

PENSIONS COMMITTEE

16 NOVEMBER 2000

REPORT OF THE ACTING CHIEF EXECUTIVE

LOCAL GOVERNMENT PENSION SCHEME **ADMINISTERING AUTHORITY DECISIONS** **PAYMENT OF DEATH GRANTS**

1. Purpose

- 1.1 To establish a policy and set procedural guidelines for the payment of any Death Grants due under the terms of the Local Government Pension Scheme.

2. The Regulations

- 2.1 Regulation changes as part of the Local Government Pension Scheme modernisation process in 1997, together with subsequent amending legislation, give the Administering Authority absolute discretion as to the recipient of any Death Grant. The appropriate regulation now reads:-

“38.-(1) If a member dies, the Administering Authority at their absolute discretion may make payments to or for the benefit of the members nominee or personal representatives or any person appearing to the Authority to have been his relative or dependant at any time.”

3. Background

- 3.1 Previous to the regulatory changes, it was only possible to make payment of the Death Grant to the deceased's legal personal representatives. For grants of under £5,000, payment would be made on completion of a Statutory Declaration, as provided for under the Administration of Estates (Small Payments) Act 1965. For grants in excess of £5,000, payment could only be made on sight of Grant of Probate or Letters of Administration.

4. Scheme Members affected

- 4.1 The following groups would have a Death Grant payable on their death:-
 - All current contributors to the Local Government Pension Scheme

- All members of the Local Government Pension Scheme with Preserved Benefits
 - All members of the Local Government Pension Scheme who retired after 31 March 1998 and who die within 5 years of retiring
- 4.2 In addition to the above, a small minority of pensioners who retired before 1 April 1998 would be eligible for a Death Grant.

5. Nominating a Beneficiary to receive the Death Grant

- 5.1 Any scheme member can make a nomination as to who or where they would like the Death Grant to be paid in the event of their death. For this purpose, the Administering Authority has designed a pro-forma. The member can nominate one or more people, no matter what their relationship, and may even nominate an organisation, for example their favourite charity.
- 5.2 It must be stressed that the Administering Authority has absolute discretion as to the recipient or recipients of any Death Grant. The Nomination Form is classed as an “expression of wish” and should be considered as part of the payment process but it is not legally binding on the Administering Authority as trustees of the scheme.
- 5.3 The number of Nomination Forms lodged in the Pensions Section is less than 10% of the membership. To raise scheme members’ awareness of the nomination facility, details, including a form, are to be included in the inaugural Newsletter being produced for distribution to both contributors and pensioners.

6. Inheritance Tax

- 6.1 Apart from speeding up the payment process, the main benefit of the Administering Authority making payment of any Death Grant direct to a nominated person rather than to the deceased’s Estate is that it avoids any potential liability to Inheritance Tax.
- 6.2 Even with the Inheritance Tax threshold currently set at £240,000 there is an increasing number of queries regarding the payment of Death Grants and the tax liability as a result should the Council make payment to the Estate.
- 6.3 Carrying on the previous practice of always making payment to the Estate is not seen as a reasonable use of the Authority’s discretionary powers because each case should now be viewed on its own merits. Provided they have acted in a reasonable manner and have not arrived at a perverse decision, trustees are not subject to challenge on the exercise of their discretion.

7. Guidelines

- 7.1 Whilst acknowledging the need to look at each case on its own merits it is important, considering there were over 600 deaths of scheme members in 1999/2000, to consider guidelines for the payment of a Death Grant.

7.2 Although not every death results in the payment of a Death Grant, with the volume involved it would not be feasible to refer each case to Committee for consideration. It is therefore proposed to delegate authority to the Assistant Treasurer (Commercial Services) subject to the guidelines below:

7.3 Where a valid Nomination Form exists:

- Unless the Executors raise a material objection, payment of a Death Grant shall be made to the nominated beneficiary or beneficiaries.
- Where the Administering Authority decide that the executors objection raises reasonable doubt as to the validity of the nomination, and no other obvious recipient exists, payment shall be made to the Estate.

7.4 In the absence of a valid Nomination Form:

- Payment may be made to the legally married spouse, if any.
- Otherwise, payment may be made to any children of the deceased in equal shares.
- Otherwise, payment shall be made to the estate.

7.5 From time-to-time it will be necessary to consider payment outside of the above guidelines, and any such payment exceeding £20,000 should first be referred to the Pensions Administration Sub Committee or the Pensions Committee for their consideration.

8. Recommendation

8.1 That the Administering Authority's discretion in the payment of Death Grants be delegated to the Assistant Treasurer (Commercial Services) subject to the Guidelines set out in this report.

ROGER LATHAM
ACTING CHIEF EXECUTIVE

Equal Opportunity Implications

Nil

Personnel Implications

Nil

Crime & Disorder Implications

Nil

Background Papers available for Inspection

Nil

Rpt\pension-deathgrant-lmd