

## Mandatory and voluntary “Scheme pays”

Kier are aware that FRAs have been issued with a document from the Local Government Association in relation to the operation of “Voluntary scheme pays” for firefighters.

This note provides background on scheme pays in general, the operation of voluntary scheme pays and requests a decision from the Authority as to whether it will exercise its powers to operate voluntary scheme pays.

### Background

Some active members of the scheme, whose pension input in the tax year is greater than the annual allowance for that year, may incur a tax charge because of this. Activating Scheme Pays allows the tax due to HMRC to be paid by their Authority in exchange for a permanent reduction to their pension.

There are two forms of scheme pays – *mandatory* and *voluntary*.

**Mandatory** scheme pays (MSP) applies where:

- the individual is subject the standard annual allowance (currently £40k)
- their tax charge is over £2000
- This relates to a single scheme and to the immediately preceding tax year.

The individual does not have to have the consent of the authority before they make their election. If they do elect, Kier will apply the necessary reduction and notify the Authority of any payments expected by HMRC; mandatory scheme pays covers the majority of cases.

**Voluntary** scheme pays (VSP) operates where a tax charge due does not meet the above criteria; i.e.

- Relates to an earlier year; and/or
- Is under £2000; 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).

But the Authority agrees to the payment to HMRC on the member’s behalf in exchange for a reduction to pension.

### Current position

**Mandatory scheme pays continues to operate as usual without any issues; however, there is a potential issue with the operation of voluntary scheme pays within the Firefighters’ Pension Schemes.**

The Scheme regulations do not specifically provide for the operation of voluntary scheme pays for those members that cannot rely upon the mandatory option. This is subject to review at a national level and may result in amendment to the Regulations to directly provide for this in certain circumstances.

However, until such time as this occurs, legal opinion obtained by the local Government Association is that individual FRAs *do* have the necessary powers to operate scheme pays on a voluntary basis (for full analysis see LGA document at Appendix 1).

It is for individual FRAs to determine whether they *will* operate this facility for members unable to rely upon mandatory scheme pays. The opinion is that this is operated in accordance with the scenarios agreed by the Scheme Advisory Board:

- Transitional members with service in one of the 1992 or 2006 Schemes, and the 2015 Scheme, are able to access a VSP arrangement in the same way that a protected 1992 or 2006 scheme member, or a member with service only in the 2015 Scheme, can do so through M S P.
- Scheme members with a tapered annual allowance are able to use a VSP arrangement to pay a tax charge in a circumstance where the pension growth in one scheme (or more schemes) is less than the £40,000 general AA limit but more than their own tapered AA limit.

## Decision required

The Authority will now need to reach a decision as to whether it will choose to operate voluntary scheme pays for these members. There is no direct recommendation that this provision is extended to cases involving earlier years or for amounts under £2000, although the Authority could determine it is 'reasonably' exercising its powers to allow these, depending upon the circumstances.

The decision of the Authority will need to be communicated to Kier who will refer individual cases to the Authority if the operation of voluntary scheme pays is to be permitted.