



Buckinghamshire & Milton Keynes Fire Authority

MEETING	Executive Committee
DATE OF MEETING	22 November 2017
OFFICER	Lynne Swift, Director of People & Organisational Development
LEAD MEMBER	Councillor Steven Lambert
SUBJECT OF THE REPORT	Voluntary Scheme Pays in the Firefighters' Pension Schemes
EXECUTIVE SUMMARY	<p>This report sets out a recommendation for Authority approval to introduce a Voluntary Scheme Pays arrangement for the Firefighter Pension Schemes.</p> <p>Each taxpayer has an Annual Allowance (AA) allocated to their pension pot without incurring liability to tax. Tax is usually paid if savings in the pot in a particular year go above the AA, which is currently £40,000 per annum (where the member's annual 'adjusted income' is less than £150,000).</p> <p>'Scheme Pays' is a process that allows the tax charge to be paid by the pension Scheme Administrator (the Authority) on a Scheme member's behalf. This is in exchange for a reduction in the Scheme member's pension benefits.</p> <p>There are two types of Scheme pays: Mandatory and Voluntary.</p> <p>Mandatory Scheme Pays (MSP): the option available to the Scheme member, which is already in place, is to pay an individual's AA charge in exchange for a reduction in benefits, if a Scheme member has made the request and:</p> <ul style="list-style-type: none"> • Pension savings growth in the Scheme exceeds the HMRC standard AA limit during the tax year; and • An AA tax charge exceeding £2,000 has been triggered <p>Voluntary Scheme Pays (VSP): Due to the introduction of the 2015 Firefighters' Pension Scheme and changes to tax rules on tapered AA, some Scheme members are no longer meeting the conditions for MSP. However additional tax charges could be covered by a VSP arrangement.</p> <p>Changes to the tax rules now means that Scheme members with an annual 'adjusted income' over</p>

	<p>£150,000 are subject to a tapered AA, reducing to a minimum of £10,000.</p> <p>Scheme members subject to tapered AA will incur an AA tax charge where their pension growth exceeds their tapered AA. Furthermore, Scheme members who built up pension benefits in more than one Scheme (members of the 1992 or 2006 Scheme who transition into the 2015 Scheme), will have pension benefits grow in both Schemes until retirement. By virtue of accruing pension growth across two rather than one Scheme, there is an increased likelihood that although a Scheme member's total annual pension growth across both Schemes may exceed £40,000, the pension growth in any one of the Schemes may fall short of the HMRC AA limit. As such, they will not be eligible to use MSP to pay the AA tax charge.</p> <p>To operate VSP there are two different steps:</p> <ol style="list-style-type: none"> 1. The Authority must make a decision to pay the AA charge on behalf of the Scheme member to HMRC. 2. The Scheme member's benefit must be adjusted to reflect the payment made in respect of the excess over the AA. <p>There is no express legislation in the Firefighters' Pension Scheme rules on VSP, and until legislation is amended, the Authority needs to consider its approach to offering VSP to Scheme members meeting the relevant criteria.</p>
<p>ACTION</p>	<p>Decision.</p>
<p>RECOMMENDATIONS</p>	<p>It is recommended that:</p> <ol style="list-style-type: none"> 1. the operation of Voluntary Scheme Pays for all eligible Scheme members when the tax charge in a particular year is in excess of £2,000 be approved; and 2. it be noted that the Scheme members' benefits will be adjusted to reflect the payment made by the Authority under Voluntary Scheme Pays.
<p>RISK MANAGEMENT</p>	<p>Regulations: At their meeting on 6 March 2017, the Firefighters' Scheme Advisory Board considered and agreed an initial proposal from the Home Office to amend the Firefighter Pension Regulations to allow the charge to be met in the following circumstances:</p> <ul style="list-style-type: none"> • Transitional members with pension growth of over £40,000 across both Schemes (HMRC AA limit) and a corresponding tax charge, to use the Scheme to pay this cost initially, before it is repaid by a pension debit added to the Scheme member's pension when it comes into payment

- Scheme members subject to a tapered AA to use the Scheme to pay their charge initially and have this repaid via a pension debit.

Any changes would be introduced via an amendment to the Pension Regulations. As legislative amendments take time an amendment will not be introduced in the short term, and unless or until new legislation is introduced it is for the Authority to consider its approach to offering VSP in particular circumstances, i.e. those transitioning into the 2015 Scheme or those affected by tapered AA, ensuring that what is done is both lawful and appropriate.

With regards to the initial contribution of £2,000 for tapered Scheme members, it is recommended this Home Office proposal as detailed in Appendix 1 is noted but not adopted unless formally done so through amendments to the Regulations. This is to mitigate any risk of it not being formally adopted and the implications arising from this should the Authority adopt it during this interim stage. In addition, it is not entirely clear how this proposed arrangement would operate, there is also uncertainty of how/when the contribution would be paid by the Scheme member.

