



meeting

**PENSIONS ADMINISTRATION SUB - COMMITTEE**

date

**31 JULY 2006**

agenda item number

## REPORT OF THE DIRECTOR OF RESOURCES

### DEATH GRANT

#### 1. Purpose

- 1.1 To inform the Pensions Administration Sub - Committee of the change in practice over the calculation of a death grant payable to the nominated person, where the member has a mix of whole-time and part time employment or where part time hours have changed.

#### 2. Background

- 2.1 The calculation of a death grant has always been undertaken on the basis of Section 38 of the regulations which deals with death grants (this notes that the multiplier for an active member's death grant is 2 and 'final pay' is always taken in the way how all normal benefits are calculated). Furthermore, this is as noted in 'Your Guide to the LGPS,' which states 'A lump sum grant of two times your final pay is payable no matter how long you have been a member of the LGPS. For part-time employees, the final pay is not increased to its whole time equivalent rate'.
- 2.2 On 15 October 2003, Miss G employed by the City Council died. A death grant was calculated on the basis on two times her earnings in her last 12 months of employment. Miss G's brother, whilst administering her estate questioned whether the calculation was correct, taking into account the fact that Miss G moved to part-time working (27 hours per week) on 7 October 2002. Clearly, if the death grant had been based on full time working the death grant payable would have been much more.
- 2.3 The City Council initially responded by stating that the LGPS did not allow for any discretionary payments to be made. This position was upheld by the investigator at Stage 1 review of the Internal Dispute Resolution Procedure (IDRP). However, at Stage 2 of IDRP review, the investigator concluded that the regulations had not been applied correctly, 'because there is a power for the administering authority, i.e. the County Council to exercise a discretion on behalf of the a deceased member so that they can be benefit from the 'best of the last

three years earnings, when calculating a death grant'. The reviewer cites Section 22 and 23 of the regulations in coming to his conclusion. Section 22 notes that 'Other final pay periods' that can be used in the calculation of benefits, with paragraph 22(4) giving members the ability to choose the 'best of the last three years' pay in calculating benefits. While Section 23 of the regulations allows pay protection for a 10 year period when a certificate has been issued, in cases where members pay is reduced. It also includes a paragraph (23(9), to allow an election on behalf of a member who has died to be made by the administering authority.

- 2.4 The County Council has accepted the conclusion reached by the Stage 2 reviewer in the case of the late Miss G, and duly re-calculated the death grant payable to the brother. In future, the County Council as administering authority will exercise this discretion on a case by case basis but would normally expect to pay death grants on the basis of 'the best of the last three years'.

### 3. Recommendation

- 3.1 It is recommended that the Pensions Administration Sub - Committee approves the basis upon which the discretion will be exercised.

## **A DEAKIN Director of Resources**

### Personnel Implications

None

### Equal Opportunities Implications

None.

### Crime and Disorder Implications

None.

### Legal comments

" As the report relates a discretionary power of the Council. The council must ensure that's its policy does not fetter its discretion and that each case is considered individually"

Jayne Francis

Assistant Head of Legal Services