Letter to accompany Family Law Statement – Staff other than teachers (not for members of SPSPS)

Date

Dear Member

I refer to your query regarding entitlements under the **Education Sector Superannuation Scheme 2015 (Pensions Authority Registered No.250975)** for Family Law purposes.

**The Education Sector Superannuation Scheme 2015** is a non-funded scheme; therefore a Trust Deed does not exist. For the purposes of the Family Law and other legislation, the officials who administer the scheme are deemed to be the Trustees.

The award of pensions and other superannuation benefits in respect of the **Education Sector Superannuation Scheme 2015** is governed by statutory superannuation schemes made under the relevant Act. Various amending schemes have been made over the years and a number of approved changes are being implemented administratively pending their incorporation into further amending schemes for approval by the Oireachtas. These superannuation provisions are of general application and departure from them in individual cases is not permissible.

The superannuation is governed by: **The Education Sector Superannuation Scheme 2015.**

**Pension Adjustment Orders (PAOs) for retirement benefit**

Pension Adjustment Orders (PAOs) for retirement benefit may be made under the **Education Sector Superannuation Scheme 2015 (Main Scheme)** in relation to retirement benefits which govern the member’s **pension** and the member’s **gratuity** on retirement.

The **Education Sector Superannuation Scheme 2015 (Survivors’ & Children’s scheme)** also governsthe **Survivors’ & Children’s benefit** which becomes payable on death of the member after retirement.

**Pension Adjustment Orders for contingent benefits.**

In this regard the **Education Sector Superannuation Scheme 2015 (Main Scheme)** governs the death gratuity, **contingent benefit** **main benefit** where the member dies in service. The **Education Sector Superannuation Scheme 2015 (Survivors’ & Children’s scheme)** also governsthe **contingent benefit** **Survivors’ & Children’s** that becomes payable where the member dies in service.

It is important that any Pensions Adjustment Order specify the scheme and whether it is contingent benefit or retirement benefit or both that the Order covers.

Under the **Education Sector Superannuation Scheme 2015 (Main Scheme)** a death gratuity is payable following the death of the member while in service, to the legal personal representative of the member on production of original Probate of Will or should the member die intestate, on production of original Letters of Administration.

Under the **Education Sector Superannuation Scheme 2015 (Survivors’ & Children’s scheme)**, the **Survivors’& Children‘s contingent benefit,** the rules of the scheme state that should a member predecease the spouse/civil partner, the legal spouse/civil partner is then entitled to a Survivor’s pension. The method of calculation of the Survivor’s pension is set out in the attached form.

Under this scheme a Survivors’ pension will not be payable if the spouse/civil partner has remarried or is cohabiting.

It should be noted that a PAO for contingent benefit will lapse on the re-marriage of the non-member Survivor or death of the non-member Survivor or other person in whose favour it was made. Cover for Contingent Benefit ceases on resignation or retirement of the scheme member.

A pension may also be payable to any eligible children under this scheme. Please note that the children’s pension will be paid to the carer in the event of the member’s death, for the sole purpose of the child.

It is not open for the ETB to depart from the rules of the Scheme without instruction by way of a Court Order, which could for example apportion part of the member’s pension to a Survivor/Civil partner or a dependent member of the family.

The Family Law Act 1995 and the Family Law (Divorce) Act 1996 addresses the issue of judicial separation and divorce. The Pensions Authority provides detailed guidelines in respect of these Acts. Copies can be obtained from The Pensions Authority, Verschoyle House, 28/30, Lower Mount Street, Dublin 2 – Phone: 1890 656565 E-Mail: [info@pensionsauthority.ie](mailto:info@pensionsauthority.ie), web: www.pensionsauthority.ie.

The ETB is happy to forward pension information in accordance with the legislation and guidelines consistent with the current Pensions Authority Guidelines - A brief Guide to the Pensions provisions of the Family Law Act - on request.

Page 12 of the Pensions Authority Guidelines states:

*The person applying for the order(s) must give notice to the pension scheme* ***trustees****. In deciding whether to make an order, and in determining the provisions of the order, the Court will have regard to any representations made by the* ***trustees****. The* ***trustees*** *should, where reasonably possible, co-operate with the parties in endeavouring to facilitate the making of a pension adjustment order on a consensual basis in order to minimise the costs of court appearances. The Court must also decide whether adequate and reasonable financial provision already exists for the dependent family (or can be made by any of the other orders that are available under the legislation).*

Attached is a statement of superannuation entitlements which satisfies all the requirements under the Family Law legislation, as requested. The information contained in the statement is in accordance with the rules of the **Education Sector Superannuation Scheme 2015** applying at the date of issue.

It is important to note that where a divorce takes place, benefits are no longer payable to the non-member spouse/civil partner unless by way of a Pensions Adjustment Order (PAO). The onus is on the parties concerned to inform the Trustees of the existence of a PAO and to submit the PAO to the Trustees.

**Trustees should be notified as early as possible but in any event no later than 10 days in advance of a Court hearing if it is intended to seek a PAO or if any Financial Orders are being sought. If Orders are obtained without the due statutory notice to Trustees, the Trustees cannot accept such Orders. In any event, in the case of judicial separation or a divorce being granted, (even where a PAO does not exist) the Trustees should be advised.**

Member specific information will not be given to the non-member spouse/civil partner without the consent of the member or on foot of a valid Court Order. In the interest of settling the pensions’ aspects of the case as easily and as quickly as possible, the member may wish to give their consent to send this information to the non-member spouse/civil partner, in the event of such information being requested. If so, please forward the members consent in writing to the ETB.

Enclosed please find model Pensions Adjustment Order (PAO) and guidelines. The model Order and guidelines are not legal documents and are for guidance only. They are not comprehensive documents and any decision on whether or not to seek a PAO or on which benefits to split, are a matter for the parties concerned.

The trustees will comment on draft PAOs received within timescales outlined above and give estimates on the benefits they would produce.

If you have any queries on the above do not hesitate to contact me.

Yours sincerely

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<Insert Name>

Human Resources

Phone:

E-mail: