



North East Scotland Pension Fund

**nespf**

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## **Overpayment of Pension Policy**

January 2019

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## Introduction

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This policy covers overpayments of pension in relation to the North East Scotland Pension Funds, as administered by Aberdeen City Council. The day to day administration of the Fund is carried out by the pensions section.

Overpayments of pension can occur for a variety of reasons. It is therefore important that the Fund has a clear policy on how to manage these overpayments once they are identified.

This policy will be reviewed annually, with updates approved by the Pensions Committee.

## Who the Policy Covers

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This policy applies to:

- Scheme members of the NESPF
- Executors of the estates of pensioner members of the NESPF
- Scheme employers
- Fund Officers e.g. benefit administration team
- Pensions Committee

## Aims and Objectives of the Policy

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This Policy has been designed to provide assurance to members and stakeholders of the Fund that:

- all overpayments will be treated in a fair and equitable manner; and
- recovery will be sought without undue delay, taking legal advice where necessary; and
- clear processes are in place to prevent and investigate potential fraudulent activity.

## Overpayment of pension following the death of a Scheme member

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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, resulting in an overpayment being made.

It is NESPF policy to seek recovery of any overpayment of £100 or more following the death of a scheme member. Although potentially recoverable, overpayments of under £100 are uneconomical to pursue in terms of administration costs and legal fees.

All correspondence from the pensions section in connection with an overpayment following the death of a scheme member will be handled with the utmost sensitivity and care.

The Fund will seek to make contact with whoever is handling the deceased's estate e.g. Solicitor, Next of Kin. An invoice will be issued in respect of the overpayment by the Aberdeen City Council Debt Income – Rates and Service Income Team. Further details on the recovery process can be found below in [Recovery of Overpayment](#).

## **Overpayment of pension due to incorrect member information being supplied by a scheme employer**

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If an overpayment occurs as a consequence of inaccurate information being 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. As a general rule of thumb the recovery period will be no less than the period over which the overpayment occurred. Recovery through the pensioner payroll system will allow for the appropriate adjustment for tax. In order to avoid any further overpayment the Fund will reduce the scheme member's pension to the correct amount from the next available payment and notification will be given in writing.

## **Overpayment of pension where the scheme member should have known of the error**

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There are various circumstances where an overpayment of pension could occur and the scheme member should have reasonably known or was aware of the error. Some examples are provided below:

- **administration error by the pensions section**
  - On retirement the scheme member is notified in writing of their correct retirement figures. However an error occurs when the figures are being input onto the Pension Fund payroll system by a Fund officer which results in a higher amount being paid into the scheme member's bank account.
  - The scheme member is notified in writing that their pension is due to be reduced, for example due to a National Insurance Modification or where a surviving spouse is due to go from their short term pension to lower rate long term pension. However the Pension Fund fails to amend the payroll record and the scheme member continues to receive the higher rate pension into their bank account.

- **re-employment**

The scheme member was awarded Compensatory Added Years (CAY) by their employer on retirement from a previous post. The CAY's are subject to abatement on re-employment and correspondence informs members that they should notify the Pension Fund on re-employment to allow officers to check whether any adjustments need to be made to their pension. However the scheme member does not notify the Fund and their re-employment is discovered by other means e.g. National Fraud Initiative.

- **entitlement to pension and/or current rate of pension ceasing**

- 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 age 18, or up to age 23 if they are in full time education. Prior to reaching age 23, the dependent child ceases full time education. They fail to inform the Fund of the fact that they are no longer entitled to receive a pension.
- The scheme member is aware that a Pension Sharing or Earmarking Order is 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 appropriate date.

In cases where it was reasonable to expect the scheme member to notice the error the Fund will seek to recover the total value of the overpayment, with this being recovered from the scheme members 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. Further details on the recovery process can be found below in [Recovery of Overpayment](#).

## **Overpayment of pension where the scheme member could not have known of the error**

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There are various circumstances where an overpayment of pension could occur and the scheme member couldn't have known of the error. Some examples are provided below:

- **administration error by the pensions section**

On retirement an error is made in calculating the scheme member's pension entitlement. The incorrect (higher rate) pension amount is then input by the benefits administration officer onto the payroll system and the scheme member subsequently receives written notification of the incorrect pension figures. The error is not picked up by the Pension Fund at the time and the member could not reasonably have known the original calculation was incorrect.

- **Pensions Increase**

The annual Pensions Increase is incorrectly applied to elements of a member's pension e.g. due to HMRC advising the Pension Fund of the wrong Guaranteed Minimum Pension (GMP) figure, which results in a higher rate of pension being paid.

