pensions@hackney

lgps

LONDON BOROUGH OF HACKNEY PENSION FUND

Death Grant Policy 2026

Approval date – 30 March 2026
Version 1

London Borough of Hackney Pension Fund - Death Grant Policy

Local Government Pension Scheme: Policy on the exercising of discretionary powers in relation to the payment of death grants

Objectives of this policy

1. To ensure that The London Borough of Hackney ("LBH") exercises its discretion over who should receive a death grant in a way that is compliant with the Local Government Pension Scheme ("LGPS") Regulations, in accordance with acknowledged best practice and consistent with precedence established by The Pensions Ombudsman.
2. To ensure that the death benefit process is fair and transparent for all potential death grant recipients.
3. To provide a robust process that mitigates the risks of successful appeals under the Internal Dispute Resolution Procedure.

Background

Payment of death grants under the LGPS is discretionary which means that when paid to an individual beneficiary they will not form part of the deceased's estate and so will not be subject to inheritance tax. Death grants can also paid free of other taxes in most circumstances

The LGPS Regulations 2013 permit payment of death grants to beneficiaries following the death of an active, deferred and pensioner member. In all cases the definition of who receives the death grant is the same;

> *The appropriate administering authority may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependent of the member.*

Eligibility for a death grant

LBH may, at its absolute discretion, pay the death grant to or for the benefit of the member's nominee, personal representatives or any person appearing to the authority to have been a relative or dependant of the member.

This means there are three categories of potential beneficiary;

1. A member's nominee or personal representative, in which case there is no need to establish any dependency.
2. A relative by blood or marriage/civil partnership, in which case there is no need to establish dependency.

3. Any other person, in which case dependency on the member at the point of death must be established.

General Principles
The key phrase is "absolute discretion". While the administering authority should seek to establish the views of the deceased member and may consider the views of other relevant parties in reaching its decision, they are not bound by anyone else's will and the sole responsibility of the decision lies with the administering authority.

There are well established principles that public bodies should follow when exercising a discretion[1]. These are summarised below;

- In making a decision, the decision maker must ask themselves and others the correct questions and direct themselves correctly in law (in particular, they must adopt a correct construction of the relevant regulations).
- It is for the decision maker to decide how much weight to attach to any piece of evidence. The only requirement is that the evidence is considered, and the decision maker takes account of all relevant matters and disregards any irrelevant matters.
- The decision maker must not arrive at a perverse decision, i.e. a decision which no reasonable person, properly directing themselves, could arrive at in the circumstances.

Experience of Pensions Ombudsman decisions underlines these principles. It is possible for reasonable people, faced with identical circumstances, to reach different decisions about the payment of a death grant. The Pensions Ombudsman will not overturn or second guess a decision where it can be evidenced that the above principles have been properly applied.

The decision-making process
In reaching a decision LBH operates a process based on the following principles;

Gathering the relevant information
An information gathering exercise will be carried out. This involves contacting the next of kin, personal representatives and/or family and friends of the deceased to obtain relevant documentation and information. On occasion legal advice may also be sought.

Identifying all possible beneficiaries
Using the information obtained, the full list of individuals with a beneficial claim to a death grant will be established.

Considering all relevant factors and disregarding irrelevant factors
There are a number of factors to consider in deciding who should receive a death grant, some will be relevant, and some will need to be disregarded as irrelevant. LBH has the absolute discretion to attach whatever weight to a factor as it chooses, nor is it bound by any single factor.

The LBH process requires a note to be made of each factor, whether that factor has been considered or disregarded, the reasons why and the extent to which any factor has been relied upon.

[1] Associated Provincial Picture Houses Ltd v Wednesbury Corporation (1948)

Reach a reasonable decision
In making a final determination LBH will start from the position that the member's wishes, where they can be identified, should be upheld. However, this will not always be the case and there may, on occasion, be sufficient reason for the death grant to not be distributed in accordance with the member's wishes.

Where it exists, one of the prime factors in determining who should receive a death grant will be an Expression of Wish Form, completed by the member.

The presence of an Expression of Wish Form is not definitive. It is merely one piece of evidence to be considered alongside others.

Appendix 1: Summary of the process

Determination of Beneficiary

1. Payment of the death grant will be made to or for the benefit of a member's nominee(s), personal representatives or any person or persons appearing to the authority to have been a relative or dependent of the member. The decision will take account of all the relevant circumstances of a particular case, including the following scenarios which will be considered in the following order: -

    - There is a clear, effective, and valid nomination in respect of the death grant by the Scheme member;
    - A dependant's pension is payable;
    - There are other dependants (e.g. a cohabiting partner who was not able to marry so does not meet the criteria for a survivor pension);
    - There are children;
    - There are other relatives- parents followed by siblings;
    - There is a personal representative who has legal authority to administer the Estate;
    - There are no valid beneficiaries and payment is to be made to the Duchy of Lancaster

In all cases the payment of the death grant will be made at the absolute discretion of the London Borough of Hackney as the administering authority.

Delegation

2. The powers to decide who is to receive payment of death grants under the Local Government Pension Scheme Regulations shall be delegated to any two of the following:

    - Pensions Manager
    - Assistant Director, Pension Fund Investments & Administration
    - Director, Financial Management
    - Group Director, Finance and Corporate Resources

A quorum of two of the officers is required for a decision to be made (unless paragraph 3 applies in which case it is delegated to the relevant individual at Local Pensions Partnership Administration Ltd).

3. Where the death grant does not exceed £100,000 and there are no competing death grant claims, and:

    - there is a valid nomination held on record with no evidence which may undermine that nomination (for example, a change in partnership status since the nomination was made); or
    - where there is a dependant's pension; or
    - there are children (satisfying the definition of a child under the LGPS regulations)

responsibility will be further delegated to the Operations Director of Local Pensions Partnership Administration Ltd.

Payment made under the Administration of Estates (Small Payments) Act

4. Where a pension scheme member dies and payments due from the Pension Fund do not exceed the Administration of Estates (Small Payments) Act the same process is followed as set out above.