

ITEM No ...8.....

**REPORT TO: PENSION SUB-COMMITTEE OF THE POLICY & RESOURCES
COMMITTEE & PENSION BOARD – 13 DECEMBER 2021**

REPORT ON: OVERPAYMENTS POLICY

REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES

REPORT NO: 344-2021

1 PURPOSE OF REPORT

This report details the proposed policy in relation to the recovery of overpayments of pension.

2 RECOMMENDATIONS

The Sub-Committee is asked to approve the policy, noting the contents of the report.

3 FINANCIAL IMPLICATIONS

There are no material financial implications.

4 BACKGROUND

Overpayments of pension can occur for a variety of reasons, but in the main, following a delay in the reporting of a member's death to the Fund. It is therefore important that the Fund has a clear policy on how to manage these overpayments once they are identified.

The policy in Appendix A fully documents the circumstances and arrangements in relation to overpayments of pensions. This policy will be reviewed and presented for Sub-Committee approval on an annual basis.

5 REVIEW OF MINIMUM RECOVERY VALUE FOLLOWING DEATH OF MEMBER

Tayside Pension Fund currently seeks to recover overpayments of pension amounting to £75 and over. The policy recommends that the minimal recovery value be raised to £125. This value is in-keeping with other Scottish LGPS funds; and although potentially recoverable, overpayments under this value are uneconomical to pursue in terms of administration costs and legal fees.

6 POLICY IMPLICATIONS

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues, other than Risk Management itself, which is addressed through the risk register.

7 CONSULTATIONS

The Chief Executive and Head of Democratic and Legal Services have been consulted in the Preparation of this report.

8 BACKGROUND PAPERS

None

**ROBERT EMMOTT
EXECUTIVE DIRECTOR OF CORPORATE SERVICES**

3 DECEMBER 2021



OVERPAYMENTS POLICY

Executive Director of Corporate Services
Dundee City Council, Administering Authority
December 2021

1. INTRODUCTION

Overpayments of pension can occur for a variety of reasons. It is therefore important that the Fund has a clear policy on how to manage these overpayments once they are identified.

This policy documents the circumstances and arrangements in relation to Tayside Pension Fund in respect of overpayments of pensions. This policy will be reviewed annually, with updates approved by the Pensions Sub-Committee.

2. AIMS & OBJECTIVES

This policy has been designed to provide assurance in ensuring that:

- all cases where overpayments have occurred are treated with fairness and consistency;
- there are clear processes in place to prevent overpayments where possible;
- frameworks are in place in order to prevent and investigate potential fraudulent activity;
- recovery of overpayment is sought without unnecessary delay, and legal advice is taken when appropriate.

3. OVERPAYMENT FOLLOWING THE DEATH OF A MEMBER

Following the death of a member in receipt of benefit, the Fund should receive notification following registration of death. In some circumstances however, there are cases where notification has been delayed, and sometimes the Fund may not be notified at all. In such cases, the Fund would be unaware of the death and pension payments would continue, resulting in an overpayment being made.

Following receipt of notification, the Fund will seek to contact the relevant parties handling the estates of deceased members (e.g. solicitors, next of kin). All correspondence in connection with an overpayment following the death of a scheme member is treated with the utmost sensitivity and care.

Invoices over £125 will be subsequently issued by the Dundee City Council's Sales Ledger Team in respect of the overpayment.

Although potentially recoverable, overpayments following the death of a member of under £125 are uneconomical to pursue in terms of both administration costs and legal fees that would be incurred by the estate.

4. OVERPAYMENT DUE TO INCORRECT INFORMATION SUPPLIED BY EMPLOYER

If an overpayment occurs as a consequence of inaccurate information being provided by the employer when the member retires, the Fund will seek to recover the overpayment through the member's ongoing pension. In general, any expected recovery period will be no less than the period over which the overpayment occurred. In order to avoid any further overpayment occurring, the Fund will reduce the scheme member's pension to the correct amount from the next available payment date and written notification will be provided to the member.

5. OVERPAYMENT WHERE MEMBER SHOULD HAVE KNOWN OF ERROR

There are various circumstances where an overpayment of pension could occur and the member should have reasonably known or was aware of the error.

In cases where it was reasonable to expect the member to notice the error, the Fund will seek to recover the total value of the overpayment, with this being recovered from the member's ongoing pension, and in order to avoid further overpayment, the scheme member's pension will be reduced to the correct rate with effect from the next monthly payment.

Some examples are provided below:

- An administration error by the Fund

- Where the member is notified in writing of their correct retirement figures, but as a result of input error, they receive a higher amount being paid into their bank account.
- Where the member has already received written notification that their pension is due to be reduced (e.g. National Insurance modification, or where a surviving partner's pension rate reduces) and the Fund fails to amend the payroll record timeously, and the member continues to receive the higher value of pension paid into their bank account.

- **Re-employment**

Where a member has been awarded Compensatory Added Years (CAY) by their employer on retirement from a previous post, and they fail to inform the Fund of re-employment. These cases are identified by National Fraud Initiative exercises.

CAY's are subject to abatement on re-employment, and correspondence informs members that they should notify the Pension Fund on re-employment to allow officers to check whether any adjustments need to be made to their pension.

- **Entitlement to pension and/or current rate of pension ceasing**

- Following the death of a scheme member, a pension is paid to a dependent child who is under the age of 18, or up to the age of 23 if in full time education. Documentation is issued, requiring individuals that prior to reaching age 23, if they cease full time education, they are no longer entitled to receive a pension, and should inform the Fund.
- Where a member is aware that a Pension Sharing or Earmarking Order is in place, but the Fund has not received a copy until after the implementation date, and as a result their pension is not reduced from the appropriate date.

