



Cronfa Bensiwn **GWYNEDD** Pension Fund

Administration Policy Statements

Title: Pension Overpayment Policy

1. Introduction

This is the Overpayment of Pension Policy for Gwynedd Pension Fund, which is managed by Cyngor Gwynedd (the Administering Authority).

Whilst measures are in place to mitigate such instances, overpayments of pension can still occur for a variety of reasons. It is important that the Fund has a clear operational policy on how overpayments of pension are managed once they are identified.

Gwynedd Pension Fund also recognises the need to take a pro-active approach to identifying potentially fraudulent activity and overpayments.

2. Policy objectives

The policy objectives aim to ensure that the Fund:

- Has robust governance arrangements in place, to facilitate informed decision making, supported by appropriate advice, policies, and strategies, whilst ensuring compliance with appropriate legislation and statutory guidance;
- Is managed in a fair and equitable manner, having regard to what is in the best interest of the Fund's stakeholders, particularly the scheme members and employers;
- Ensures benefits are paid to, and income collected from, the right people at the right time in the right amount;
- Identifies errors as soon as possible;
- Rectifies overpayments with the cooperation of the individual;
- Encourages individuals to take an active role in checking payslips/payments for obvious errors; and
- Avoids the Internal Dispute Resolution Procedure (IDRP), where possible, by managing the process effectively.

3. Purpose of the policy

The policy is designed to provide assurance to the Fund's stakeholders that:

- all overpayments are treated in a fair and equitable manner;
- the Fund seeks to recover overpayments that have occurred but acknowledges that there may be legal reasons and/or other circumstances which mean that an overpayment may not, in practice, be able to be recovered (in whole or in part); and
- has steps in place to prevent and investigate potentially fraudulent activity with support from the Council's Corporate Fraud Team.

4. Effective date and reviews

This operational policy was first approved by the Pension Committee on XXXXXXXX and was effective from 01/04/2025.

This policy will be reviewed annually, and if necessary, more frequently to ensure it remains accurate and relevant.

5. Scope

The policy applies to:

- All members and former members, which in this policy includes survivor and pension credit members of the Gwynedd Pension Fund who have received one or more payments from the Fund;
- Executors of the Estates of deceased Gwynedd Pension Fund members;
- Beneficiaries of Gwynedd Pension Fund members where those beneficiaries have received one or more payments from that Fund.

6. Managing overpayments of pension on the death of a scheme member

Most overpayments occur when a pensioner member dies before the end of the month that the pension is paid, but the Pension Fund is not made aware of the death before payment is made into the deceased member's bank account.

The Fund undertakes a number of procedures to identify deaths before payments are made and prevent any such payments. These procedures include:

- The Fund regularly reviews its processes to minimise the risk of overpayments occurring;
- The use of Heywood's ATMOS Monthly Mortality Screening, which identifies a potential death within the month or the following month, limiting the overpayment period;
- Taking part in the National Fraud Initiative (NFI), which is an exercise that matches electronic data within and between public and private sector bodies to prevent and detect fraud;
- The Tell Us Once system is checked daily to identify deaths of any pension fund members;
- Annual proof of life exercise for overseas pensioners and dependants through Crown Agents Bank;
- The Fund investigates any returned pensioner payslips and pension payments returned by banks and building societies to ensure the welfare of the scheme member and to protect payment of the Fund's money. If a forwarding address is not found the pension is suspended pending contact by the pensioner.

Even with these checks in place notification of a death of a pensioner member of the scheme does not always happen immediately and as such it is not always possible to stop payment of the pension after a point in the payroll month.

Should an overpayment of pension occur because of the death of a pensioner member, a death grant may be payable. In such cases the overpayment of pension is deducted from the death grant.

Should an overpayment of pension occur as a result of the death of a scheme member, and no death grant is payable, the Fund will generally seek to recover overpayments that are

greater than £250.00 (gross) in value unless there are legal reasons and/or other circumstances which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part). A value of £250.00 or less in the instance of the death of a scheme member has been deemed by the Fund as uneconomical to pursue. In such circumstances, the Fund's approach will be that the sum written off is treated as a liability against the scheme member's former employer. However:

- If a dependents pension is payable, the overpayment will be recovered from that dependents pension regardless of the amount.

All correspondence regarding an overpayment will be handled sensitively in the initial stages due to the circumstances surrounding how the overpayment has occurred.

