

WIRRAL COUNCIL

PENSIONS COMMITTEE

16 JULY 2019

SUBJECT:	REVIEW OF SCHEME PAYS POLICY
WARD/S AFFECTED:	NONE
REPORT OF:	DIRECTOR OF PENSIONS
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 This report reviews Merseyside Pension Fund's current policy decision, which was recommended to the Pensions Committee at its meeting on 22 January 2018 (minute 58 refers), to not operate "Voluntary Scheme Pays" for scheme members who breach HMRC's Annual Allowance limit for pension saving growth.
- 1.2 Following a challenge to that recommendation and a survey of other LGPS Funds in regard to their approach to Scheme Pays, it is now recommended that the decision is revised to allow scheme members the opportunity to elect for the Fund to pay their tax charge under 'Voluntary Scheme Pays' in respect of their pension growth from tax year 2018/19.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 Members have previously been informed that HM Revenue and Customs impose limits on the amount of pension savings members of the LGPS can make without having to pay additional tax. One of these limits is known as the Annual Allowance (AA) which is currently set at £40,000.
- 2.2 From tax year 2016/17, the AA was reduced for members with an income in excess of £150,000 per annum, known as the 'tapered annual allowance'. This can have the effect of potentially reducing a member's standard AA from £40,000 to £10,000.

- 2.3 Members are most likely to exceed the Standard or Tapered AA limits if they receive high levels of income, obtain a significant pay rise, or pay sizeable additional voluntary contributions.
- 2.4 In the interest of brevity, a detailed explanation of the AA limits together with the associated impact on pension growth and administrative processes can be accessed from previous committee papers found here:

22 January 2018

<http://s03vs-intrcm.core.wcent.wirral.gov.uk/documents/s50047085/Report.pdf>

20 November 2012

<http://s03vs-intrcm.core.wcent.wirral.gov.uk/documents/s50007816/Report.pdf>

MANDATORY SCHEME PAYS

- 2.5 Where a member's pension growth exceeds the standard AA resulting in a tax charge greater than £2,000 and the relevant deadline for making an election has been met, the member has a mandatory right under Section 237B of the Finance Act 2004 to ask the fund to pay the tax charge.

This is known as Mandatory Scheme Pays and requires the Pension Fund to pay the tax charge and to then reduce future benefits in accordance with guidance issued by the Secretary of State.

VOLUNTARY SCHEME PAYS

- 2.6 In circumstances where the mandatory conditions are not met, the administering authority has a general power of competence under the Localism Act 2011 to extend the scheme pays facility; specifically where the tax charge stems from the tapered AA or where the statutory deadline for making an election is missed. This is known as voluntary scheme pays.

SYNOPSIS OF RECOMMENDATION FOR APPROVAL BY PENSIONS COMMITTEE ON 22 JANUARY 2018 (MINUTE 58)

- 2.7 The recommendation to only offer Mandatory Scheme pays was made on the basis that the operation of voluntary scheme pays is a non-statutory requirement utilising considerable senior officer resource with the financial risk of the Fund not recovering the full cost of the tax charge from the member's pension benefits.

REVIEW OF POLICY POSITION

- 2.8 The policy decision not to operate voluntary scheme pays has been questioned by some major employers as having implications for their recruitment and retention of staff. Members will be aware, for example, of issues in the NHS and the reported early retirement of GPs and consultants as a consequence of the tapered annual allowance.
- 2.9 These employers are aware that other LGPS Funds permit the use of Voluntary Scheme Pays and have asked for the Fund's current policy to be reviewed.
- 2.10 This is on the basis that members who are subject to a tapered AA will be required to pay a maximum annual tax bill of £13,500 out of post-tax income. Furthermore, a member paying the charge from income will not have a Scheme Pays debit applied to their pension benefits. This means at retirement the test against the Lifetime Allowance will increase the likelihood of the member facing further tax charges.
- 2.11 It is usual that members impacted by the tapered AA are faced with recurring annual tax charges, and it has been highlighted that these members could experience financial difficulty in paying the tax charge direct to HMRC.
- 2.12 Consequently, these members are considering opting out of the LGPS. As it is rarely in anyone's long-term interest to leave the LGPS, it is anticipated that the change in position to offer voluntary scheme pays will reduce the number of members considering this course of action.
- 2.13 A survey of LGPS Funds indicate that MPF is an outlier in not offering Voluntary Scheme Pays.
- 2.14 It should be noted that the introduction of Voluntary Scheme Pays is at the discretion of Pensions Committee rather than the individual employers within the Fund.

3.0 RELEVANT RISKS

- 3.1 As Scheme Members can apply on multiple occasions to invoke scheme pays, it may be many years before the tax paid to HMRC is fully recovered and if the member dies before the pension starts no recovery will occur.

4.0 OTHER OPTIONS CONSIDERED

4.1 Not relevant for this report.

5.0 CONSULTATION

5.1 Not relevant for this report

6.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

6.1 None associated with the subject matter.

7.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

7.1 There are none arising from this report.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

8.1 The administrative process will need to be amended due to the extension of the policy to allow voluntary scheme pays. There will be an increase in the number of Pension Saving Statements produced to inform members who may be subject to the tapered annual allowance of their pension growth. This is in addition to the statutory requirement to issue a statement where growth exceeds the standard AA.

8.2 The tapered Annual Allowance makes calculations and considerations of the tax position complex and multifaceted. To complete the process there will need to be multiple engagements with the member and their appointed personal tax adviser. The nature of this work requires the expertise of senior Fund officers but it should be noted that Fund Officers are not qualified or authorised to provide tax calculations or advice.

8.3 The increased activity in this area for senior officers will require a review of staff resources and an assessment of the impact on other Fund administration activities.

9.0 LEGAL IMPLICATIONS

9.1 It is not a statutory requirement for the Administering Authority to agree to Voluntary Scheme Pays and therefore a determination is required by Pensions Committee.

10.0 EQUALITIES IMPLICATIONS

10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No equality impact assessment is required

11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

11.1 There are none arising from this report

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 There are none arising from this report

13.0 RECOMMENDATION

13.1 Pensions Committee is asked to approve the use of Voluntary Scheme Pays in the following circumstances:

- a) Where a member's pension savings are subject to the tapered annual allowance in relation to pension growth with Merseyside Pension Fund and the tax charge is in excess of £2,000.
- b) Where a member, as a result of administrative difficulties beyond their control, misses the 'mandatory Scheme pays' deadline (e.g. where the member was not provided with the necessary information on time).
- c) Any other cases where it can be demonstrated that exceptional circumstances apply, that approval is delegated to the Head of Pension Administration.

14.0 REASON/S FOR RECOMMENDATION/S

14.1 There is a requirement for Members of the Pensions Committee to be kept up to date with legislative developments as part of their decision making role.

**REPORT
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