

## **PENSION FUND COMMITTEE – 7 September 2012**

### **Pension Administration – Regulation Update**

#### **Report by Assistant Chief Executive and Chief Financial Officer**

##### **Introduction**

1. The LGPS regulations were recently amended to give the administering authority increased responsibility for making payments when it appears the pensioner is incapable of managing his or her affairs.
2. The amendments allow the authority to
  - pay the pension or any part of the pension to someone caring for the pensioner
  - direct how the pension is to be used for the benefit of that individual
3. This report looks at the issues to be considered in implementing such a procedure and seeks the committee's view.

##### **Ageing Population**

4. This regulation change recognises the increasing liability that could arise due to the aging population in general and the maturing of the Oxfordshire County Council Pension in Fund in particular where of the total number of pensioners and dependents (11,683), 2,316 are aged over 80, and 377 aged over 90.

##### **Procedure**

5. While a person is able to make decisions they have the opportunity to set up either:

##### Ordinary (OPA)

6. An Ordinary Power of Attorney can only be valid whilst the member still has the mental capacity to make their own decisions about their finances. Whereas the LPA will be valid when the member's circumstances alter and their mental capacity has diminished.

### Lasting (LPA) Power of Attorney

7. There are two types of Lasting Power of Attorney – it is the Property and Financial LPA that is relevant here. These can be used whilst someone still has mental capacity.
8. In setting up the LPA the member can specify, or restrict, the types of decisions that the attorney can make and also request that the attorney provide regular updates of income and spending. Once the member loses capacity this update will be sent to a solicitor or family member.
9. An Attorney cannot act under an LPA unless it is registered with the Office of the Public Guardian.
10. In instances where a member, unable to make their own decisions, has not put a valid LPA in place then the Court of Protection may become involved to appoint a Deputy to administer their affairs. This can be a lengthy and costly process.
11. However, there will be instances where families either do not have the resources to pay for the appointment of a Deputy, or do not wish to do so because the benefits are so small does the Committee wish to have an internal procedure?
12. Obviously any such procedure would need to be supported by medical evidence. The options are a report from the GP, or from a Registered Psychiatrist. The Court of Protection will accept a report from any qualified Doctor, usually the GP since this has a quicker turnaround time. The costs of providing any report would be the responsibility of the applicant.

### **Security and Risk**

13. The Office of the Public Guardian is responsible for:
  - Maintaining a register of LPAs
  - Monitoring Attorneys
  - Receiving reports from Attorneys and Deputies
  - Keeping a register of orders appointing Deputies.
  - Supervising Deputies appointed by the Court
  - Directing Court of Protection Visitors
  - Providing reports to the Court
  - Dealing with enquiries and complaints about the way Deputies or Attorneys use their powers
  - Working closely with other agencies to prevent abuse.
14. Paying a pension to someone else for the benefit of the pensioner will require regular and frequent checks to ensure payments continue only in appropriate cases and certainly not beyond the pensioner's death. The Oxfordshire County Council Pension Fund shares data to take part in the National Fraud

initiative, which amongst other processes compares pensioners to recorded dates of death. This regular review will reduce the risk of illegal payments

15. Additionally an annual check could be established requiring re-certification arrangement to any pensioner where the pension is not paid direct as an additional security measure.

## **RECOMMENDATION**

**The Committee is RECOMMENDED to:**

- a) decide whether it wishes to introduce an internal procedure for payment of benefits in cases where no formal arrangements exist;**
- b) determine what medical evidence is required to support the internal procedure; and**
- c) delegate the decision making process to the Assistant Chief Executive & Chief Finance Officer.**

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Background papers:  
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