An invoice will be raised by the Fund to recover an overpayment which is greater than £250.00 upon the death of a scheme member.

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

7. Managing overpayments of children's pensions failing to cease at the appropriate time

An eligible child as defined by the LGPS Regulations 2013, is entitled to receive a pension until such a time as their circumstances change and they are no longer eligible to receive a pension from the Fund.

An eligible child is:

- a natural child born before, on or within 12 months of a member's death
- an adopted child born before or on the date of the member's death
- a step-child or a child accepted by the deceased member as a member of the family who was dependent on the member at the date of death.

A child sponsored by the member through a registered charity is not an eligible child.

An eligible child must also be:

- under age 18, or
- aged under 23 and in full-time education or vocation training, or
- under age 23 and unable to engage in gainful employment because of physical or mental impairment, or
- over age 23, unable to engage in gainful employment because of permanent physical or mental impairment and the child was dependent on the member at the date of death because of that impairment. An independent registered medical practitioner must give their opinion on whether the impairment is likely to be permanent.

In these cases the individual in receipt of the pension is responsible for informing the Fund of a change in circumstances to ensure the pension is ceased at the appropriate time, failure to do so would result in an overpayment.

A report is run annually on the pension administration system to identify individuals in receipt of a child's pension, further investigations are then carried to ensure they are still entitled to receive a pension.

Should an overpayment of pension occur because of late notification of change of circumstances, the Fund will generally seek to recover overpayments that are greater than

£250.00 (gross) in value unless there are legal reasons and/or other circumstances which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part). A value of £250.00 or less has been deemed by the Fund as uneconomical to pursue. In such circumstances, the Fund's approach will be that the sum written off is treated as a liability against the scheme member's former employer.

An invoice will be raised by the Fund to recover the overpayment which is greater than £250.00 as a result of the late notification of the change in circumstances. The invoice will be sent to the individual whose bank account the child's pension was being paid into.

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

8. Managing overpayments of pension following incorrect information supplied by the employer in respect of the scheme member

Should an overpayment of pension occur as a result of inaccurate information provided by the scheme member's employer on retirement, the Fund will generally seek to recover monies that are greater than £250.00 in value unless there are legal reasons and/or other circumstances which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part). A value of £250.00 (gross) or less has been deemed by the Fund uneconomical to pursue due to the administrative time involved.

Overpayments that are greater than £250.00 in value will be recovered through the scheme member's ongoing pension as this allows for the appropriate adjustment for tax. The pension will be reduced to the correct level for the next available monthly pension payment after a 6 week notice period. The scheme member will be notified in writing of the error and the course of action to be taken.

Where there is no ongoing pension from which to deduct the overpaid amount, an invoice will be arranged by the Fund to recover the overpayment which is greater than £250.00 in value.

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

9. Managing overpayments of pension as a result of the incorrect rate of pension paid by the Fund and the member can be said to be reasonably aware of the overpayment.

There are a number of reasons why a pension could be paid at an incorrect higher rate. The most common reasons are detailed in the table below, but it should be noted that this is not an exhaustive list.

Type of overpayment	How overpayment has occurred
Administration error upon creation of payroll record.	Incorrect (overstated) rate of pension inputted onto payroll record, but member informed in writing of the correct rate of pension to be paid.
Entitlement to pension ceasing.	Non notification that a child's pension is no longer payable as the child aged 18 or above is no longer in full time education or vocational training.

Entitlement to current rate of pension ceasing.	A Pension Sharing Order or Earmarking Order being received after the implementation date meaning that the pension has been overpaid since that implementation date.
Failure to action an alteration to the payroll record/reduction in pension.	Failing to implement the change from the higher short term dependents pension to the lower long-term rate.
Failure to action an alteration to the payroll record/reduction in pension.	Failing to implement a reduction to a pension because of National Insurance Modification (at State Pension Age for those members who both left the LGPS before 1 April 1998 and had membership before 1 April 1980).

If the scheme member has been notified of the correct rate of pension in writing and is receiving a higher amount, it can be said that the member can reasonably be aware that they are being overpaid as the scheme member has been notified of the correct rate in writing.

The Fund will therefore generally seek to recover monies that are greater than £250.00 gross in value unless there are legal reasons and/or other circumstances which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part). A value of £250.00 or less has been deemed by the Fund as uneconomical to pursue due to the administrative time involved.