In cases where the scheme member could not have reasonably been aware of the error the Fund will seek to recover the total value of the overpayment, with this being recovered from the scheme members 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. However in these cases, the scheme member will have received the payments in good faith, therefore the Fund will make sure any recovery plan is fair and sensitive. Further details on the recovery process can be found below in [Recovery of Overpayment](#).

## Recovery of Overpayment

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The Fund will seek to recover overpayments that have occurred within the last six years (in accordance with the Statute of Limitations). Overpayments that have occurred out with the last six years will have the appropriate proportion or the entire amount written off, subject to latest legal advice.

In line with Aberdeen City Council's Financial Regulations, the Fund will apply the following levels of authority when writing off overpayments:-

Total Value of Overpayment	Authority to write off overpayment
Up to £100 on death of a pensioner	Automatic write off
Up to £10,000 (including overpayments between £101 – 10,000 on death of pensioner)	Pension Fund Manager
Over £10,000 & up to £25,000	Chief Officer-Finance
Over £25,000	Pensions Committee

Where the Fund seeks to recover an overpayment it will agree a suitable recovery period with the scheme member – as a general rule of thumb the recovery period will be no less than the period over which the overpayment occurred (except in the case of fraud). 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 e.g. on a holiday or paying off their mortgage. In these cases, officers will seek to engage and negotiate with the scheme member, seeking legal advice where required, to agree a recovery plan. By engaging and negotiating with the scheme member the aim is to reduce the number of Internal Dispute Resolution Procedure (IDRP) cases and/or Pension Ombudsman referrals.

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.

## Monitoring Re-payments

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Where a scheme member dies and an overpayment occurs, Fund officers will raise an invoice for re-payment through the Aberdeen City Council's Service Income Team. The invoice will be issued to the Executor(s) of the deceased's estate.

Responsibility for chasing payment will then rest with the ACC debt recovery team. The Pension Fund will only be notified where the overpayment is not recovered and at that stage a decision will be taken (in line with the procedure detailed above) on how to proceed based on the amount of the debt, circumstances and potential cost of legal action.

Where the overpayment is being recovered over a fixed period from the scheme member's monthly pension the Fund will follow its internal payroll procedures to ensure the correct reductions are made on the pensioner payroll system and the scheme members full pension is reinstated once recovery is complete.

## Prevention of overpayments

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The North East Scotland Pension Fund (NESPF) recognises the need to take a pro-active approach to identifying potential fraudulent activity and preventing overpayments.

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

NESPF 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 NESPF notified but that Fund 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.

The National Fraud Initiative (NFI) is a counter fraud exercise led by Audit Scotland and overseen by the Cabinet Office for the UK as a whole. It is essentially a data matching exercise that uses computerised techniques to compare information about individuals held by different public bodies, and on different financial systems that might suggest the existence of fraud or error. NESPF participates fully in the NFI exercise. In addition, the Fund also carries out mortality screening through ATMOS.

The Fund routinely issues reminders in all its correspondence advising that changes in circumstances or the death of a scheme member must be notified without delay to prevent overpayments occurring. Additionally, the Fund has internal processes in place for Fund officers to investigate any returned pensioner member payslips or pension payments. It is the policy of NESPF to suspend a scheme member's pension payment where any scheme correspondence is returned. This allows Fund officers time to investigate fully to ensure that overpayment does not occur e.g. mail may be returned where the scheme member has died.

Furthermore, the Fund has robust workflow procedures in place for payroll data processing to support Fund officers and help to ensure overpayments do not occur. The benefits administration manager is responsible for notifying officers of the monthly payroll deadline. This ensures any changes are actioned on the payroll system in a timely manner e.g. new starters, leavers and suspensions.

## Disputes

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There are a number of external bodies who assist with pensions problems should resolution not be possible either through engagement with the Pension Fund in the first instance or through the Internal Dispute Resolution Procedure (IDRP).

**The Pension Advisory Service (TPAS)** is available at any time to assist members and beneficiaries of the scheme in connection with any pensions query they may have or any difficulty which they cannot resolve with their scheme administrators. TPAS can be contacted at:

TPAS, 11 Belgrave Road, London, SW1V 1RB

[www.pensionsadvisoryservice.org.uk](http://www.pensionsadvisoryservice.org.uk)

[enquiries@pensionsadvisoryservice.org.uk](mailto:enquiries@pensionsadvisoryservice.org.uk)

**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 his or her 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 Office of the Pensions Ombudsman, 10 South Colonnade, Canary Wharf, E14 4PU.

[www.pensions-ombudsman.org.uk](http://www.pensions-ombudsman.org.uk)

[enquiries@pensions-ombudsman.org.uk](mailto:enquiries@pensions-ombudsman.org.uk)

## Further Information

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If you have any questions relating to this Statement please contact the **Governance Team**:

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