



SCOTTISH BORDERS COUNCIL PENSION FUND

OVERPAYMENT POLICY

**HR Shared Services
People Performance & Change
Version 2022 1.1 DRAFT**

Approved: Joint Pension Fund Committee and Pension Board [13 December 2022]

1. Introduction

The policy covers overpayment of pension in relation to the Scottish Borders Council Pension Fund, administered by Scottish Borders Council. The day to day administration for the Fund is carried out by the Pensions Team of HR Shared Services within the People, Performance and Change directorate.

There are a range of reasons that an overpayment of pension can occur, as a result it is important that the Fund has a clear policy on how they will manage any overpayment that has been identified.

This policy will be reviewed on an annual basis with any amendments/additions being approved at a joint meeting of the Pension Fund Committee and Board.

2. Who the Policy Covers

This policy will apply to: -

- Members of the Scottish Borders Council Pension Fund
- Executors of the estates of pensioner members of the Scottish Borders Council Pension Fund
- Scheme employers
- Fund Officers within the Pensions Team, HR Shared Services
- Pensions Committee and Board

3. Aims and Objectives of the Policy

This policy has been designed to provide assurance to the scheme members and stakeholders of the Scottish Borders Council Pension Fund that: -

- Overpayments will be treated in a fair and equitable manner, taking into consideration the circumstances of the overpayment; and
- Where recovery is to be made this will be sought without undue delay; and
- Legal advice will be taken as and when necessary; and
- The Fund will have clear processes in place to prevent and investigate potential fraudulent activity.

4. Overpayment of Pension following the death of a Scheme Member

The Fund should be notified immediately on the death of a pensioner member. However, there could potentially be a delay in notification or the Fund may not be notified at all. In such cases, the Fund would not know to take the appropriate action and pension payments would continue to be made, resulting in an overpayment being made and continuing until the Fund were advised of the death.

All correspondence for the Pensions Team in connection with an overpayment following the death of a scheme member will be handled with the utmost sensitivity and care. The Pensions Team will seek to make contact with whoever is handling the deceased's estate, either the Next of Kin or a Solicitor in most instances.

It is the Scottish Borders Council Pension Fund policy to seek to recover any overpayment following the death of a scheme member, unless the value is below £20.00 where it would be uneconomical to do so in terms of administration costs, see section 8 for details of write off limits and who has the authority to request this should repayment not be possible.

5. Overpayment of Pension caused by incorrect Member information supplied by a Scheme Employer

If an overpayment occurs as a result of inaccurate information having been provided by the scheme employer on a member's retirement the Fund will seek to recover the overpayment through the scheme member's ongoing pension. Fund Officers will look to make recovery over the same number of months over which the overpayment occurred.

If the overpayment relates to a previous tax year or recovery on a gross basis cannot be made in one single tax year an Earlier Year Update (EYU) or rework process will be carried out to determine the new amount that the member is required to repay, with recovery being made through the pensioners payroll as a net deduction from monies due.

If the overpayment is all within the same tax year and recovery can be made over the remaining number of months in the tax year then the amount overpaid will be recovered on a gross basis, this will be processed through the pensioners payroll and allow for the appropriate adjustment for tax, unless the member is on a non-cumulative tax code where repayment as a gross amount would disadvantage the member. Each case will be considered by officers and the appropriate course of action taken to either recover as gross or carry out a rework process to determine the net amount.

In order to avoid any further overpayment officers will reduce the scheme member's pension to the corrected amount for the next available payment and notification of the change will be provided to the member in writing.

6. Overpayment of Pension where the Scheme Members should have known of the error

There are circumstances where an overpayment of pension could occur and the scheme member should have reasonably known or would be aware of the error, some examples of this are provided below: -

Re-employment

The scheme member had been awarded Compensatory Added Years (CAY) by their employer on retirement for a previous post. The CAY's are subject to abatement should the member have a further period of employment and the rules around this are conveyed to the member with clear instruction that responsibility lies with them to inform the Pensions Team on re-employment to allow officers to check whether any adjustment is required to their pension. If the scheme member does not advise of the re-employment that can then be discovered through other checks carried out by the Fund, most likely to be the National Fraud Initiative.

Child Dependent

Following the death of a scheme member a pension is paid to a dependent child who is under the age of 18. Scheme documentation states that a pension is payable where the child is under the age of 18, or up to the age of 23 if they are in full time education. If prior to reaching the age of 23 the

dependent child ceases full time education and they fail to advise the Fund of the fact they will continue to receive a pension payment that they are no longer entitled to.

Pension Sharing or Earmarking Order

The scheme member is aware that either of the above are in place, however, the Fund does not receive a copy until after the implementation date and as a result their pension is not reduced from the effective date resulting in the scheme member continuing to receive a pension payment that they are no longer entitled to.

The Fund will seek to recover the total value of the overpayment, with this being recovered from the scheme member's ongoing pension. In order to avoid further overpayment the scheme member's pension will be reduced to the correct rate with effect from the next monthly payment.

7. Overpayment of Pension where the Scheme Members could not have known of the error

There are circumstances where an overpayment of pension could occur and the scheme member could not have reasonably known or would be aware of the error, for example: -

On retirement an error is made in calculating the scheme member's pension entitlement and payments are then made using the incorrectly calculated amount.

The Fund will look to make recovery in the above instances, however, consideration needs to be given to the circumstances of the error and whether or not officers consider that they would be unsuccessful should the member go through the Internal Disputes Resolution Procedure IDRPs process. This may result in the Fund not seeking recovery of the amount overpaid, with write off determined as per the table in section 8 below or alternatively, the Fund may look to freeze the current level of payment until such times as the Pensions Increase application takes the correct amount to a value in excess of the incorrect payment.

8. Recovery of Overpayment

The Fund will seek to recover overpayments that have occurred in the last six years, in accordance with the Statute Limitations, notwithstanding specific exceptions mentioned in earlier sections. Overpayments that have occurred out with the last six years will have the appropriate proportion, or entire amount, written off.

In line with Scottish Borders Council's Financial Regulation, the Fund will apply the following levels of authority should a write off be requested for an overpayment: -

Total Value of Overpayment	Authority to Write Off Overpayment
Up to £20	Pensions Team Leader
£20.01 to £5,000	HR Shared Services Manager
£5,000.01 to £50,000	Financial Services Manager, or Director People, Performance & Change
£50,000.01 to £100,000	Director People, Performance & Change in consultation with Director Finance & Corporate Governance
Over £100,000	Pension Fund Committee

In determining the write off value the amount will either be the actual amount overpaid or where there is a decision not to recover an ongoing pension payment due to the specific circumstances, as

outlined in section 7 above, the value will be determined by multiplying the annual amount overpaid by twenty (the number of years used in the Lifetime Allowance Tax Calculation).

Where the Fund seeks to recover an overpayment it will agree a suitable recovery period with the scheme member, generally this will be over the same number of months that the overpayment occurred in the first instance, with the exception of any fraud cases. However, there may be instances where the scheme member is unable to return the overpayment because they have already spent the money in good faith, for example, paid of the mortgage or gone on holiday. In such instances officers will engage with the scheme member and look to agree a recovery plan. In order to assist with such a determination a statement of income and expenditure should be sought from the member, see Appendix A for template, and an appropriate payment plan agreed thereafter with the scheme member.

The Fund will make all reasonable efforts to engage with the scheme member in respect of any overpayment. Should the scheme member refuse to engage with the Fund despite repeated attempts by Fund Officers, the Fund will proceed with recovery by reducing their monthly pension payments from the next available payment date. The scheme member will be given written notification in advance of the recovery and this should prompt them to get in touch if they wish to negotiate a revised re-payment schedule.

9. Monitoring Re-payments

Where a scheme member has passed away and an overpayment has occurred, Fund Officers will take corrective action within the payroll system to identify the net amount that the member has been overpaid. The net amount overpaid will be allocated to the Fund suspense account (B5117 BP001 Deceased Pensioners – Balance of Payment) where this will be monitored and balanced on a monthly basis, signed off by another officer.

Where recovery is being made on a gross basis the ongoing payment will be amended to the correct value and additional entry for the recovery amount added to the payroll record for the scheme member which will be linked to a reducing balance payment and deduction code. The balance code will end when the remaining value reaches zero and should the scheme member pass away prior to the recovery of the full amount the remaining balance will be incorporated into the final payment calculated ensuring the recovery is collected.

10. Prevention of Overpayments

Scottish Borders Council Pension Fund recognises the need to take a pro-active approach to identifying potential fraudulent activity and preventing overpayments from occurring in the first instance where this is within the Funds control.

The Fund has a number of processes in place in order to minimise the risk of overpayments occurring.

The Fund is signed up to the Tell Us Once service. The service allows a bereaved person to inform central and local government services of a death at one time rather than having to contact each service independently. This ensures that the Fund is notified quickly and allows officers to take the appropriate action to end payments, as a result this reduces the likelihood of an overpayment occurring. Fund Officers update the Tell Us Once service with details of scheme members on a monthly basis to ensure the matching data is accurate.

