

PENSION FUND COMMITTEE – 3 DECEMBER 2010

PAYMENT OF DEATH BENEFIT

Report by Head of Finance & Procurement

Introduction

1. The Local Government Pension Scheme Regulations (2007) state that if a scheme member dies before his 75th birthday, the administering authority, at their absolute discretion, may make payment in respect of the death grant to or for the benefit of the member's nominee or personal representatives or any person appearing to the authority to have been his relative or dependent at any time.
2. In accordance with the Council's Constitution and the Scheme of Delegated Powers this decision can be made by the Chief Executive in consultation with the Chairman of the Pension Fund Committee. At the meeting on 4 December, the Pension Fund Committee delegated authority to the Assistant Head of Shared Service (Financial Services), after consultation with the Chairman of the Pension Fund Committee, to determine non-contentious cases, subject to reporting to the next meeting of the Committee on such determinations.
3. This report considers the payment of a death grant that it is deemed likely to be contentious. As a consequence, the Committee is asked to make the determination.

The Case

4. The member died on 29 July 2010. The death grant due is £9,923.71.
5. The member died without making a nomination and there is no will either. As a consequence we do not know the wishes of the member.
6. The member is survived by three children aged 17, 23 and 25. The 17 year-old has a disability (and will receive a pension) and the father has declared himself as his legal guardian. The member is also survived by a partner who has declared himself to be responsible for administering the member's estate. The member and her partner appear to have been cohabiting for about six years, although at the time of writing confirmation of this fact was being sought from the partner.
7. There appears to be a family rift and there is no contact between the partner and the three children or the children's father. The member and the children's father appear to have been divorced in 2004. As a consequence any decision over the payment of the death grant is likely to be contentious.

8. As the member died intestate, any balance of her estate after expenses should be split between the three children, although this could adjust by the court in favour of a person who was maintained, either wholly or partly, by the deceased. We clearly do not know the member's financial circumstances or any details of the financial arrangement between the member and her partner. However, it would appear that the children and the partner are eligible to receive the death grant.
9. The Committee appears to have one of three options:
 - (1) Pay the death grant to the partner;
 - (2) Share the death grant equally to the three surviving children; or
 - (3) Share the death grant in some way between the four of them.
10. As the balance of the member's estate would be paid to the three children, I do not believe that paying the whole of the death grant to the partner is an option in the absence of any knowledge of the member's wishes.
11. If we followed the laws of intestacy, then we could share the grant equally between the three surviving children. This would be a reasonable decision, although it may be harsh on the partner as he will not receive any of the balance of the estate. We do not know of his financial position.
12. In the absence of any information about the wishes of the member, it may be fairer to share the grant equally between the partner and the three surviving children. This may also be the least contentious option.
13. Either the second or third options would be reasonable. On balance I would recommend that the Committee take the third option and share the grant equally between the four relevant individuals.

RECOMMENDATION

14. **The Committee is RECOMMENDED to approve the payment of the death grant equally between the member's three surviving children and her partner.**

PAUL GERRISH
Head of Finance & Procurement

Background papers: Various documents obtained from the partner and the children's father.

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