

Pension Overpayment Policy

Warwickshire County Council

Warwickshire Pension Fund

Warwickshire Fire and Rescue Service

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Protection: Sensitive



Pension Overpayment Policy

1. Introduction:

This is the overpayments policy of Warwickshire Pension Fund (WPF) which administers the Warwickshire Local Government Pension Scheme (LGPS) on behalf of Warwickshire County Council.

WPF has robust processes in place to ensure that the correct amount of pension benefit is paid to its retired members. However, on occasion, overpayments of pension benefit are identified. This Policy sets out the course of action WPF will take in these circumstances.

WPF owes a fiduciary duty to all of its members and scheme employers and is therefore under an obligation to recover money which has been incorrectly paid to a member, including where a mistake has occurred and where there is no fault on the part of the member.

This Policy aims to ensure that WPF has a clear process on how to prevent pension overpayments arising, as well as how overpayments are managed and recovered once they are identified.

2. Scope

This policy applies to:

- a) All members and former members of the LGPS and their dependants, including members who left pensionable service prior to 1 April 2014, councillor members and pension credit members;
- b) Executors of the Estates of LGPS members;
- c) Beneficiaries of LGPS members;
- d) WPF Administrators.

The principles set out in this Policy shall also apply to overpayments of pension to members of the Firefighters Pension Scheme, which is currently administered for Warwickshire by West Yorkshire Pension Fund.

3. Policy Objectives

The Policy Objectives aim to ensure that WPF:

- a) pays the correct amount of benefits to the right people at the right time;
- b) identifies errors as soon and possible and encourages individuals to take an active role in checking payslips/payments for obvious errors;
- c) attempts to recover overpayments of benefits, where appropriate and practical to do so and with the co-operation of the individual;
- d) manages and rectifies overpayments in a fair and equitable manner;
- e) has processes in place to prevent and mitigate potential fraudulent activity;
- f) has 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.

4. Prevention of Overpayments

WPF will take all reasonable steps to minimise the risk of overpayments occurring, to include the following:

- a) Reminders are included in all correspondence with members that WPF must be advised of changes in circumstances, or of the death of a scheme member.
- b) It is the policy of WPF to suspend a scheme member's pension payment where any scheme correspondence is returned. This allows pension officers time to investigate fully to ensure that overpayment does not occur; for example, mail may be returned where the scheme member has died.
- c) WPF is signed up to the Tell Us Once service. This service allows a bereaved person to inform central and local government services of a death at one time instead of having to contact each service individually. This ensures that not only is WPF notified, but that pension officers can act more quickly than otherwise may be the case, e.g. if waiting for next of kin to get in touch, thereby reducing the likelihood of an overpayment occurring.
- d) The National Fraud Initiative is conducted every two years; it compares files of pensioners with the Department for Work and Pensions database of the deceased and highlights matches for investigation. WPF actively participates in this initiative.
- e) WPF participates in overseas life existence checks, by regularly requiring pensioners to provide independently verified proof either by paper certificate or online biometric verification to ensure that only legitimate pensions are being paid and to reduce the likelihood of fraudulent activity.
- f) A report is run periodically 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 over the age of 18 to ensure they are still entitled to receive a pension.
- g) WPF 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 dependant's pension to a long-term pension.

5. Responsibility of Scheme Members

Scheme members have a responsibility to notify WPF if they identify or suspect that pension payments are in excess of what they ought to be. There is an expectation that individuals will review payments against quotes received from WPF.

Steps a member should take:

A query should be raised in writing where a member believes payments to be inconsistent with their entitlement.

This can be done via the Member Self Service Portal: [link]

Or by email to: pensions@warwickshire.gov.uk

Or by post to:

Warwickshire Pension Fund
Shire Hall
Market Square
Warwick
CV34 4RL

6. Managing Overpayments of Pension and Lump Sums

Where overpayment of pension occurs, WPF will generally endeavour to collect money owing to it promptly, efficiently and economically.

Outlined below are the steps WPF will take, depending on the circumstance of the overpayment.

In all cases, formal legal action through the courts to recover debts will be a last resort and commenced generally only where other routes have failed to achieve a resolution or where it is legally necessary to do so to protect the position of the Fund.

6.1. Overpayment of pension following the death of a member

Overpayments of pension on the death of a member are common and inevitable, notwithstanding the steps taken by WPF to prevent and minimise them.

Pension payments are made monthly in arrears and even with prompt notification of a member passing away there is a risk of overpayment, given that payroll deadlines are in advance of actual payment date; at a minimum, a portion of the final payment will, as a consequence, have been overpaid. Overpayments can be much greater where there is a delay in WPF receiving any notification of the death of a member, or where the death of a member has been identified as part of the work of the National Fraud Initiative.

All correspondence regarding an overpayment under these conditions will be handled particularly sensitively due to the circumstances.

Upon notification that a member has died, WPF will seek to confirm the date of death and will calculate the net pension overpayment as soon as reasonably practicable, usually within 7 working days.

WPF will always try to contact the deceased member's next of kin or their estate to explain the overpayment and the options for recovery of this.

WPF will seek to agree proposed method of recovery before any action is taken to recover the overpayment. Such methods of recovery include:

- a) Making a reduction to any death grant payable. The amount of the death grant will need to be greater than the overpayment for this approach to be taken.
- b) Agreeing a one-off payment from the member's estate.
- c) If there is a dependant, agreeing a reduced dependant's pension with them over a period of time.

