



## **Overpayment of Pension Policy**

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### 1. Policy Statement

- 1.1 This policy provides guidance on the course of action the City & County of Swansea Pension Fund (CCSPF), which is managed by Swansea Council (the Administering Authority), will normally consider when an overpayment or underpayment of pension occurs. The Fund is required to recover money, which has been paid incorrectly, regardless of the reason.

CCSPF recognises Section 91 of the Pensions Act 1995, which prohibits overpayments on death of a member being automatically recouped from a beneficiary. An overpayment is the debt of the member, so it passes onto the member's estate. It could be recouped from a benefit due to a beneficiary where the beneficiary agrees to this.

- 1.2 Overpayments of pension can occur for a variety of reasons. It is important that the Fund has a clear policy on how overpayments of pension are managed once they are identified.
- 1.3 The City and County of Swansea Pension Fund recognises the need to take a proactive approach to identifying potential fraudulent activity and overpayments.

### 2. Policy objectives

- 2.1 The policy objectives aim to ensure that the Fund:
- 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.
  - To ensure that the Fund is managed in a fair and unbiased manner, having regard to what is in the best interest of the Fund's stakeholders, particularly the scheme members and employers.

- Ensures benefits are paid to, and income collected from, the right people at the right time in the right amount;
  - CCSPF will seek to reclaim an overpayment of pension benefits, however it is acknowledged that in some instances this might not be possible due to legal reasons or other circumstances;
  - Identifies errors as soon as possible;
  - Correct any overpayment of pension benefits with the cooperation of the member / individual;
  - Promotes the importance of the checking of payslips / payments for anomalies; and
  - Avoids the Internal Dispute Resolution Procedure (IDRP), where possible, by managing the process effectively.
- 2.2 Where errors are discovered by departments other than Pension Payroll it is essential to contact the Pension Payroll section immediately.
- 2.3 If an overpayment is considered fraudulent then it will be investigated in accordance with the Anti-Fraud & Corruption procedures.

### **3. Scope of Policy**

- 3.1 The policy applies to:
- All members and former members, which in this policy includes survivor and pension credit members of the City and County of Swansea Pension Fund who have received one or more payments from that Fund;
  - Executors/appointed Solicitors of the deceased member estate;
  - Beneficiaries of the City and County of Swansea Pension Fund members where those beneficiaries have received one or more payments from that Fund; and
  - Administrators of the scheme.

### **4. Accountability & Responsibilities**

- 4.1 It is the responsibility of members to check their pay slip on receipt for accuracy where possible. The Fund will ensure as much clarity in the data as is possible in order to aid pensioners.
- 4.2 Members are expected to behave with honesty and integrity and with specific regards to overpayments of pensions or lump sums with a view to prevent occurrences of overpayment.

- 4.3 It is expected that the member will report promptly to Pension Payroll any unexpected payment knowingly received, or any payment received to which the individual is not entitled.
- 4.4 Pensions Payroll will endeavour to recover any overpayments promptly and in full once identified in accordance with a repayment plan.
- 4.5 The Pensions Section must fulfil their responsibilities with regard to completion and submission of pension cards and pension termination cards as soon as possible or any other forms which could result in an error in regards to payments.
- 4.6 In the event that the Fund agrees to write-off an overpayment this must be done only in accordance with the Councils Financial Regulations and delegation scheme.

## **5. Rate and Time Scales for recovering overpayments**

- 5.1 It is the right of the Fund to reclaim any overpayment of pension, or any other form of payment, via a deduction from a pension in payment at a reasonable rate.
- 5.2 Any overpayment of pension is recoverable over a reasonable period agreed with the Fund and yourself and would ordinarily be recovered in no less than the period in which the overpayment occurred. Subject to this general principle, any overpayment will **ordinarily** be recovered over the number of months to which the overpayment relates.
- 5.3 No deductions should usually be made which would reduce the pensioner's pay to less than 75% of what it would otherwise have been.
- 5.4 In cases of hardship or difficulty, individual circumstances will be taken into the account and it will be the responsibility of the pensioner and a member of Pension Payroll team to assist in arriving at a compromise arrangement.
- 5.5 The contact number for Pensions Payroll is through the Employee Helpdesk on 01792 636098.

## **6. What deductions may take place?**

- 6.1 Overpayments of pension on the death of a scheme member
  - Notification of a death of a pensioner member does not always happen immediately, it is therefore not always possible to stop payment of the pension after a point in the payroll month, and so an overpayment can occur;
  - In the event of an overpayment of pension because of the death of a scheme member, the Fund will generally seek to recover overpayments that are equal to or greater than £50.00 (net). Lest there are legal reasons and/or other circumstances, which mean that the overpayment may not, in practice, be recovered (in whole or in part). In this instance, a value of less than £50.00 (net) has been deemed by the Fund as uneconomical to pursue. In such circumstances, the Fund's approach will be that the sum is written off and is treated as a liability against the scheme member's former employer;

- All correspondence regarding an overpayment will be handled sensitively in the initial stages due to the circumstances surrounding how the overpayment has occurred;
- The Fund will generate an invoice to recover any pension overpayment, which is equal to, or greater than £50.00 (net) upon the death of a scheme member. The claim will be made against the pensioner members' estate unless there is a survivor's pension to offset the overpayment against;
- The Fund will generally seek to recover overpayments that have been identified within six years from date of death.

