POLICE AND CRIME COMMISSIONER FOR WEST MERCIA

RECORD OF DECISION



TITLE: Annual Allowance Tax Charges – Mandatory and Voluntary Scheme Pays

Ref: PCC/D/2018/01

EXECUTIVE SUMMARY

Some officers may incur a tax charge where their pension growth within the police pension scheme during a pension input period is greater than the annual allowance for that year. The Scheme Pays facility allows the tax due to HMRC to be paid by the police pension authority in exchange for a permanent reduction to the officer's pension. There are two forms of Scheme Pays – Mandatory and Voluntary. This application seeks to determine whether Voluntary Scheme Pays (VSP) are made available to the West Mercia Chief Constable, if affected. The West Mercia Pensions Scheme Manager will make a similar decision as to whether Voluntary Scheme pays (VSP) are made available to any other affected scheme members other than the Chief Constable.

PROPOSAL

A Voluntary Scheme Pays (VSP) arrangement is made available to the West Mercia Chief Constable.

Under the VSP the Authority agrees to the payment to HMRC on the member's behalf in exchange for a reduction in pension.

APPROVAL OF

West Mercia Police and Crime Commissioner

I hereby approve the above proposal.

Signed

BACKGROUND

- 1.1 There are two current schemes as outlined below.
- 1.2 Mandatory Scheme Pays (MSP) applies where:
 - the individual is subject to the standard annual allowance (currently £40k)
 - their tax charge is over £2,000

The Mandatory Scheme Pays relates to a single scheme and to the immediately preceding tax year and covers the majority of cases.

- 1.3 Voluntary Scheme Pays (VSP) operates where a tax charge due does not meet the above criteria; in other words where it
 - relates to an earlier year; and/or
 - is under £2,000; and/or
 - the member is accruing benefits under more than one scheme (i.e. a transition member); and/or
 - the member has a personal annual allowance which is different to the standard amount (they are subject to a 'tapered' annual allowance).
- 1.4 Under the VSP the Authority agrees to the payment to HMRC on the member's behalf in exchange for a reduction in pension.
- 1.5 In terms of the current position, the MSP continues to operate as usual without any specific issues, however, there is a potential issue with the operation of VSP within the Police Pension Schemes.
- 1.6 The scheme regulations do not specifically provide for the automatic operation of VSP for members not covered under the mandatory option. The Chief Police Officers Staff Association (CPOSA) have outlined that interim arrangements can be utilised by forces to operate VSP in advance of planned amendments to the regulations by Government. This has been further reiterated by the National Police Chiefs Council (NPCC) who have issued an update on the recent developments relating to Scheme Pays. This update confirms that the Home Office intend, with no guarantee, to make changes to regulations following discussion with HMRC. The Home Office state however, that they are "not in a position to mandate forces offering VSP to scheme members" and that "it remains open to scheme managers to offer VSP at their own discretion"
- 1.7 The benefits of VSP could potentially be both for the individual and for the pension scheme. For the individual, the VSP could avoid the situation of significant tax demands, and for the pension scheme any up-front 'tax' payments would be exchanged for a permanent ongoing reduction in pension payments.
- 1.8 If the decision is not to implement a VSP, in instances where the MSP does not apply, this could create a situation for the individual of increased and largely unexpected tax payments, and the pension scheme would not benefit from the opportunity or making reduced future pension payments as part of the off-setting of 'up-front' tax payments on behalf of individuals to HMRC.

FINANCIAL COMMENTS

Any costs arising from this decision would only be incurred if the Chief Constable was affected by the criteria surrounding the VSP outlined above. Any costs incurred as part of the tax payment to HMRC would be exchanged for a permanent reduction in the Chief Constables pension costs.

The decision to introduce VSP or otherwise, also needs to be made in a timely fashion, to avoid any potential late-payment penalties or additional interest charges, in accordance with the tax calendar.

LEGAL CONSIDERATIONS

By virtue of schedule 11, paragraph 14 of the Police Reform and Social Responsibility Act 2011 the Police and Crime Commissioner may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of commissioner. That includes: entering into contracts and other agreements (whether legally binding or not) and acquiring and disposing of property (including land).

PUBLIC ACCESS TO INFORMATION

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the West Mercia Commissioner's website. Any facts and advice that should not be made automatically available on request are not included in Part 1 but instead in a separate Part 2 report. There is no Part 2 report.

OFFICER APPROVAL

Chief Executive Officer

Signature Andre a compress Date 16:1.18