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## OVERPAYMENT POLICY

Report by Director – People, Performance and Change

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### JOINT MEETING OF PENSION FUND COMMITTEE AND PENSION BOARD

13 December 2022

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#### 1 PURPOSE AND SUMMARY

- 1.1 **This report seeks approval for the adoption of the Overpayment Policy for the Fund. This formalises practices that have been in place within the Fund and addresses the recommendation within the 2021/22 Annual Audit Report from Audit Scotland.**
- 1.2 Overpayment of Pension is not something that any party wishes, however, it has to be recognised that this can occur and it is appropriate that the Fund has adopted a Policy that outlines the steps and actions that should be taken. It is also important to recognise that there are different potential causes for overpayment which have different recovery options. These are all outlined within the Overpayment Policy which can be found at Appendix 1.
- 1.3 The recovery of any overpayment will be done in a fair and equitable manner and where recovery is to be made this will be sought without any undue delay. If it is appropriate, determined on a case by case basis, legal advice will be sought. Additionally, the Fund will ensure that there are clear processes in place to prevent and investigate any potential fraudulent activity.
- 1.4 There may be circumstances where it is appropriate to write off an overpayment rather than seeking to make recovery, this will generally be where the overpayment is less than £20.00 and it does not make economic sense to recover on the grounds of the cost of Officers time and associate costs, such as postage, against the amount outstanding. The write off values and authority to write off have been set in line with the Council's Financial Regulations.
- 1.5 The Pensions Team have established controls in place for monitoring overpayment balances and repayments, these controls are subject to audit examination as part of the Annual Audit carried out. The Team also takes a pro-active approach to the prevention of overpayments through internal controls and the use of Tell Us Once to allow for early reporting of the death of scheme members.

## **2 RECOMMENDATIONS**

- 2.1 It is recommended that the Pension Fund Committee approves the Overpayment Policy as set out in Appendix 1.**

### 3 BACKGROUND

- 3.1 Within the Annual Audit Report for 2021/22, as presented to the Joint Meeting of the Pension Fund and Board on 19 October 2022, the following recommendation was made: -

“Whilst a scheme of delegation is in place for the council there is a need to consider an appropriate scheme of delegation for decisions that impact on the pension fund. This should include guidance on what circumstances would give rise to not seek recovery of overpayment, and what entity should bear the cost of that overpayment.”

This recommendation was accepted by Officers along with the intention to agree a formal overpayment policy for the Pension Fund which would be presented to the Pension Fund Committee and Board for approval.

- 3.2 Overpayments are something that do occur from time to time, either as a result of error, receipt of late information, but most commonly due to the death of a pensioner in the period from when the monthly pensioners payroll has been processed and payment date. The payroll is normally processed 7 calendar days before payment date to allow a period of contingency and meeting the deadlines for submission of payment files via BACS.
- 3.3 The Pensions Team have looked to recover any overpayment that has occurred, as mentioned in the above paragraph these are most commonly following the death of a member in receipt of a monthly pension payment. Where there is a payment due to a spouse or dependant any overpayment would be recovered from these payments. Where there is no further payments due contact would be made with the executor of the estate to seek repayment of these monies in the first instance.
- 3.4 There is already an established procedure in place for the recording of overpayments, this is monitored on a monthly basis and balanced back to the general ledger with verification carried out and sign off from a second Officer within the Pensions Team. The balance sheet code is also provided to External Auditors as part of the Annual Audit checks.

### 4 PROPOSAL

- 4.1 **Appendix 1** contains the proposed Overpayment Policy, this formally documents processes that have existed within the Pensions Team, clearly outlines the steps and responsibilities for all parties and addresses the recommendation within the Audit Scotland Annual Audit Report for 2021/22.
- 4.2 The Policy has been designed to provide assurance to the scheme members and stakeholders of the Scottish Borders Council Pension Fund that: -
- Overpayments will be treated in a fair and equitable manner, taking into consideration the circumstances of the overpayment;

- Where recovery is to be made this will be sought without undue delay;
- Legal advice will be taken as and when necessary; and
- The Fund will have clear processes in place to prevent and investigate potential fraudulent activity.

4.3 The most common reason for overpayment of pension is following the death of a scheme member, this tends to be where the member has passed away in the period between payment of the monthly pension being processed and payment date. This is something that is entirely unavoidable due to processing timeframes.

The Pensions Team will make contact with whoever is handling the deceased's estate regarding any overpayment, where there is a survivor payment being made the amount overpaid will be recovered from monies due. Where there is no survivor recovery, will be sought from the estate, unless the value is below £20.00 where it would be uneconomical to do so in terms of administration costs.

