

Report of the Treasurer

Firefighters Pension Schemes – Voluntary Scheme Pays (VSP)

Purpose of report

1. To seek a variation to the current approval for the implementation of a Voluntary Scheme Pays (VSP) to delegate authority to the Treasurer to agree appropriate arrangements.
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Recommendation

It is recommended that the Treasurer be given delegated authority to use the Voluntary Scheme Pays (VSP) arrangement, in relation to the Firefighters Pension Schemes.

Background

2. There is a maximum amount by which an individual can increase their pension savings each year. HMRC sets an Annual Allowance Limit (although any unused Annual Allowance from the previous 3 years tax years can be carried forward to further offset charges).
3. Different limits apply to anyone earning more than £150,000 p.a. although the Authority does not currently employ anyone in that category.
4. Individuals whose annual growth in pension savings exceeds the annual allowance are subject to a tax charge on the excess.
5. For a defined contribution scheme the limit relates to the actual cash contributions made in year. However, for a defined benefit scheme (public service schemes) it is a multiple of the increase in annual pension earned in that year. This can become a particular issue for staff in the 1992 Firefighters Pension Schemes because of the way they are structured to provide double-accrual in the last 10 years of service.
6. An individual can choose to pay the annual allowance tax charge from their own personal finances, however, the Finance Act 2004 provides that a pension scheme must provide a 'Scheme Pays' facility where all of the qualifying conditions are met. This is known as **Mandatory Scheme Pays (MSP)**.
7. **MSP** means that the Scheme pays the tax charge in exchange for reduced future pension payments. i.e. ultimately the tax bill is paid by the individual.

8. In certain circumstances where the **MSP** provisions do not apply namely:
- Where an individual has exceeded the annual allowance but over separate schemes where neither scheme in itself exceeds the limit.
 - Where the individual is subject to a tapered allowance (those earning over £150,000 pa).

the Authority (P&R Committee 20 September 2017) has already approved a Voluntary Scheme Pays (**VSP**) arrangement.

9. This has no direct financial implications to the Fire Authority, but there is a potential cash flow implication for the Firefighters Pension Account. In the short term the government grant to support the Accounts would increase, but this would equalise over time as a result of reduced pension payments on retirement. This is in exactly the same way that the MSP works.

Current Position

10. As part of the remedy to the Pension Age Discrimination case (McCloud/Sargeant) it is highly likely that individuals will exercise an option to return to the 1992 schemes for the remedy period (2015-2022). Although the full details are not yet clear this will result in a retrospective re-calculation of Annual Allowances and potential tax charges for individuals for prior years.
11. Current HMRC rules only allow an **MSP** arrangement for a tax charge relating to the immediately preceding tax year, therefore, the circumstance may arise where an individual could be faced with a significant tax bill which is not covered by **MSP** or by the current Authority approvals for **VSP**.
12. It is also possible that, as more details of the remedy emerge, then there may be further need for the VSP arrangement to be extended, in order to restore individuals to the position they would have been in had the unlawful age discrimination not occurred.
13. Furthermore, we await details of response to a further case (*Matthews/O'Brien*) relating to the previous part-time workers claim in relation to On-Call/Retained Fire-fighters and the modified 2006 Scheme. It is possible that this may bring further **MSP/VSP** complications.

Conclusion

14. This would be a reasonable approach to the specific circumstances of the Remedy. The Fire Authority, as Scheme Manager, has discretion to permit the proposed extension VSP, and has delegated the authority to approve this to the Policy and Resources Committee.

Corporate Considerations

Resource Implications (identify any financial, legal, property or human resources issues)	None for FRA Funds. Potential cash-flow impact for Pension Account, but only restoring position that should have prevailed anyway.
Strategic Policy Links (identify how proposals link in with current priorities and policy framework and if they do not, identify any potential implications).	n/a
Risk Management / Health & Safety (identify any risks, the proposed control measures and risk evaluation scores)	n/a
Consultation (identify any public or other consultation that has been carried out on this matter)	n/a
Equalities (has an Equalities Impact Assessment been completed? If not, why not?)	n/a
Data Protection Impact Assessment (where personal data is processed a DPIA must be completed to ensure compliant handling)	n/a