6. OVERPAYMENT WHERE MEMBER COULD NOT HAVE KNOWN OF ERROR

There are also various circumstances where an overpayment of pension could occur, and the member could not have known of the error.

In cases where the member could not have reasonably been aware of the error, the Fund will seek to recover the total value of the overpayment, with this being recovered from the member's ongoing pension. In order to avoid further overpayment, the member's pension will be reduced to the correct rate with effect from the next monthly payment. In these cases, the member will have received the payments in good faith, therefore the Fund will make sure any recovery plan is fair and sensitive.

Some examples are provided below:

- Administration error by the pensions section on retirement in calculating the scheme member's pension entitlement. The incorrect (higher rate) pension amount is then input by the benefits administration officer onto the payroll system and the member subsequently receives written notification of the incorrect pension figures. The error is not picked up by the Fund at the time and the member could not reasonably have known the original calculation was incorrect.
- Pensions Increase is incorrectly applied to elements of a member's pension e.g. due to HMRC advising the Pension Fund of the wrong Guaranteed Minimum Pension (GMP) figure, which results in a higher rate of pension being paid.

7. RECOVERY OF OVERPAYMENT

The Fund will seek to recover overpayments that have occurred within the last six years (in accordance with the Statute of Limitations). Overpayments that have occurred out with the last six years will have the appropriate proportion or the entire amount written off, subject to latest legal advice.

The Fund will apply the following proportionate levels of authority when writing off overpayments:

Value Overpayment	Authority required to write off overpayment
Up to £125	Not pursued, automatic write off.
Over £125	In line with Dundee City Council's corporate processes, with write offs authorised by the Executive Director of Corporate Services (Section 95 Officer) as delegated in Council Standing Orders

Where the Fund seeks to recover an overpayment, a suitable recovery period will be agreed.

In relation to the recovery of overpayments, the Fund aims to recover overpayments effectively, but also avoid potential Internal Dispute Resolution Procedure (IDRP) cases and/or Pension Ombudsman referrals.

The Fund will make all reasonable efforts to engage with members in respect of any overpayment. Should a member refuse to engage with the Fund, despite repeated attempts by Fund officers, the Fund will proceed with recovery by reducing monthly pension payments from the next available payment date. The member will be given written notification in advance of recovery and this should prompt them to communicate with the Fund if they wish to negotiate a revised re-payment schedule.

8. MONITORING REPAYMENTS

Where a member dies and an overpayment occurs, Fund officers will raise an invoice for re-payment through Dundee City Council's Sales Ledger Team. The invoice will be issued to the Executor(s) / persons dealing with the deceased's estate. Responsibility for recovery will then rest with the Dundee City Council Debt Recovery Team.

Where an overpayment is being recovered over a fixed period from a member's monthly pension, the Fund will follow its internal payroll procedures to ensure the correct reductions are made on the payroll system and the members full pension is reinstated once recovery is complete.

9. PREVENTION

Tayside Pension Fund recognises the need to take a pro-active approach to identifying potential fraudulent activity and preventing overpayments, and has various processes in place in order to minimise the risk of overpayments occurring.

Tayside Pension Fund is signed up to the Tell Us Once service. This service allows a bereaved person to inform central and local government services of a death at one time instead of having to contact each service individually. This ensures that not only is Fund notified but that more timely action can be taken than may otherwise be the case (e.g. if waiting for next of kin to get in touch), thereby reducing the likelihood of an overpayment occurring.

The National Fraud Initiative (NFI) is a counter fraud exercise led by Audit Scotland and overseen by the Cabinet Office for the UK as a whole. It is essentially a data matching exercise that uses computerised techniques to compare information about individuals held by different public bodies, and on different financial systems that might suggest the existence of fraud or error. Tayside Pension Fund participates fully in the NFI exercise.

The Fund will routinely issue reminders in all its correspondence advising that changes in circumstances or the death of a member must be notified without delay to prevent overpayments occurring. Additionally, the Fund has internal processes in place to investigate any returned pensioner member payslips or pension payments. It is the policy of Tayside Pension Fund to suspend a member's pension payment where any scheme correspondence is returned. This allows time to investigate fully to ensure that overpayment does not occur e.g. mail may be returned where the member has died.

Furthermore, the Fund has robust workflow procedures in place for payroll data processing to support staff and help to ensure overpayments do not occur.

10. DISPUTES

Whilst every effort will be made to engage with members with the aim of successful resolution of issues, Tayside Pension Fund has an Internal Dispute Resolution Procedure (IDRP). The application form is available to members on the Fund's website or on request.

Should resolution not be possible either through engagement with the Pension Fund in the first instance or through the Internal Dispute Resolution Procedure (IDRP), Money Helper is available at any time to assist members and beneficiaries in connection with any pensions query they may have or any difficulty which they cannot resolve with their scheme administrators. Money Helper can be contacted at:

Money Helper

120 Holborn

London, EC1N 2TD

Ph: 0800 011 3797

www.moneyhelper.org.uk

The Pensions Ombudsman is also available in cases where a complaint or dispute cannot be resolved through the assistance of TPAS. An application can be made, within three years of the event, to the Pensions Ombudsman for adjudication. The Ombudsman can investigate and determine any complaint or dispute involving maladministration of the scheme or matters of fact or law and his or her decision is final and binding (unless the case is taken to the appropriate Court on a point of law). Matters where legal proceedings have already started cannot be investigated. The Pensions Ombudsman can be contacted at:

The Office of the Pensions Ombudsman,

10 South Colonnade, Canary Wharf,

London, E14 4PU.

www.pensions-ombudsman.org.uk

enquiries@pensions-ombudsman.org.uk