

Pensions Committee

2.30 p.m., Tuesday, 23 September 2014

Overpayment of Pension

Item number	5.8
Report number	
Executive/routine	
Wards	All

Executive summary

This report seeks agreement by Pensions Committee not to pursue recovery of an overpayment of pension, which arose on the death of a pensioner, amounting to £3,121.59.

Links

Coalition pledges

Council outcomes

CO26 –The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives.

Single Outcome Agreement

Overpayment of pension

Recommendations

- 1.1 That Committee agrees not to pursue recovery of an overpayment of pension amounting to £3,121.59.

Background

- 2.1 Delegated authority has been granted to the Director of Corporate Governance, in certain circumstances, to write-off pension overpayments up to £3,000. Any overpayments above this limit require approval of the Pensions Committee.

Main report

- 3.1 In October 2008, Lothian Pension Fund identified that a member was in receipt of two pensions for the same period of service, with a resultant overpayment of £4,306.78. One pension was terminated immediately and the other suspended in order to recover monies due. The member died in January 2010 leaving a balance of the overpayment outstanding. This sum amounted to £3,121.59.
- 3.2 The legal position can be summarised as follows:

Where a deceased person has left debts, the executor of the deceased's estate is liable for settling those debts out of the estate assets. Debts must be paid before any assets of the estate are distributed to beneficiaries of the deceased. If the Council were to seek to recover the debt, a court action would have to be raised against the executor of the estate. Where the executor has acted prudently, to the standard of the 'reasonably prudent person', any claim would have to be settled from the assets of the deceased's estate. If the executor has not acted to this standard, then he/she may be personally liable for any losses or claims to and against the estate arising out of his/her actions.
- 3.3 In this case, the member's daughter acted as executor. She advised that no monies were available from the member's estate. Funeral costs were partially met by grant assistance, with the balance being met personally by the member's daughter. The member resided in sheltered housing and therefore the estate did not include any property asset.
- 3.4 In light of these circumstances, it is not considered appropriate to pursue matters further.

Measures of success

4.1 Not applicable.

Financial impact

5.1 As the expenditure has already been reflected in the relevant financial statements of Lothian Pension Fund, there is no additional financial impact arising from the overpayment of pension.

Risk, policy, compliance and governance impact

6.1 There are no adverse risk, policy, compliance or governance impacts arising from this report.

Equalities impact

7.1 There are no adverse equalities impacts arising from this report.

Sustainability impact

8.1 There are no adverse sustainability impacts arising from this report.

Consultation and engagement

9.1 The Consultative Panel for the Lothian Pension Funds, comprising employer and member representatives, is integral to the governance of the Funds.

Background reading / external references

None.

Alastair Maclean

Director of Corporate Governance

John Burns, Pensions & Accounting Manager

E-mail: john.burns@edinburgh.gov.uk | Tel: 0131 469 3711

Links

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Single Outcome Agreement

Appendices