote to London Pensions Fund Authority (LPFA) informing them of the death, and enclosed his death certificate. She requested LPFA

to close/cancel any outstanding agreement and return any monies due to or belonging to her late son. She also asked if he owed any monies.

- 2.4 In its reply to the letter LPFA told her that a death grant was payable to the members estate. It said, in due course it would give details on receipt of letters of administration or grant of probate.
- 2.5 Letters of administration was applied for and was granted on 15 September 2010. The Grant was hand delivered on 9 November 2010 and the date stamp confirms this.
- 2.6 On 6 December 2010, LPFA wrote to confirm that the death grant would be payable to her. In that letter, LPFA told her that the death grant would be an unauthorised payment because it had not been paid within two years of when it knew of the death, and, as a result of the Finance Act 2004; the lump sum death benefit would be subject to a 40% tax charge. LPFA said, in this case, it was not possible for them to make the payment within the statutory period for reasons beyond their control.
- 2.7 The late member's mother contested this with based on the prior information she had been provided with and the fact that there was time to make payment within the statutory timescale.

3. Conclusion of the case

- 3.1 This complaint is primarily concerned with the non-payment of the death grant before the expiry of the two-year time limit, which has resulted in it becoming an unauthorised payment.
- 3.2 The LPFA's records demonstrate that it knew of the death from 25 November 2008. This is the date of the letter to them, which was received on 28 November 2008. Based on this evidence, LPFA became aware from 28 November 2008 of the death, and so payment would have needed to have been made before 28 November 2010 in order to be regarded as an authorised payment.
- 3.3 The information about the two-year limit and the result that any payment after two years became unauthorised is factual information rather than advice. It is therefore pertinent. Even though the information is not Scheme specific information, and there is no duty to disclose it, either LPFA or LBHF should have volunteered it. In the circumstances, the failure to do so amounts to maladministration.
- 3.4 The last working day to make the payment of the death grant before the two-year time limit expired was Friday, 26 November 2010. There were 18 actual days and, more importantly, 13 working business days between Tuesday 9 November 2010 (the date grant was received) and Friday 26 November 2010.

4. Directions

- 4.1 The Pensions Ombudsman directs that within 28 days the balance of the death grant of £8,438.34 is paid from the Fund, plus simple interest at the average rate payable by the reference banks for the time being, from 26 November 2010 to the date of payment.
- 4.2 Within 28 days of the date of the Determination, LBHF and LPFA shall each pay £250 in recognition of the significant distress and inconvenience caused.

5. Processes in place within Cambridgeshire Pension Fund

- 5.1 In light of the lessons learnt from this case, LGSS Pensions will add information on documentation sent to executors of estates to inform them of the time limit by which a death grant can be paid before an unauthorised tax charge is applied. Although, there is no legal requirement for Funds to take advise executors of this information, it is good practice to be transparent.

6. The role of the Local Pension Board

- 6.1 The Local Pension Board should use the key principles and determinants of the Pension Ombudsman's findings to enhance their own knowledge and understanding of the Local Government Pension Scheme and to apply this knowledge where relevant to question the efficiency of administration processes.
- 6.2 The aim is to provide the Local Pension Board with relevant case studies as they become available to cover a range of topics that the Fund may face in the future and to have insight of potential flaws in processes and procedures that may be avoided.

7. Finance & Resources Implications

- 7.1 Personal development time and resources for Local Pension Board members to comply with legislation concerning accrual of appropriate skills and knowledge.

8. Risk Implications

a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
No risk, enhancing knowledge to assist with potential cases that may arise.		Green

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

Risk	Risk Rating
Failure to recognise outcomes that could impact future processes and decisions in the future.	Red

9. Communication Implications

Direct communications	This case study will be used as a reference tool for learning and development if/when similar cases arise.
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10. Legal Implications

10.1 There are no legal implications as a result of this to note report.

11. Consultation with Key Advisers

11.1 Not applicable for this report.

12. Alternative Options Considered

12.1 There are no alternative options to be considered.

13. Background Papers

13.1 Not applicable

14. Appendices

14.1 The Pension Ombudsman case study.

Checklist of Key Approvals	
Is this decision included in the Business Plan?	N/A
Will further decisions be required? If so, please outline the timetable here	N/A
Is this report proposing an amendment to the budget and/or policy framework?	N/A
Has this report been cleared by Director of Finance/Section 151 Officer?	N/A
Has this report been cleared by Head of Pensions?	Mark Whitby – 8/7/2016
Has the Chairman of the Local Pension Board been consulted?	N/A
Has this report been cleared by Legal Services?	N/A