

**CAMBRIDGESHIRE  
PENSION FUND**



**Pension Fund Committee**

**Date:** 24 May 2018

**Report by:** Head of Pensions

<b>Subject:</b>	Revised Overpayment of Pension Policy
<b>Purpose of the Report</b>	That the Pension Fund Committee: <ol style="list-style-type: none"> <li>1. Approves the Overpayment of Pension Policy; and</li> <li>2. Delegates to the Head of Pensions in consultation with the Chairman any immaterial amendments to the policy.</li> </ol>
<b>Recommendations</b>	That the Committee agrees to the proposals identified in this report with regards to recovering overpayments of pension.
<b>Enquiries to:</b>	Name – Jo Walton, LGSS Pensions Governance and Regulations Manager E-mail – <a href="mailto:jwalton@northamptonshire.gov.uk">jwalton@northamptonshire.gov.uk</a>

**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 it is now deemed an appropriate time to review this policy against the information note issued by the Local Government Pensions Committee (LGPC) on overpayments of pension identified during the contracted out reconciliation exercise.
- 1.4 The principles within this information note apply equally to the overpayments identified in the pensions administration system versus pensioner payroll reconciliation that the Fund has been undertaking and any overpayments identified outside of these projects.
- 1.5 Advice has been sought from the Fund's legal advisers, Eversheds-Sutherland and the Fund's benefit and governance consultants, Aon Hewitt, to ensure that the policy is both legally appropriate and practical from a scheme administration perspective.

## **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.
- 2.2 The significant changes to the revised policy are detailed in appendix 3 of this report.
- 2.3 There has been robustness added to the revised policy with increased strength of terminology and direction in the areas of recovering an overpayment, reducing the pension to the correct level and the course of action where there is no ongoing pension to recover the overpayment from. These revisions feature throughout the policy (as referenced in appendix 3) and are as below:
  - 2.3.1 Following advice from the Fund's legal advisors, the following terminology was added to strengthen the policy when referring to recovering an overpayment:

*a) "unless there are legal reasons and/or other circumstances which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part)"*
  - 2.3.2 The period of time before which the overpaid pension is reduced to the correct level has been refined and is as follows:

*b) The pension will be reduced to the correct level for the next available monthly pension payment after a 6 week notice period. The scheme member will be notified in writing of the error and the course of action to be taken.*
  - 2.3.3 To take into account the cases where an overpayment has been identified after the pension is no longer in payment, for example on the cessation of eligibility to a child's pension or on the death of a scheme member, the following statement has been added to the policy:

*c) Where there is no ongoing pension from which to deduct the overpaid amount, an invoice will be arranged by the Fund to recover the overpayment which is greater than £100.00 in value.*

### 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 October meeting of the Pension Fund Committee.
- 3.3 In addition, a flow chart is currently under construction to assist with the drafting of letters for some of the more sensitive overpayment cases that may be identified such as where an overpayment is large in comparison to the member's monthly pension or where an overpayment is unlikely to be recovered in full due to member's age.

### 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 Implications

- a) Risk(s) associated with the proposal

Risk	Mitigation	Residual Risk
Legislation on the recovery of overpayments could potentially be misinterpreted within the policy.	Legal advice has been sought from Eversheds-Sutherland and administrative advice from Aon Hewitt.	Green

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

Risk	Risk Rating
Failure to have in place a policy on managing overpayments of pension could result in claims of discrimination if cases are not dealt with equally and with recognition to the prevailing legislation.	Green

## **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**

<b>Website</b>	The policy, once approved by the Pension Fund 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 Limitations 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 Legal advice was obtained from Eversheds-Sutherland and administrative advice from Aon Hewitt.

## **10. Alternative Options Considered**

- 10.1 There are no alternative options to be considered.

## **11. Background Papers**

- 11.1 LGPC information note on pensioner overpayments  
<http://lgpslibrary.org/assets/gas/ew/COoverv1.0.pdf>

## **12. Appendices**

- 12.1 Appendix 1 (Revised) Overpayment of Pension Policy (2018)
- 18.2 Appendix 2 (Current) Overpayment of Pension Policy (2015)
- 18.3 Appendix 3 Changes between the existing and revised Overpayments of Pension Policy

<b>Checklist of Key Approvals</b>	
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 the budget and/or policy framework?	No
Has this report been cleared by Head of Pensions?	Mark Whitby – 1 May 2018
Has this report been cleared by Section 151 Officer?	Sarah Heywood – 9 May 2018
Has the Chairman of the Pension Fund Committee been consulted?	Councillor Terry Rogers – 9 May 2018
Has this report been cleared by Legal Services?	Sent to Quentin Baker/Fiona McMillan – 1 May 2018

