

REPORT OF CORPORATE DIRECTOR RESOURCES

AGENDA ITEM: 7

OVERPAYMENT AND UNDERPAYMENT POLICY

Reason for this Report

1. The Pension Committee Terms of Reference set out the Committee's responsibility for the strategic governance of the Cardiff & Vale of Glamorgan Pension Fund.
2. The Terms of Reference include determining policies and procedures for the overall management of the Fund.

Background

3. The Fund makes monthly pension payments to nearly 12,000 pensioners and dependents. The total value paid each month is approximately £5.9 million.
4. Overpayments and underpayments of pension can occur for a variety of reasons. It is important that the Fund has a clear policy on how overpayments and underpayments are managed once they are identified.

Issues

5. The proposed Overpayment and Underpayment Policy is attached as Appendix 1.
6. The document sets out the purpose and scope of the Policy in sections 3 and 5. Sections 6 and 7 describe the various circumstances in which overpayments may occur, including:
 - the death of a scheme member
 - cessation of children's pensions
 - incorrect information supplied by a member's employer
 - administration errors
 - errors relating to the application of a Guaranteed Minimum Pension (GMP)
 - errors relating to the application of an annual Pensions Increase
7. The Policy makes a distinction between situations in which the member can be said to be reasonably aware of the overpayment and those in which it can be said that the member cannot have known of the overpayment. This distinction is critical to the prospects of recovery as there are legal defences available to a recipient of an incorrect payment who has acted in good faith on the presumption that they were entitled to the payment.

8. Sections 8 to 14 outline the processes to be followed in recovering or writing off an overpayment and the proposed delegations to senior officers to approve write off in particular cases.
9. Section 15 covers the process for rectification of underpayments when they are identified.
10. Section 16 outlines the processes currently in place to minimise the risk of overpayments occurring.

Legal Implications

11. There are a number of legal defences that a recipient of a mistaken overpayment may be able to rely on in order to resist a recovery action. Further, the costs of litigation in respect of some matters may exceed any likely recovery. There may also be circumstances where it is considered that mistaken overpayments should not be pursued for other reasons. The Policy provides sufficient flexibility to allow the Council to use its discretion when deciding whether or not to take action to recover a mistaken overpayments in those circumstances.

Financial Implications

12. Overpayments in excess of £250 which are written off in accordance with the Policy may be treated as Unauthorised Payments by HMRC, depending on the circumstances in which the error arose. Unauthorised Payments are subject to a Scheme Sanction Charge of 15% of the amount paid. The charge is payable to HMRC from the Fund.

Recommendations

13. That the Committee approves the Overpayment and Underpayment Policy.
14. That the Policy is effective immediately and applies to any cases currently under review.

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CORPORATE DIRECTOR RESOURCES

Appendix 1 Overpayment and Underpayment Policy