Reasonableness: In examining the test of reasonableness, the two circumstances proposed by the Home Office and agreed by the Scheme Advisory Board to be considered are:

- Transitional Scheme members with service in one of the 1992 or 2006 Schemes and the 2015 Scheme are able to access the VSP in the same way that a protected 1992 or 2006 Scheme member or a member with service only in the 2015 Scheme can do through MSP (there is no choice to transitioning into the 2015 Scheme which means tax charges are not covered under MSP arrangements as it would have been previously)
- Scheme members with a tapered AA are able to use a VSP arrangement to pay a tax charge in circumstances where the pension growth in one Scheme is less than the £40,000 standard AA limit, however more than their own tapered AA limit

Consistency: To ensure consistency and fairness, it is proposed that VSP is not triggered unless the tax charge exceeds £2,000 (in either Scheme); a charge below this sum therefore requiring the individual to liaise directly with HMRC to pay the charge. This would mirror the current arrangement under MSP and would mean transitional Scheme members are able to use a VSP arrangement to have an AA tax charge paid rather than having to pay a tax charge on a yearly

	basis directly with HMRC.
FINANCIAL IMPLICATIONS	There are no immediate financial implications to the Authority adopting VSP. The Home Office has advised that if an Authority determines VSP is to be used, the cost would be met from the Pension Scheme Account not by the Authority.
LEGAL IMPLICATIONS	<p>There is currently no express statutory power to authorise 'Voluntary Scheme Pays'. The Authority can rely upon its general powers under Section 5A of the Fire and Rescue Services Act 2004. The Section 5A power would not permit the Authority to amend the terms of the Firefighters' Pension Schemes or to make them more generous to firefighters than the statutory Schemes provide. However, the decision to pay the tax on behalf of the firefighter on the excess over an AA is not a decision to make special pension provision for the firefighter. It would be a form of an employment benefit, not an alteration to the pension entitlements.</p> <p>If the Authority were to agree to the recommendations it is likely to be within the boundaries of the Authority's power under Section 5A to do what it, reasonably, thinks is best for the carrying on of its functions. It is important that the Authority takes into account its own wider interests in agreeing to the recommendations.</p> <p>The Authority as 'Scheme Administrator' has an express power under Rule 2, paragraph 2 of the Modification of Scheme Regulations SI 2011/1791 to allow for an adjustment to be made to the pension.</p>
CONSISTENCY WITH THE PRINCIPLES OF COLLABORATION	The Authority continues to collaborate with neighbouring Fire and Rescue Authorities (FRAs) on pension related matters. Recommendations within this report have been made in collaboration with other FRAs as advised by representatives from the Local Government Association in collaboration with the Scheme Advisory Board.
HEALTH AND SAFETY	There are no health and safety implications arising from this report.
EQUALITY AND DIVERSITY	<p>The recommendation to approve VSP ensures parity with the current MSP arrangement:</p> <ul style="list-style-type: none"> • Transitional Scheme members with service in the 1992 or 2006 Scheme and then the 2015 Scheme will be able to access VSP in the same way that a protected 1992 or 2006 Scheme member or a member with service only in the 2015 Scheme can do through MSP. A Scheme member has no choice of transitioning into the 2015 Scheme; a tax charge cannot be covered under MSP

	<p>arrangements as it would have otherwise been in the 1992 or 2006 Scheme.</p> <ul style="list-style-type: none"> • By not having VSP triggered unless a tax charge exceeds £2,000, this will help to ensure consistency and fairness to the current arrangement under MSP.
<p>USE OF RESOURCES</p>	<p>Communication with stakeholders: Stakeholder communication will remain a significant element of the successful implementation of the Firefighters' Pension Schemes. Communication to the relevant stakeholders will be via the normal process.</p> <p>The system of internal control: Regular reports will be provided to the Strategic Management Board, Executive Committee and Fire Authority as necessary. In addition, the Local Pension Board have a statutory responsibility to oversee the governance of the Firefighters' Pension Schemes.</p> <p>Any legislation or Pension Regulation changes that directly affect how the Scheme is managed will be addressed, with the impact on the Authority raised with the appropriate Committee.</p>
<p>PROVENANCE SECTION & BACKGROUND PAPERS</p>	<p>Background</p> <p>The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011. No.1791 Regulation 2 http://www.legislation.gov.uk/uksi/2011/1791/contents/made</p> <p>Explanatory Memorandum to The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011. No.1791 Regulation http://www.legislation.gov.uk/uksi/2011/1791/pdfs/uksiem_20111791_en.pdf</p>
<p>APPENDICES</p>	<p>Appendix 1 – Local Government Association, Voluntary Scheme Pays in the Firefighters' Pension Schemes</p>
<p>TIME REQUIRED</p>	<p>10 minutes.</p>
<p>REPORT ORIGINATOR AND CONTACT</p>	<p>Faye Mansfield – HR Services & Development Manager fmansfield@bucksfire.gov.uk 01296 744623</p>