Scheme members who are in receipt of a pension payment from the Fund and now reside out with the United Kingdom are asked to provide a Life Certificate on an annual basis. In the event of a Life Certificate not being provided within two months of this being requested pension payments are suspended pending further investigation and will only be reinstated, with backdated payment made, once a completed Life Certificate has been provided.

A check is carried out on an annual basis to confirm that those members who are receiving payment due to being a dependent child are remaining in full time education. If there is no confirmation received within two months of the request being issued pension payments are suspended pending further investigation and will only be reinstated, with backdated payment made, once confirmation of full time education continuing has been provided.

The National Fraud Initiative (NFI) is a counter fraud exercise led by Audit Scotland and overseen by the Cabinet Office for the United Kingdom as a whole. It is essentially a data matching exercise that uses computerised techniques to compare information about individuals held by different public bodies on different financial systems that might suggest the existence of fraud or error. Scottish Borders Council Pension Fund participates fully in the NFI exercise and does so in conjunction with the Internal Audit team at Scottish Borders Council, who are the conduit between the Fund and NFI, with any records requiring investigation being fed back to them in the first instance before these are then investigated by Fund Officers.

On a monthly basis officers carry out a variance check between the amounts paid in the current month when compared to the preceding month and the reason for the variance noted on the check file. This is then sample checked by a senior officer who signs off. This is an additional check to those carried out to ensure all records created on the payroll system and values being processed are scrutinised prior to payroll being processed on a monthly basis. Additionally, any payments of lump sum, for example, that are made through the Accounts Payable team must be signed off by another officer.

11. Disputes

There are external bodies who assist with pension problems should resolution not be achieved either through engagement with the Pension Fund in the first instance or through the Internal Disputes Resolution Procedure (IDRP).

Money Helper, provided by the Money & Pensions Service, is available at any time to assist members and beneficiaries of the scheme in connection with any pension query they may have or any difficulty which they are unable to resolve with the scheme administrators. Money Helper can be contacted at: -

Money and Pensions Service
120 Holborn
London
EC1N 2TD

Call on 0800 011 3797 between 9am and 5pm Monday to Friday

www.moneyhelper.org.uk

Web chat between 9am and 6pm Monday to Friday

Web forms aim to provide a response within five working days

The Pensions Ombudsman is available in cases where a complaint or dispute cannot be resolved through the assistance of TPAS. An application can be made, within three years of the event, to the Pensions Ombudsman for adjudication. The Ombudsman can investigate and determine any complaint or dispute involving maladministration of the scheme or matters of fact or law and their decision is final and binding (unless the case is taken to the appropriate Court on a point of law). Matters where legal proceedings have already started cannot be investigated. The Pensions Ombudsman can be contacted at:

The Pensions Ombudsman
10 South Colonnade
Canary Wharf
E14 4PU

Call on 0800 917 4487 between 10am and 2pm Monday to Friday

www.pensions-ombudsman.org.uk

enquiries@pensions-ombudsman.org.uk

APPENDIX A

Statement of Income and Expenditure

Resource ID -	Address -
Member Name -	

HOUSEHOLD INCOME	£	EXPENDITURE	£
Earnings – Member		Rent (net of Housing Benefit)	
Earnings – Partner		Mortgage	
State Pension – Member		Food	
State Pension – Partner		Telephone/Mobile	
Pension Credit		Gas	
Working Tax Credit		Electricity	
Child Tax Credit		Other Fuel	
Income Support		Clothing	
Jobseekers Allowance		Car (insurance/road tax/mot)	
Incapacity Benefit		Petrol/Diesel	
Disability Living Allowance		TV/Other Rental/Sky	
Child Benefit		Loans/HP	
Carers Allowance		Cleaning Materials	
Other benefits (list)		Laundry	
		Cigarettes	
		Catalogues	
Private Pension		School Meals	
Child Support		Insurances	
Maintenance		Other Outgoings	
Other income (list)		Fines	
		Pet Costs	
Total Income (A)		Total Expenditure (B)	
		Surplus Income (A – B)	

I agree that the above is a true and accurate record of my present circumstances and will be used to determine a repayment plan in relation to the overpayment of pension that occurred.

Signed

Print

Dated

VERSION CONTROL TABLE

Version	Nature of Amendment	Date of Change	Author
2022 1.0	Creation of Overpayment Policy	29 August 2022	Ian Angus
2022 1.1	Amendments following feedback from Anthea Green, Kirsty Robb and Suzy Douglas	16 September 2022	Ian Angus

You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Ian Angus can also give information on other language translations as well as providing additional copies.

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