

Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 20 March 2024

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Subject:

Payment of Death Grants

Summary statement:

The LGPS Regulations 2013 allows the administering authority (WYPF), at their absolute discretion, to make payments in respect of a death grant lump sum.

This paper highlights the process undertaken by WYPF to ensure that death grants are paid correctly and to the right beneficiaries.

EQUALITY & DIVERSITY:

None

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Portfolio:

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Overview & Scrutiny Area:

1. SUMMARY

- 1.1 This paper highlights the process undertaken by WYPF to ensure that death grants are paid correctly and to the right beneficiaries.

2. Background

- 2.1 Under the LGPS a death grant is payable on the death of a member if they are under age 75 and one of the following applies:
- they are still paying in the LGPS
 - they have left the LGPS but have not taken payment of your pension
 - they left after 31 March 2008 and have been receiving your pension for less than 10 years
 - they left the LGPS between 1 April 1998 and 31 March 2008 and have been receiving their pension for less than 5 years.
- 2.2 If a member left before 1 April 1998 and is receiving a pension, a death grant may be paid when they die.
- 2.3 The LGPS Regulations 2013 allows WYPF, at their absolute discretion, to make payments in respect of the death grant.

3. Absolute Discretion

- 3.1 Under the LGPS regulations WYPF has absolute discretion to pay the lump sum death grant to the deceased's nominee(s), personal representatives or any person who appears, at any time, to have been a relative or dependant.
- 3.2 In exercising its absolute discretion, WYPF will take into account the "expression of wish" made by the member in making a nomination but is not legally bound to pay the lump sum death grant to the specified nominee(s).
- 3.3 "Personal representative" in this context has the legal meaning of the person appointed by a court to administer the estate of another person – i.e. the member. Dependent is defined in the LGPS regulations as being financial – either dependent or mutually dependent – or dependent because of physical or mental impairment.
- 3.4 The main advantage of the exercise of absolute discretion is that the payment made by WYPF does not form part of the deceased's estate and is therefore not liable to inheritance tax, if payable. Another benefit is the speed with which payment can be made if desired.
- 3.5 The exercise of discretion does, however, require an active decision by WYPF after having taken relevant factors into account. The expression of wish form should not be followed blindly and equally a payment to the estate should not be made as a matter of course.

4. Number of death grants paid

4.1 Over the last few years the number of death grants paid were as follows:

Calendar Year	Number of cases	Total amount paid
2020	618	£12,825,391.68
2021	547	£10,417,666.85
2022	650	£12,687,961.87
2023	699	£13,833,618.63

4.2 The high volume of death grants paid and the amounts highlight the importance of ensuring that death grants are paid correctly and to the right beneficiaries.

5. Information Gathering

5.1 Notifications of death can be received from the employing body, a relative, friend, HMRC, DWP, bank, solicitors, National Fraud Initiative report or other sources.

5.2 An initial letter and forms to the person who is the point of contact or next of kin.

5.3 On receipt of completed forms, the death certificate, copy of a will and other pertinent information or documents, the amount of benefits due in respect of the deceased is calculated.

5.4 A letter and WYPF forms may at this stage be sent to other people named by the contact person or next of kin on their returned forms.

5.5 The papers are passed to the Pensioner Services Manager, who with the Service Centre Group Manager (or other senior managers in their absence), follow the guidelines described in this document to determine who should be paid the death grant. There may be occasions where the payment of a pension needs to be clarified or authorised by the same senior managers, where there may be an element of uncertainty, e.g. incapacitated child.

6. Who is the Death Grant paid to?

6.1 The following WYPF guidelines, which are not binding, are designed to assist in the decision making process.

General Principles

In making a decision the following overarching principles apply:

- To act impartially and fairly
- To take account of all the circumstances of the case
- To ensure there is no discrimination on the basis of religion, belief, orientation or disability

- to look at the domestic, personal and the financial situation

What is taken into account

The Nomination Form – is there one and if so:

- How recent is the nomination / expression of wish?
- Have there been previous nominations completed?
- Are any of the names the same on multiple nomination forms?
- Are only percentages changed where there is more than one nomination form?

A nomination does not have to be on a WYPF form. Sometimes the wishes are expressed in letters.

Since the introduction of our on-line website pensioners have the ability to complete an on-line nomination. However, we have a duty of care to ensure the nominations are genuine. There has been instances where an on-line nomination has been made after the members death.

Active and deferred members are reminded of their nomination on their Annual Benefit Statement and when someone retires we always ask them to complete a new nomination form.

Personal Status

- Is the member married or do they have a partner (co-habiting or non co-habiting)?
- How long have they been married / co-habiting?
- Does member have any children – from current and/or previous relationships?
- Does member keep in touch with children / siblings / parents etc.?
- Were the member and spouse / partner living together at the time of death?
- If there was a split, was this amicable or otherwise?
- Were there any other changes in relationships / status since the DG expression was made?

