

Leader Decision

Warwickshire Pension Fund - GMP RECTIFICATION REPORT

Portfolio Holder	Leader of the Council
Date of decision	26 April 2022
	Signed

1. Decision taken

The Leader approves the decision not to seek to recover any past overpayments of pension made to members of the Warwickshire Local Government Pensions Scheme which have been identified through the HMRC guaranteed minimum pension reconciliation exercise.

2. Reasons for decisions

- 2.1 Since 2015 a national exercise has been ongoing to reconcile the guaranteed minimum pension (GMP) value held on the records of members of pension funds with the values held by HMRC in respect of those members and funds. Whilst the majority of records held by both the public and private sector matched to the data held by HMRC, there were a number of discrepancies resulting from incorrect or incomplete information being passed between scheme employers, pension funds and HMRC. With the ending of contracting out and the scaling down of the HMRC team, all Pension Funds were required to reconcile their data with HMRC and agree the correct records. As a result of this exercise, certain members have been identified as having been underpaid pension and other having been overpaid pension nationally and within the Warwickshire Local Government Pension Scheme ("the Fund").
- 2.2 With regard to underpayment cases, the Fund's intention is to write to all pensioners and dependents who have suffered an underpayment setting out the correct pension they should now be in receipt of and confirming the historic underpayment. The Fund expects to correct the pension in payment and make payment of the historic payments owed as soon as practically possible. In line with Regulations applying to the Local Government Pension interest will be paid on all underpaid amounts. The average underpayment is £118 per year.
- 2.3 With regard to overpayment cases, the pension in payment must be adjusted to the correct value going forward as the Fund cannot knowingly make incorrect payments to any scheme member. This will be done in consultation with each affected member and with no less than 2 months' notice of any change. However, a decision is also required on how to deal with the historic overpayments.

- 2.4 The Fund has had regard to a guidance note issued by the Local Government Association (LGA) in 2017 which addressed the recovery of overpayment of pension in these circumstances. It is recommended that, in line with this guidance, the Fund does not seek to recover the overpayments for the following reasons:
- a) Given the complexities around GMP rules, it would be unfair to assume that the affected member could have had any knowledge or understanding at an earlier time that this resulted in their pension being overpaid.
 - b) Most people affected are likely to be elderly and vulnerable and already facing rising inflation and costs of living. These factors could impact the Fund's ability to recover some or all of the overpayment and lead to additional unrecoverable costs in taking any recovery action
 - c) The average overpayment is £195 per year (although the maximum total historic overpayment identified to date is just under £28k). It will not be cost effective in many cases to pursue the overpayments as debts, given the volume of cases, the costs of legal action and the low value per claim.
 - d) It is arguable that the Fund could have discovered the overpayments itself at an earlier point in time which could render some claims time barred under limitation rules.
 - e) This is the approach that has been taken by the majority of LGPS and public sector funds in the same situation.

3. Background information

- 3.1 For all records in scope, analysis of the data held by HMRC and on the pension record was completed to determine the correct level of GMP. That analysis has identified cases where pensions have been overpaid, and cases where pensions have been underpaid.

A final data cut was released by HMRC in 2019, requiring funds to undertake work to correct the GMP information held on member records and subsequently correct their pension payments.

- 4.1 Progress was affected during 2020 and 2021 by resourcing issues but additional resource was brought in from August 2021 and the reconciliation activity has been completed by 31 March 2022.
- 4.2 The delay in processing these cases has meant that the correction of pensions in payment has taken longer than anticipated

4. Financial implications

4.1 The Fund had 1,302 cases to review. This is where the data from HMRC and what was held on the pension record did not match and it was likely that there would be an under or over payment>

- Average value of underpayment £118 per year
- Average value of overpayment £195 per year
- On average most payments have been incorrect for approx. 17-18 years

Total cost to pension fund (as of 31 March 2022)

- Overpayments £2.2m for 1180 cases
- Underpayment £45k for 122 cases

All costs are payable from the Warwickshire Pension Fund and there will be no financial impact on the County Council or any other bodies that form part of the Warwickshire Pension Fund.

5. Environmental implications

5.1 None

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Strategic Director	Rob Powell Strategic Director for Resources
Portfolio Holder	Leader of the Council

Urgent matter?	No
Confidential or exempt?	No
Is the decision contrary to the budget and policy framework?	No

List of background papers

None

Members and officers consulted and informed

Leader – Councillor Izzi Seccombe

Corporate Board – Sarah Duxbury, Rob Powell

Legal – Sarah Cowen

Finance – Andrew Felton

Equality – Keira Rounsley

Democratic Services – John Cole

Councillors – Warwick, Birdi, Boad and Philipps

Local Member(s): n/a