## 6.2 Overpayments of children's pensions failing to cease at the appropriate time

- An eligible child as defined by the LGPS Regulations 2013 is entitled to receive a pension until such a time as their circumstances change and they are no longer deemed eligible to receive a pension from the Fund;
- In these cases the individual in receipt of the pension is responsible for informing the Fund of a change in circumstances to ensure the pension is ceased at the appropriate time, failure to do so would result in an overpayment;
- Should an overpayment of pension occur as a result of late notification of change of circumstances, the Fund will generally seek to recover overpayments 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);
- The Fund will generally seek to recover identified overpayments. An invoice will be issued to the recipient of the pension payment or the individual whose bank account the child's pension was being paid into.

## 6.3 Overpayments of pension following incorrect information supplied by the employer or other administrative errors

- Should an overpayment of pension occur as a result of inaccurate information provided by the scheme member's employer on retirement, the Fund will generally seek to recover monies 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);
- Overpayments will be recovered through the scheme member's ongoing pension as this allows for the appropriate adjustment for tax. 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;
- 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;

- The Fund will generally seek to recover identified overpayments.

**The above list is not exclusive nor exhaustive**

## **7. When an overpayment is identified – Recovery Action**

- 7.1 Where an overpayment has been made to a member, the Pension Payroll Section will send a letter to the member setting out the overpayment and proposed term of recovery.
- 7.2 Where an overpayment of pension to a former member has been paid; for example to a dependent such as a child(ren) who is/are due to a change of personal circumstance meets the Regulatory eligibility criteria to receive a pension. CCSPF will send a letter to the individual setting out the details of the overpayment the letter will explain that an invoice will be sent to the individual in four weeks unless the individual contacts CCSPF regarding the overpayment within two weeks of receipt of the letter.
- 7.3 In the event of any overpayment of pension in respect of a deceased member, CCSPF will write to the appointed executors / solicitor or Next of Kin informing them of this. The letter will notify the individuals that an invoice will follow in due course from Accounts Receivable for the said amount.

## **8. Underpayments**

- 8.1 If you feel that you have been underpaid please telephone Pension Payroll direct.
- 8.2 Should an underpayment to pension occur, any underpayment of pension will be rectified in the next available pay period after underpayment has been identified.
- 8.3 Should an underpayment of pension occur resulting from the death of a scheme member, the Fund will generally repay underpayments that are greater than £5.00 (net) in value. A value of £5.00 or less in the instance of the death of a scheme member has been deemed by the Fund as uneconomical to repay.
- 8.4 Where there is a pension to put into payment, any arrears of pension due in respect of the deceased will be included in the first month's pension payment.

## **9. Prevention**

The Fund has in place processes to minimise the risk of overpayments occurring.

- 9.1 CCSPF partakes in the National Fraud Initiative, which is undertaken every two years. Pensioner member data is compared with the Department for Work and Pensions database of deceased individuals and highlights matches for investigation.
- 9.2 The City and County of Swansea Pension Fund participates in overseas life existence checks to ensure only legitimate pensions are being paid and to reduce the likelihood of fraudulent activity.

- 9.3 A report is run periodically / annually on the pension administration system to identify individuals in receipt of a child's pension; further investigations are then carried out for children that are identified as approaching aged 18 and or those aged 18 to 23 in continuous full-time education at a school / college / university; to ensure they are still entitled to receive a pension.
- 9.4 The City and County of Swansea Pension Fund includes reminders in its correspondence that the Fund must be advised of changes in circumstances or the death of a scheme member. The Fund also investigates any pension payments returned by banks and building societies to ensure the welfare of the scheme member and to protect payment of the Fund's money. The Fund issues a life-certificate document to be completed by the member and signed by an individual witness.
- 9.5 Along with other LGPS Funds in England and Wales; CCSPF has entered into a data sharing agreement; this means that member data is uploaded on a monthly basis to the National LGPS database. This allows Funds to share membership data to prohibit the payment of a refund where previous accrued membership is held with another LGPS Fund and prevents an overpayment of a death grant.
- 9.6 Fund officers have a robust system in place for identifying changes to the payroll that need to be processed for a particular payroll month. The process incorporates payroll deadlines and ensures changes are made in a correct and timely manner. This would be in circumstances such as a change from a short term dependent's pension to a long-term pension.
- 9.7 CCSPF applies the policy of abatement in accordance with its Discretionary powers. Any pensioner member who is re-employed by an employer in England and Wales where they have access to LGPS membership is required to contact the LGPS Fund who they are in receipt of a pension payment from straightaway. Any overpayment of pension resulting from the pensioner member failing to notify the Fund of re-employment will lead to a possible reduction or suspension of pension in payment.

## 10. Policy Monitoring

- 10.1 The Fund will monitor the application of this policy and has discretion to review it at any time through the appropriate consultation mechanisms
- 10.2 Responsibility for the implementation, monitoring and development of this policy lies with the Pensions Manager. Day to day operation of the policy is the responsibility of nominated officers who will ensure that this policy is adhered to.

Version Number	Details of Change	Date
1.0		November 2019

2.0	Para 1.1 – additional text relating to section 91 of the pensions act 1995 Para 2.1 – include bullet point that some circumstances payment may not be able to be reclaimed Para 6.2 – remove bullet point regarding reclaiming within six years Para 6.3 – remove six years reclaim limit Para 7.2 – highlights the reclaim process where an overpayment of a dependents benefit has been paid Para 7.3 added Para 8.4 added Para 9.5 added Para 9.7 added	October 2021
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