

## Pension Fund Investment Sub-Committee

16 February 2015

### Fund Suspense Bank Account

#### Recommendation

**That the Pension Fund Investment Sub-Committee considers the creation of a separate suspense bank account for the Pension Fund.**

#### 1.0 Introduction

- 1.1 The tax rules specify the conditions that need to be met for payments to be authorised. Any payment that doesn't meet these conditions is an unauthorised payment.

Common examples of situations where payments are classed as unauthorised include:

- tax free lump sums in excess of 25% of a member's pension pot
- trivial lump sums in excess of £30,000
- continued payment of pension after the member's death
- death in service lump sum paid more than 2 years after the scheme administrator was told the member had died
- a scheme realises it incorrectly calculated the amount of the member's pension pot following a transfer of funds or purchase of an annuity and the balancing payment is made directly to the member
- most lump sum payments to cash-in or access pension funds before age 55 except when:
  - the member retires due to ill health
  - if before 6 April 2006 the member had the right under the pension scheme to take their pension before age 55

Certain movements of pension funds within a pension scheme are also classed as unauthorised payments.

- 1.2 It is the payment of a death in service lump sum more than 2 years after the scheme administrator was told of the member's death which can cause particular problems for the Pension Fund.

## **2.0 Death in Service payments more than 2 years after notification**

- 2.1 The Fund currently has two death in service cases where it is unable to make payment of the death grant and these are now after two years of first being notified of the death.
- 2.2 Both cases are following the suicide of the member and not being able to trace relatives of the deceased; one being a Nigerian national and the other the Fund having not received any relevant information from the member's employer.
- 2.3 The Fund also has another case where there is a dispute between the relatives of the deceased about who payment should be made to and although the Fund has suggested a possible resolution (payment to a Trust for the children of the deceased) the next of kin's legal advisors for one of the parties is not in agreement.

## **3.0 Unauthorised payment charges**

- 3.1 Where the unauthorised payment is made to or for a member it is the member who is responsible for paying the tax charge - even if they didn't receive the payment. If the payment is made after the member's death the person who receives the payment is responsible for paying the tax.

The rate of the unauthorised payment charge is 40%.

- 3.2 Furthermore, the scheme administrator must pay a scheme sanction charge of (in the death in service case) of 15% of the death grant. For example, the scheme sanction charge for the suicide of the Nigerian national is in the region of £5,400 (being 15% of £36,000).
- 3.3 In both the suicide cases the charges detailed in 3.1 and 3.2 above are now unavoidable but for the disputed case representatives of Her Majesty's Revenue and Customs, Pension Fund office have confirmed that if the death grant is taken out of the Pension Fund before the two year time restriction has elapsed, no charges are payable.

## **4.0 A separate suspense account**

- 4.1 Officers have considered whether the Fund could utilise a County Fund suspense account or to create a suspense account for the Pension Fund.

- To utilise a County Fund suspense account will reinforce the belief apparent with some employers that the Pension Fund has too close a link with the County Council.
- Officers therefore believe that the opening of a suspense account for the Pension Fund is preferable.
- Fund's within West Pennine Regional Group were canvassed for their use of suspense accounts and although the majority currently use their host County's suspense account (where available) since the creation of separate bank accounts for the pension funds there is now a move towards the opening of suspense accounts for the pension fund.

4.2 The creation of the suspense account will enable the Fund to make payment of the disputed payment in 2.3 above to be made out of the Pension Fund before two years has elapsed and thereby avoid sanction charges in the region of £1,950 and unauthorised payment deduction of £5,200 on an unpaid death grant in the region of £13,000.

### Background Papers

None.

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