



## **The Surrey Local Pension Board 13<sup>th</sup> February 2020**

### **Review of Internal Dispute Resolution cases in 2019/20 (Quarter Three)**

#### **Recommendation**

1. The Board is asked to note the content of this report.

#### **Detail:**

#### **Introduction**

2. Pursuant to the Local Government Pension Scheme (LGPS) Regulations 2013 (the Regulations) each scheme employer and administering authority must appoint an adjudicator to consider applications regarding the first instance decisions made by the scheme employer or where relevant the administering authority.
3. Under the Scheme of Delegation relating to section 106 agreements, the following officers are nominated to hear stage one and stage two Internal Dispute Resolution (IDRP) appeals:
  - The Acting Section 151 Officer.
  - The Director of Legal and Democratic Services.
  - The Director of People and Development.
  - The Head of Pensions (Pension Fund and Treasury).

#### **Summary of the appeals in 2019/20 (quarter three)**

#### **Stage 1 - not determined**

- 1) A member asked for their deferred pension to be put into put into payment on the grounds of permanent ill-health; however, it has become an IDRP because the employer does not appear to have obtained a certificate from an independent registered medical practitioner nor made a decision, albeit that the employer cannot make a decision until they have obtained a certificate.

### **Stage 1 – determined**

- 2) An appeal concerning a transfer was dismissed for being out of time.
- 3) A member who had opted-out of the pension scheme asked for their pension to be put into payment, even though they were ineligible to draw it because they were still employed in the same job. It was put into payment in error and the member argued that that the consequent overpayment could not be recovered by reason of estoppel and a change of position. However, the adjudicator determined that the Pension Fund was obliged to try to recover the overpayment although the member may have a partial defence as a result of a change of position.
- 4) The adjudicator referred an appeal against a tier 2 ill-health award back to the former employer and asked them to reconsider the award in the light of additional evidence that was available at the time and to obtain a further medical certificate from an independent registered medical practitioner.
- 5) A member was overpaid as a result of a delay in applying their guaranteed minimum pension. The adjudicator determined that the overpayment should be written off as it was broadly equivalent to the amount she would be awarded for inconvenience and distress as a result of the error.
- 6) A pensioner member was advised that their tier 3 ill-health pension had been overpaid because (1) they had undertaken temporary employment and (2) they had not undergone an 18-month ill-health review. The adjudicator decided that the part-time employment did not constitute “gainful employment” and as the 18-month ill-health is the employer’s responsibility, it should be carried out as soon as possible and the member’s pension should only be adjusted from the date of the consequent determination.

### **Stage 2 - determined**

- 7) An employing authority mishandled an ill-health IDRPs and it was moved directly to stage 2. The adjudicator agreed with the employer’s determination that the member’s deferred benefit should be put into payment on the grounds of ill-health; however, as the decision was concerned the 1997 regulations, payment could only be backdated to the date that the member applied for payment.

### **Pensions Ombudsman case**

- 8) A member appealed a decision concerning a transfer to the Pensions Ombudsman. The Pension Fund felt that a payment of £500 for inconvenience and distress was appropriate; however, the Pension Ombudsman suggested that he would close the case without a formal determination if we offered £1,000. The Pension Fund took the pragmatic decision to offer £1,000 in full and final settlement.

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**Sources/background papers:** The LGPS Regulations 2013