

Bath & North East Somerset Council

MEETING:	AVON PENSION FUND COMMITTEE		
MEETING DATE:	22 March 2024	AGENDA ITEM NUMBER	15
TITLE:	OVER & UNDER PAYMENTS POLICY		
WARD:	ALL		
AN OPEN PUBLIC ITEM			
List of attachments to this report: Appendix 1 – Draft Over & Under Payments Policy			

1 THE ISSUE

1.1 The Fund has identified the need to put in place a clear policy to establish the principles of rectification for members where there has been either an overpayment or underpayment of pension benefits.

1.2 The policy is attached to this report for approval.

2 RECOMMENDATIONS

The Committee:

2.1 Approves the Over & Under Payments Policy

3 FINANCIAL IMPLICATIONS

3.1 There are no particular financial considerations. The impact of any overpayments that are written off as part of the policy will be considered as part of the valuation process.

4 THE REPORT

4.1 Underpayments and Overpayments of benefits can arise due to various reasons. Eg:

- Control errors such as Pensions Increase not being applied or where short term spouses pensions are not reduced.
- Employers providing incorrect data used to put benefits into payments
- No or late notification of the death of a member or dependant
- Rectification projects such as GMP and McCloud

4.2 Member benefits are explicitly outlined in the Local Government Pension Scheme (LGPS) Regulations and other relevant legislation, and it is impermissible under law for members to receive amounts other than those stipulated by these rules. However, it is crucial for the Fund to establish a clear policy for managing over and underpayments once identified.

4.3 The Fund acknowledges the importance of adopting a proactive approach to identify fraudulent activities, rectify overpayments, and pursue recovery where necessary. This commitment extends to maintaining effective processes that

minimise the risk of over and underpayments, swiftly identifying such cases, and resolving them promptly in the interest of all affected parties.

4.4 The Fund has worked with Consultants, Aon, to produce the policy. The principles set out in the policy aim to treat all members fairly with a consistent approach to each scenario, whilst giving the Fund discretion to consider individual circumstances.

4.5 In summary the policy sets out a framework to manage overpayments taking into account:

- How long after the overpayment first occurred that it was discovered;
- Whether the member could reasonably have been aware that they were being or had been overpaid;
- Whether the member died before the overpayment was discovered;
- The size of the aggregate amount of the overpayment;
- The cost of recovering the overpayment;
- Whether the overpayment was the result of a criminal act;
- Whether the recovery of the overpayment would impose "material hardship" on the member.

4.6 Where an underpayment of pension or lump sum is identified, the following action will be taken:

- pension will be immediately increased to the correct level. The member will receive written notification of the underpayment if the total underpaid amount exceeds £5.
- The underpayment will be reimbursed to the member in one lump sum payment which is paid through the pensions payroll with the next monthly pension payment.
- Interest will be paid on the underpaid amount(s) in line with Regulation 81 of the LGPS Regulations.

4.7 Decisions on the application of the policy in specific cases will be by a panel of officers including Head of Pensions and Pensions Operations Manager.

4.8 Authorisation of write offs will be as set out in section 10 of the policy. The Fund's Scheme of Delegation will be amended to reflect these limits.

4.9 Over and underpayments of benefits will be recorded as a breach of the law in the Fund's breaches register. Such breaches will, in accordance with the Pensions Regulator guidance and the Fund's Procedure for Reporting Breaches of the Law, be reported to the Pensions Regulator where considered of material significance.

4.10 Once approved this policy will be used to assess and rectify cases identified going forward, but will not be used retrospectively.

5 RISK MANAGEMENT

5.1 An effective governance structure, defining clear responsibilities, and ensuring that the decision making body has an adequate level of knowledge and access to expert advice, is a key aspect of the risk management process.

6 EQUALITIES STATEMENT

6.1 A proportionate equalities impact assessment has been carried out using corporate guidelines and no significant issues have been identified.

7 CLIMATE CHANGE

7.1 The Fund is implementing a digital strategy across all its operations and communications with stakeholders to reduce its internal carbon footprint in line with the Council’s Climate Strategy. The Fund acknowledges the financial risk to its assets from climate change and addresses this through its strategic asset allocation to Paris Aligned Global Equities, Sustainable Equities and renewable energy opportunities. The strategy is monitored and reviewed by the Committee.

8 OTHER OPTIONS CONSIDERED

8.1 None

9 CONSULTATION

9.1 The Council's Director of One West & APF has had the opportunity to input to this report and has cleared it for publication

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Background papers	None
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