Where the Fund has overpaid a death grant, the dependant's pension(s) will not immediately be reduced. WPF will contact the dependant(s) to explain the error and provide the option of returning the overpayment via a one-off payment which will be invoiced directly, or via a reduction to the dependant's pension.

Where there is more than one dependant and some are not yet adults, WPF will generally seek to engage with the adult dependant(s) to resolve all the dependants' overpayments of pension, if this is possible

Where recovery of an overpayment is to be made through a reduction to an ongoing dependant's pension, the recovery period will be determined on a case-by-case basis depending on the size of the overpayment, the size of the dependant's pension and the age of the dependant but will not be shorter than the length of time of the overpayments.

Where it has not been possible to make contact with the deceased member's next of kin or their estate, an invoice will be raised to "The Estate of [Member's name]" and issued to the member's last recorded address, or the address of the personal representative of their estate if known. The invoice will be issued with a covering letter seeking direct return of the overpayment where possible or admission of the claim against the estate of the late member where direct return of funds is not possible.

In the event that recovery of the overpayment cannot be achieved by agreement with the next of kin or the estate, or WPF is unable to make contact with either, then recovery of the overpayment will be handled under Warwickshire County Council's debt recovery policy.

6.2. Overpayment of pension where the scheme member is living

Overpayments of pension may be identified in circumstances where the scheme member has identified an error and brought this to the attention of WPF or where the error is discovered by WPF and the scheme member could not have known of the error, for example, where the pension entitlement is calculated incorrectly on retirement, or the annual pension increase is incorrectly applied.

In cases where the member has raised a query about a potential overpayment, WPF will acknowledge this as soon as reasonably practicable, providing estimated timeframes for investigation.

In all cases, once an overpayment has been identified, WPF will notify the member as soon as reasonably practicable that an overpayment has occurred, including where possible, the net overpayment calculation.

WPF will take steps to reduce future pension benefits to the correct level as soon as possible.

An invoice for the overpayment will be raised and issued to the member and WPF will seek to agree a method for recovery where possible.

There are a number of ways in which the overpayment may be recovered:

- a) The member could make an offer of instalment contributions towards the overpayment.
- b) The member could make an offer of a lump sum contribution towards the overpayment, either from existing savings, or by liquidating assets
- c) WPF may make deductions directly from any ongoing pension payments but WPF will not usually reduce the pension to below the minimum income guarantee for a single person + 30% of the annual occupational pension entitlement. Financial and Pension regulations do not specify a percentage that an individual's pension could be reduced to. On assessing the reduction we have taken into

account the risk of causing any financial hardship and to allow for the recovery of the overpayment over a suitable period of time.

- d) WPF may seek to obtain a charging order to secure the debt against one or more of any assets. This will necessitate WPF first obtaining a Judgment against the member on the basis of the unjust enrichment, via a court claim.

If the member would like to accelerate the process of paying off the overpayment in order to minimise, for example, the accrual of interest applicable to charges against assets, then any alternate proposals will be considered.

Where the overpayment is an overpayment of a lump sum, WPF will usually seek to recover the amount in full through one immediate payment. However, consideration will be given to collect this in instalments if this is not a suitable option.

When deciding on a particular method for recovery of the overpayment, WPF will look at all relevant circumstances, including how the use of one method may impact on the availability of other potential alternative methods.

7. Cases where WPF may not seek recovery

- 7.1. WPF will not generally seek to recover overpayments of less than £250 as these are deemed to be uneconomical to pursue. This includes death grant overpayments. The Fund's usual approach in those circumstances will be that the sum is written off and is treated as a liability against the scheme member's former employer.
- 7.2. If an individual in receipt of a pension (including a dependant's pension) dies part way through a calendar month and the full monthly pension is paid (so the pension is overpaid for a proportion of one month), WPF will not seek to recover this overpayment and the excess amount will be written off.
- 7.3. Occasionally, bulk 'reconciliation' exercises (such as the GMP reconciliation exercise) will result in the discovery of overpayments of pension. In view of the size of these exercises and the number of potential overpayments, decisions concerning the writing-off of those overpayments will be made on a case-by-case basis by the relevant decision-making body within Warwickshire County Council, outside of this policy, taking into account any national guidance on the matter.
- 7.4. Occasionally, all or part of an overpayment is deemed to be irrecoverable. In these circumstances, WPF may seek to waive all or part of an overpayment. Relevant considerations may include but are not limited to:
 - a) Whether the member knew or could reasonably have known about the overpayment
 - b) The size of the overpayment
 - c) The cost of recovering the overpayment
 - d) Whether a limitation period or other legal defence to recovery applies
 - e) The age, health and financial position of the member

The individuals with authority to approve the waiver are identified in Warwickshire County Council's debt recovery policy, as amended from time to time.

8. Unauthorised Payments

- 8.1.** WPF believes that in the vast majority of cases, overpayments of pension will have arisen due to a genuine error and where these are waived by WPF, in full or in part, they will be authorised payments under the Registered Pension Schemes (Authorised Payments) Regulations 2009.
- 8.2.** In the event that an overpayment is unauthorised, and the member incurs a tax charge, WPF may offer to pay the tax charge on behalf of the member in circumstances where the member could not reasonably have known of the overpayment.

9. Disputes

If the member or dependant is not happy with a decision taken in accordance with this policy, they have the right of appeal through the relevant pension scheme's Internal Dispute Resolution Procedure (IDRP) which can be found on the Fund's website:

LGPS: <https://warwickshirepensionfund.org.uk/scheme/scheme-1/4>

Firefighters Pension Scheme:

<https://warwickshirepensionfund.org.uk/firefighter-pensions>