The amount will be recovered from the scheme member's ongoing pension as this allows for the appropriate adjustment for tax. The pension will also be reduced to the correct level for the next available monthly pension payment after a 6 week notice period and will be notified in writing of the error and the course of action to be taken.

Where there is no ongoing pension from which to deduct the overpaid amount, an invoice will be arranged by the Fund to recover the overpayment which is greater than £250.00 in value.

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

10. Managing overpayments of pension following an incorrect rate of pension being paid by the Fund and it can be said that the member cannot have known of the overpayment

The table below illustrates how an overpayment of a member's pension can occur without the member being aware. It should be noted that the table below is not an exhaustive list.

Type of overpayment	How overpayment has occurred
Administration error upon calculation and notification of benefit entitlement (includes dependants' pensions)	Incorrect (overstated) rate of pension inputted onto payroll record and member informed in writing of the incorrect rate of pension to be paid.
Incorrect level of Guaranteed Minimum Pension (GMP) being	New information from HMRC leads to a revised rate of GMP to be used which, due

paid	to the different way cost of living increases are applied to GMP and the excess over GMP, means that, overall, a lower level of pensions increase should have been paid.
Pensions Increase	Pensions Increase inaccurately applied to the elements of a pension in payment.

In these circumstances the Fund will generally seek to recover monies that are greater than £250.00 gross in value unless there are legal reasons and/or other circumstances which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part). A value of £250.00 or less has been deemed by the Fund as uneconomical to pursue due to the administrative time involved.

The amount will be recovered from the scheme member's ongoing pension as this allows for the appropriate adjustment for tax. The pension will also be reduced to the correct level.

Where there is no ongoing pension from which to deduct the overpaid amount, an invoice will be arranged by the Fund to recover the overpayment which is greater than £250.00 in value.

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

11. Discretion to write off overpayments

For all scenarios mentioned above, the Fund can exercise discretion due to legal reasons and/or exceptional circumstances to ensure no individual is unfairly treated. If pursuing the recovery of an overpayment would cause significant distress or if there are legal reasons preventing the recovery (in whole or in part), these factors will be considered, along with the cost-effectiveness of recovery. All applications to write off an overpayment will be investigated on a case-by-case basis, with the final decision made by the appropriate officer listed in section 16, depending on the amount potentially being written off.

Gwynedd Pension Fund has discretion to write off any amount under £250.00 in line with HM Revenue and Customs authorised payments limits and the analysis of the cost effectiveness of pursuing the claim conducted by the Fund.

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

12. Recovery

The Limitation Act 1980 states that "*An action founded on simple contract shall not be brought after the expiration of six years from the date on which the cause of action accrued*". However, section 32(1) of the Act effectively 'postpones' the date by which an administering authority may make a claim to recover monies in certain circumstances. It states "*the period of limitation shall not begin to run until the plaintiff has discovered the fraud, concealment or mistake (as the case may be) or could with reasonable diligence have discovered it*". The potential effect of section 32(1) in relation to any overpayment and its recovery will be considered on a case-by-case basis.

Therefore, the Fund will generally seek to recover overpayments **that have been discovered within the last 6 years** with the relevant postponement applied if applicable in line with the Limitation Act unless there are legal reasons and/or other circumstances

which mean that the overpayment may not, in practice, be able to be recovered (in whole or in part).

It should be borne in mind that where the Fund seeks to recover overpayments, there may be arguments raised as to why the overpayment should not be recovered (in whole or in part). These will need to be considered on a case-by-case basis and, if successful, may affect the ability of the Fund to recover the overpayment (in whole or in part).

13. Length of time to recover overpayment

The Fund will allow a pension overpayment to be recovered over the same amount of time as the overpayment occurred. For example, if overpayments were made for a 3-month period, the recovery period to repay the overpayment will be 3 months. If reasonable arguments are advanced that the recovery period should be extended, the Fund can at its discretion allow an extension based on the individual's circumstances; such an extension would generally not exceed a further 50% of the period in which the overpayment occurred with scope for this period to be extended based on the scheme member's circumstances.

14. Claims of inability to repay overpayments

In cases where it is claimed that an overpayment cannot be repaid, the Council's Credit Management team on behalf of and liaising with the Fund will enter into negotiations with the scheme member/next of kin and an analysis of the cost effectiveness of pursuing the overpayment will be undertaken on a case-by-case basis. For large overpayments, where appropriate the Fund will seek legal advice in accordance with the Council's own debt recovery practice. This approach will reduce the number of Internal Dispute Resolution Procedures applications and referrals to the Pensions Ombudsman. For any cases that do reach the Pensions Ombudsman, Gwynedd Pension Fund would have demonstrated engagement and negotiation with the complainant.

