



**LOCAL PENSION BOARD**

**18 SEPTEMBER 2017**

**REPORT OF THE DIRECTOR OF CORPORATE RESOURCES**

**CHILDREN'S PENSIONS AND PAYMENT OF DEATH GRANTS**

**Purpose of the Report**

1. The purpose of this report is to inform the Board about how the Pension Section manages the payment of children's pensions and death grants.

**Background**

2. The Local Government Pension Scheme provides pension benefits for eligible children should either of their parents die whilst a member of the Local Government Pension Scheme.
3. Children's annual pensions are usually paid until age 18, or age 23 if the child remains in full time education at which point the payments cease.
4. As far as the death grants are concerned the Local Government Pension Scheme Regulations provide absolute discretion for Leicestershire County Council (as the Pension Scheme Administrator), to pay the death grant to or for the benefit of the deceased member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.
5. Parents are able to nominate their children for a proportion of the death grant which is a one off payment paid when the parent dies.

**Process**

6. For payment of the death grant, the Pension Section has always tried to protect the children's future by asking their guardian, which is often the surviving parent, to set up a child's pension trust fund for them. This is a secure account that only the child can access when they reach age 18.
7. Recently however, there has been a national change to children's bank accounts and secure trust funds are no longer available. Since the change the person setting up the account can access the money themselves without the child's knowledge and/or agreement. This has added a potential risk, in that a

potentially unscrupulous person could use the money for their own means without the child's knowledge. This has generated a small number of issues between extended families where there is an element of distrust with the person setting up the account.

8. Children's ISA are available but these limit the annual amount paid in to only £4,000 and regularly the death grant alone exceeds this value, meaning these accounts are not suitable.
9. For the majority of cases there is no dispute and the Pension Section will make payment of the death grant to the surviving parent. However in rare cases where there is a dispute, the Pension Section will follow the process detailed in point 13 to ensure the money is paid correctly to a legal guardian.

### **Appointment of Guardian**

10. There are essentially three ways which a guardian (under Section 5 of the Children Act 1989) can be appointed;
  - By a parent who has parental responsibility for the child\*, or
  - By someone who is already a Special Guardian or guardian of that child\*, or
  - By an order of the Family Court

\* Appointments are made in writing, generally through a specific clause in a Will or via a separate document signed and dated by the person making the appointment.

11. The appointment does not take effect whilst a surviving parent who has parental responsibility for the child is still alive, unless the parent with parental responsibility who dies has a Child Arrangement Order (CAO) in their favour, if so, the appointment of the guardian will take with immediate effect, even if the surviving parent with parental responsibility objects.
12. If there are objections within the children's family to the appointment of a guardian, providing that the appointment was made in writing and there are no surviving parents whose own parental responsibility prevents the commencement of the appointment, then those persons objecting to the guardian have no legal rights to prevent the guardian from exercising his or her powers unless they are successful in persuading a court to make an order bringing the appointment to an end. Any person who has parental responsibility for the child has an automatic right to make an application to the Courts for such an order, as do the children concerned themselves. A parent who does not have parental responsibility (e.g. step parent, grandparent etc) would have to get the permission of the court first.
13. It is extremely important the Pension Section is satisfied that somebody who is claiming to be a guardian is in fact properly and legally appointed to that position and therefore the Director of Finance has agreed with the Pensions

Manager, for the rare cases that are disputed, the process the Pension Section will follow is as follows;

- A) The legal guardian will produce a copy of the document/court order confirming their appointment.
  - B) The legal guardian will be asked to sign a declaration to confirm;
    - They will set up an account in the name of the child,
    - The money will be used in the best interest of the child.
14. If the legal guardian signs the declaration the Pension Section will pay the money to the account that has been opened by the legal guardian. If the legal guardian refuses to sign the declaration the Pension Section will reconsider on a case by case basis.
15. The measures are designed to protect the child's best interest and demonstrate that the Pension Section has followed an agreed process should it be challenged by other family members.

#### **Recommendation**

16. It is recommended that the Board notes the report.

#### **Equality and Human Rights Implications**

None specific

#### **Officers to Contact**

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