

# North Yorkshire County Council

## Pension Fund Committee

5 March 2021

### Death Benefit – Mr A

#### 1.0 Purpose of the Report

- 1.1 To provide Members with further information relating to the death of Mr A on 5 May 2020 in order that a decision can be made as to the beneficiary of the death grant now payable.

#### 2.0 Background

- 2.1 It is an administering authority discretion under the regulations to decide to whom death grants are paid. The discretion wording was updated in September 2020 following review by the Fund's legal adviser and is shown below:

*"In assessing who should receive any death grant, the administering authority will make reasonable efforts to identify potential beneficiaries and to gather relevant information. Potential beneficiaries can be a member's nominees, personal representatives, relatives or dependants.*

*The administering authority will take into account all information that it receives in making a decision, but most importance will be attached to the member's nomination where one exists. The administering authority will however not always follow the nomination. In particular (but without limitation), the administering authority may decide to award the death grant to someone else where the member's circumstances have materially changed after the nomination was made, or where there are other factors which (in the view of the administering authority) indicate that this would not be appropriate.*

*Where necessary, cases will be referred to the Pension Fund Committee for a decision."*

- 2.2 It is standard practice for the NYPF to pay death benefits in accordance with the Nomination Form completed by the member. In this particular case, we believe, having reviewed the information provided by various family members and the widow, there are other factors that should be considered before making payment of the death grant.
- 2.3 As instructed by the Committee in the September 2020 meeting further guidance was sought from the Fund's legal adviser. The advice received re-iterated that under Regulation 40, the administering authority has absolute discretion in deciding whom (from the member's nominee, personal representatives, relatives or dependents) should be paid a death grant.
- 2.4 The legal advice also recommended we seek further clarity regarding the issue of the Will being contested and the claim the widow had signed over the death grant rights to the youngest son. That clarity has now been received from both parties.

### 3.0 Personal Information

#### 3.1. In summary:

- Mr A died on 5 May 2020.
- The member was married at the time of his death and his widow is nominated to receive 100% of the death grant.
  - Date of marriage was 12 May 2018.
  - Nomination was made on 30 May 2018.
- There is a Will naming his widow as sole beneficiary.
  - Date of Will was 11 June 2018.
- The member has three children from his previous marriage aged 20, 19 and 15.
  - The divorce was finalised in April 2018.
  - They had been married for 19 years.
  - All three children are from this marriage.
- There is a death grant payable of £85,236.24.
  - Widow's pension of £7,680 pa is already in payment and is payable for the rest of her life.
  - Three children's pensions of £2,560 pa each are already in payment. These are payable until age 18 or 23 if the child remains in full time education. One was stopped on 1 November 2020, the other two remain in payment.
- The widow has paid the funeral expenses and we have had sight of the receipt.

#### 3.2. Further information provided:

- Letter received from the widow's solicitors in response to our enquiry, attached as **Appendix 1**.
- It was previously understood the Will was being contested by the ex-wife due to the lack of financial provision for the children. There has been no claim made against the estate as detailed in the enclosed letter (point 4).
- This letter confirms the deceased was making maintenance payments of £300 per month for the youngest child (point 2).
- The letter advises that there was a life insurance policy in place which is deemed to provide benefit to the children (point 5).
- The inquest has now been concluded and the cause of death has been confirmed as suicide. This confirms there has been no third party involvement in the death.
- Letter exchanged between the solicitors, attached as **Appendix 2**, regarding the provision for the youngest son. This may have led to the inappropriate wording being given to us previously about the death grant being 'signed over' by the widow. Clearly this is not the case (point 5). This wording relates to the child's pension already in payment.
- This letter responds to the allegations the Will was not drawn up correctly and the deceased did not have capacity to sign it (letter from witnesses to the Will and doctor's letter).
- The ex-wife and her solicitor have emailed separately requesting the Committee consider sharing the death grant payment such that the three children from his previous marriage can benefit from it equally, attached as **Appendix 3**.

### 4.0 Recommendations

- #### 4.1. Members to confirm to whom the death grant should be paid. This could be a single or multiple beneficiaries or to the Estate.

Gary Fielding  
Treasurer of North Yorkshire Pension Fund  
NYCC  
County Hall  
Northallerton  
25 February 2021