4.4 Other reasons for overpayment could be as follows: -

- Incorrect information supplied by Scheme Employer
- Where scheme member should have known the error (e.g. Re-employment or Child Dependant payment ending)
- Where scheme member could not have known of the error

The reason for overpayment would then dictate the route that would be taken in order to seek recovery of the amount overpaid or not in the event of the reason being within the realms of the final bullet point listed above.

4.5 The Fund will seek to recover overpayments that have occurred in the last six years, in accordance with the Statute Limitations. If an overpayment occurred out with the last six years the appropriate proportion, where payment spanned the six year cut off, or the entire amount if prior to the six year period will be written off.

In line with the Scottish Borders Council Financial Regulations the Fund will apply the following levels of authority should a write off be requested for an overpayment: -

<b>Total Value of Overpayment</b>	<b>Authority to Write Off Overpayment</b>
Up to £20	Pensions Team Leader
£20.01 to £5,000	HR Shared Services Manager
£5,000.01 to £50,000	Financial Services Manager, or Director People, Performance & Change
£50,000.01 to £100,000	Director People, Performance & Change in consultation with Director Finance & Corporate Governance
Over £100,000	Pension Fund Committee

4.6 All overpayment recovery periods will be agreed with the scheme member or survivor, generally this will be over the same number of months that the overpayment occurred in the first instance. If this approach would cause financial hardship a statement of income and expenditure will be sought from the member and appropriate payment plan agreed with the scheme member.

In the event that a scheme member refuses to engage with the Fund, following repeated attempts by Fund Officers, recovery would commence without the prior agreement of the member. However, the member will be given written notification in advance of the recovery commencing.

4.7 The monitoring process already in place within the Pensions Team will continue, being balanced to the general ledger on a monthly basis with sign off by a second Officer within the Team.

4.8 The Fund already takes a pro-active approach to the identification of fraudulent activity and prevention of overpayment, this policy formal outlines these controls, as follows: -

- Tell Us Once for the notification of deaths of scheme members
- Annual Life Certification for overseas pensioners
- Annual check on dependent child payments
- National Fraud Initiative
- Monthly variance checks on Gross Pension payments
- Independent Officer check on Lump Sum Payments

4.9 Information on disputes along with contact details are also included in the Policy, as follows: -

- Internal Disputes Resolution Procedure (IDRP)
- Money Helper
- The Pensions Ombudsman

4.10 This Policy will be kept under review to ensure that it complies with relevant legislation, mirrors the write off levels within the Scottish Borders Council Financial Regulations and has the correct contact details for the organisations who can assist members with disputes.

## **5 IMPLICATIONS**

### **5.1 Financial**

There are no financial implications from this report.

### **5.2 Risk and Mitigations**

By agreeing to the proposal the Pension Fund will demonstrate steps taken to continue to address the following risks, as highlighted in the Fund Risk Register:

- 3.1 – Over reliance on key officers may lead to significant knowledge gaps resulting in failure to manage the Fund effectively
- 5.4 – Failure to prevent fraud or misappropriation by scheme member, employee or scheme employer within the Fund may lead to loss of funds
- 5.6 – Failure to keep pension records up to date and accurate may lead to incorrect pensions information being issued or incorrect benefits calculations or payments
- 6.1 – Failure to administer and manage Fund in line with requirements of legislation and other regulations e.g. LGPS regulations, HMRC may lead to benefits calculated incorrectly and/or breach legislation

### **5.3 Integrated Impact Assessment**

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine good governance required under the Local Government Pension Scheme (Governance)(Scotland) Regulations 2014. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio-economic factors have duly been considered when preparing this report.

### **5.4 Sustainable Development Goals**

There are no direct impacts from this report on the sustainable development goals of the Council.

### **5.5 Climate Change**

There are no direct climate change impacts as a result of this report.

### **5.6 Rural Proofing**

It is anticipated there will be no adverse impact on the rural area from the proposals contained in this report.

### **5.7 Data Protection Impact Statement**

There are no personal data implications arising from the proposals contained in this report.

### **5.8 Changes to Scheme of Administration or Scheme of Delegation**

No changes are required as a result of this report.

## **6 CONSULTATION**

- 6.1 The Monitoring Officer/Chief Legal Officer, the Chief Officer Audit and Risk, the Acting Chief Financial Officer, the Clerk to the Council and Corporate Communications have been consulted and any comments received have been incorporated into the final report.

**Approved by**

**Clair Hepburn**

**Director People Performance and Change Signature .....**

**Author(s)**

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**Background Papers:**

**Previous Minute Reference:** Joint Meeting of the Pension Fund and Board on 19 October 2022

**Note** – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ian Angus can also give information on other language translations as well as providing additional copies.

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