Financial Dependency

- Is there anyone (relative) who the deceased was assisting financially, but who is not nominated or named in any will? Such as, children from a previous marriage being supported at university or receiving an allowance etc.
- Nominated current partner / spouse but also has a child from a previous relationship who lives elsewhere and who isn't nominated, e.g. living with a grandparent or with the other parent.
- Have the financial circumstances of the deceased / next of kin / nominee etc. changed since the nomination was made, e.g. made as part of a divorce agreement originally.

Death Certificate

- Who has registered the death? (if not a coroner's interim certificate).
- Is the spouse the same on any other paperwork or nomination form?
- What was the cause of death and did the member know they were dying? (often evident by a recently made will).

Is there a will?

- Are similar people named in the will as on the nomination form (if there is one)?
- Is the will a recent will?
- Do any family members appear in the will who are not on the nomination form?
- Is anyone specifically excluded from benefitting from the death in the will?
- Are percentages or amounts to inherit similar to the nomination form?
- If there appears to be a discrepancy between a nomination and a will or other documentation, consult family and ask what they think the deceased would have wanted to happen with the DG money.

Obituaries and funeral

- Do any names appearing to be family members or close relationship members appear on an obituary but not on a nomination form or in a will?
- Who paid for the funeral or is the bill still outstanding?
- Who made the funeral arrangements?

Suicide note or other instructing note or message

- Is it draft?
- unsigned?
- unwitnessed?
- Letter to a friend/solicitor/HR/pension fund/work colleague etc
- Are there any instructions in any other document which would presume to supersede a previously submitted nomination form. Previous examples:
- Letter sent to WYPF the day prior to death to change instructions / nomination. (suspected suicide but not proven).
- Suicide note in one case to change the nomination – WYPF attended the inquest for further details to enable a decision to be made.
- Letters sent to friends leaving clear instructions (but no nomination on file).
- Letters sent to friend leaving clear instructions where there is a nomination on file.
- Often receive letters to WYPF where family members are specifically excluded or 'written out' of a nomination – not always a replacement nomination form submitted in these cases.

Other circumstances which can arise:

Out of date/old nomination form or no nomination form

- Nomination form so old that people nominated are dead or cannot be found and there are no relatives, or anybody else who might qualify to receive the DG.
- No nomination at all and no immediate evidence of any relatives, e.g. death cert. shows name of death informant as being from hospital bereavement service, funeral director etc.
- Speak to work colleagues about any comments the deceased may have made concerning events should they die.
- Attempts are made to trace any relatives. This is limited or often impossible with no information or names to go on.
- On finding any distant relatives, use guidance of 'rules of intestacy' flowchart to determine any eligibility.

Change of heart

- Nominated person asks us to pay a proportion of the DG to someone else - a friend or a relative (sometimes when they see how much money it is).
- Nominated person asks us to pay a proportion of the DG to someone else, then changes their mind (sometimes when they see how much money it is).
- Nominated person asks us to pay the share of another nominated person to them for 'safekeeping' (missing sibling, incapacitated, not worldly wise enough, to stop alcoholic buying drink etc.).

7. After a decision is made

- 7.1 Once a decision has been made all potential beneficiaries are contacted to inform them if we have decided to make a payment to them. We are also obliged to give each potential beneficiary the right of appeal under the Internal Dispute Resolution Procedure (IDRP).

The number of appeals made against decisions made by WYPF were:

Calendar Year	Number of appeals
2020	9
2021	5
2022	6
2023	6

8. Unusual cases

- 8.1 Cases can be complex and time consuming and not all cases are straight forward. Complexities include:

- murders and suicides
- We have uncovered a small number of cases where we suspected the will had been forged/allegedly completed by a pensioner who was mentally incapacitated.
- We have had a few cases where potential beneficiaries were not born and had to ask for a DNA test to prove they were a child of the deceased.
- We have attended a small number of inquests into suicides to gather further information.

9. OTHER CONSIDERATIONS

None

10. FINANCIAL & RESOURCE APPRAISAL

None

11. RISK MANAGEMENT AND GOVERNANCE ISSUES

None

12. LEGAL APPRAISAL

None

13. OTHER IMPLICATIONS

13.1 SUSTAINABILITY IMPLICATIONS

None

13.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS

None

13.3 COMMUNITY SAFETY IMPLICATIONS

None

13.4 HUMAN RIGHTS ACT

None

13.5 TRADE UNION

None

13.6 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

None

14. NOT FOR PUBLICATION DOCUMENTS

None

15. OPTIONS

None

10. RECOMMENDATIONS

To note the report.

11. APPENDICES

None

12. BACKGROUND DOCUMENTS

None