15. Monitoring repayments

In cases where recovery is not being made through the payroll and an invoice has been raised, the responsibility for chasing the payment rests with the Cyngor Gwynedd's Income department. If a final reminder is issued, officers are notified and a decision is made by the Head of Finance as to whether to take legal action, taking into consideration the amount and circumstances against the potential of legal action.

If it is deemed necessary to take Legal Action, a Statement of Truth and necessary evidence of how the debt occurred will be prepared by the Pension Fund for review by Legal Services.

16. Authority to write off overpayments

In line with the Council's Scheme of Delegation and the Administering Authority's 'Pension Fund' delegated authority in respect of operational matters, the Fund will apply the following levels of authority when writing off overpayments:

Total value of overpayment	Authority to write off overpayment
No more than £250.00 (gross) on death of a pensioner or any other overpayment type	Automatic write off
Up to no more than £5,000.00 (gross)	Head of Finance
£5,001.00+ (gross)	Cyngor Gwynedd's Pension Committee

The overpayment threshold value will be adjusted each April to reflect inflation, based on the Consumer Price Index (CPI) from the previous September.

17. Reporting to the HM Revenue and Customs and effects on the Fund and individual

Administering authorities are obliged to correct any error they discover within a reasonable period of time. To do otherwise would render payments unauthorised under Section 14 of the Registered Pension Scheme (Authorised Payments) Regulations 2009. The HM Revenue and Customs have a clear steer with regards to timing, in so much that "*When a scheme discovers an overpayment it immediately becomes unauthorised and is subject to an unauthorised tax charge*".

Regulation 13 says that a payment made in error will be an unauthorised payment if the:

- Payment was genuinely intended to represent the pension payable to the person;
- Administering authority believed the recipient was entitled to the payment and;
- Administering authority believed the recipient was entitled to the amount of pension that was paid in error.

In addition to the above, there is a further exemption where the overpayment is a 'genuine error' and the aggregate overpayment (paid after 5th April 2006) is less than £250.00. In such circumstances, if the overpayment is not recovered it remains an unauthorised payment but it does not have to be reported to HM Revenue and Customs and HM Revenue and Customs will not seek to collect tax charges on it.

The Finance Act 2004 also sets out a list of the payments which a registered pension scheme is authorised to make to members. Payments which do not fall within the list will become unauthorised payments and could result in up to three tax charges applying:

- 1) an authorised payments charge on the recipient of the payment;
- 2) an unauthorised payments surcharge on that recipient; and
- 3) a scheme sanction charge on the scheme.

Payments made in the period between notifying the member of an overpayment and the point at which the correction to the right level of pension is made will be regarded under the above legislation as an unauthorised payment. If the total amount of pension paid at the incorrect rate from point of notification to date of reduction to the correct rate is greater than £250.00 (gross) it would be subject to tax charges 1) and 3) and possibly 2 as set out above.

18. Prevention

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

The National Fraud Initiative is conducted every two years; it compares files of pensioners with the Department for Work and Pensions database of the deceased and highlights matches for investigation. Gwynedd Pension Fund actively participates in this initiative.

Gwynedd Pension Fund participates in overseas life existence checks to ensure only legitimate pensions are being paid and to reduce the likelihood of fraudulent activity.

Mortality screening checks are carried out on a monthly basis through Atmos.

Monthly notifications are received from the DWP 'Tell us Once service', a service that allows individuals to easily inform multiple public departments that someone has died.

A report is run periodically on the pension administration system to identify individuals in receipt of a child's pension, further investigations are then carried out for children that are identified as over the age of 18 to ensure they are still entitled to receive a pension.

Gwynedd Pension Fund includes reminders in its correspondence that the Fund must be advised of changes in circumstances or the death of a scheme member. The Fund also investigates any returned pensioner payslips and pension payments returned by banks and building societies to ensure the welfare of the scheme member and to protect payment of the Fund's money.

Fund officers have a robust system in place for identifying changes to the payroll that need to be processed for a particular payroll month. The process incorporates payroll deadlines and ensures changes are made in a correct and timely manner. This would be in circumstances such as a change from a short-term dependant's pension to a long-term pension.

Contacts

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