

MEETING	<b>PENSIONS COMMITTEE</b>
DATE	<b>23 MARCH 2012</b>
TITLE	<b>RECOVERY OF PENSION OVERPAYMENT FOLLOWING DEATH</b>
RECOMMENDATION	<b>TO APPROVE A PROCEDURE AND LEVEL OF PENSION OVERPAYMENTS TO BE RECOVERED FOLLOWING DEATH</b>
AUTHOR	<b>GARETH JONES PENSION MANAGER</b>

## **1. Background**

- 1.1 Under the Fund's current administration policy, approved by this committee in 1998, pension overpayments of £50 or less (net) are not recovered following the death of a pensioner. When there are subsequent or follow up payments overpayments are recovered from those payments.
- 1.2 If the same pensions increase rate was applied to this £50 as would have been applied to a pension of the same value payable on 1 April 1998 that pension would, as of 9<sup>th</sup> April 2012, be £74.37.
- 1.3 Since introducing the ATMOS mortality screening scheme approved by this Committee on 29th March 2010 the number of overpayments has reduced as a result of monthly notices of deaths being received .
- 1.4 Requeusting repayment of relatively menial sums following death is a sensitive issue and, due to the nature of probate, time consuming, and not resource cost effective. Furthermore, some executors or estates fail to reply to scheme communication or refuse to repay.

## **2. Recommendation of the Internal Auditor**

- 2.1 As a result of the above I requested that the Internal auditor provide advice on levels and circumstances where there is no value in pursuing recovery.
- 2.2 The following is a quote from the Auditor's report dated 20 December 2011:

*“The auditors enquired about procedures other pension funds were following in relation to overpayments. It was discovered that some had guidelines for officers that outlines the procedure for recovering pension overpayments and it was also seen that arrangements varied according to factors such as the level of overpayment and the reason for the overpayment..... As a consequence of this review of procedures for Gwynedd Pension fund and the research carried out, it is suggested that the*

*following points, which in the opinion of the auditor is good practice having been adopted by other Pension funds, to be considered as a tool to expedite and streamline the process.*

- *Increase the level of the sum to be reclaimed from £50 to about £100 – and for that level to be regularly reviewed to reflect inflation*
- *Waive overpayments created in the month of death If the overpayment is as a result of failure on behalf of the Pensions Unit, then the overpayment should be waived. Consideration should be given to a suitable level of authorisation for waiving overpayments.*
- *Establish clear guidelines detailing the steps that should be taken in relation to overpayments based on the reason for the overpayment e.g. if the error is due to the Pension Fund or the individual or if there is a suspicion of fraud, with priority given in attempting to reclaim overpayment due to fraud before those of administrative error. This will be a means of protecting the Pension Fund from unfavourable publicity.*
- *If the overpayment is a results of failure to notify on behalf of the pensioner, or in a case of fraud an Invoice should be raised through the Income Unit so that the normal recovery arrangements may be followed.*
- *To consult with the Legal Unit to design a letter that can be sent to banks in an attempt to recover overpayments as a result of death.*

2.3 Hymans Robertson's interpretation of the current Finance Act 2004 as it relates to pension taxation is that HMRC considers pension overpayments not due under scheme regulations to be "unauthorised payments" and subject to a tax charge. However, they also state that HMRC will not be seeking payment of tax on individual overpayments of less than £250.

### **3. Recommendation**

- 3.1 Members are requested to approve the following policy taking into consideration the auditor's report and the implications of the Finance Act 2004:
- That from 1 April 2012 only overpayments in excess of £100 be recovered following death of a pensioner where there are no continuing payments.
  - That the £100 is increased annually each April in line with the increase in pensions increase orders up to the nearest whole pound until the taxable limit set by HMRC is reached, and only increased thereafter should the limit be increased.
  - That the Manager reviews the current procedures and establishes clear guidelines detailing the steps that should be taken in relation to overpayments taking the above two points into consideration.
  - That the manager consults with the legal unit to design a letter to be sent to banks in an attempt to recover excess overpayments from banks.