

**THE OFFICE OF POLICE AND CRIME COMMISSIONER
FOR DERBYSHIRE
DECISION RECORD**

Request for PCC Decision	Received in OPCC Date: 09/01/2018	OPCC Ref: 01/2018
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ANNUAL ALLOWANCE TAX CHARGES – VOLUNTARY SCHEME PAYS

Executive Summary:

There is a requirement to request the Pension Authority to allow, where applicable, a Voluntary Schemes Pay facility within the remit of the legislation. This provides facilities for any officer (in this case the Chief Constable) who, in the relevant tax year, has exceeded their personal tax allowance for contributions and has therefore incurred a tax liability.

Having a Voluntary Scheme Pay facility in place allows the tax due to HMRC to be paid by the police pension authority in exchange for a permanent reduction to the Chief Constable's pension. The officer then has the choice to make and should take their own independent financial advice.

Decision

- i. Based on the advice and guidance from both CPOSA and NPCC it is recommend that the Police & Crime Commissioner should approve for the Pension Authority to provide a Voluntary Scheme Pays option for the Chief Constable where he/she:
- is subject to tapered annual allowance
 - may make a late election for Mandatory Scheme Pays
 - may have incurred a tax charge of less than £2,000.

This recommendation is to ensure the Chief Constable has choices, not that this is the only route forward for him/her.

Background Information

Some officers may incur a tax charge where their pension growth within the police pension schemes 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.

Mandatory Scheme Pays (MSP) applies where:

- the individual is subject the standard annual allowance (currently £40k)
- their tax charge is over £2,000
- This relates to a single scheme and to the immediately preceding tax year.

The individual does not have to have the consent of the police pension authority before they make their election. If they do elect, Kier will apply the necessary reduction and notify the police pension 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 £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).

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.
- The scheme regulations do not specifically provide for the operation of Voluntary Scheme Pays for those members that cannot rely upon the

mandatory option.

- It is therefore up to individual scheme managers / PCCs to determine whether they will operate this facility for members unable to rely upon Mandatory Scheme Pays.

Different reporting dates

The rules relating to Mandatory Scheme Pays are that a member who wishes to rely on Mandatory Scheme Pays has until 31st January in the year following their tax charge to report the taxable excess on their self -assessment tax return. The member then has until 31st July in that year to submit their Scheme Pays notification to the force. The force must include annual allowance tax charges on their Accounting for Tax return 31st December of that year which must be filed and paid by 14th February.

For Voluntary Scheme Pays the deadline for the scheme manager to make payment to HMRC is 31st January in the year following the date the member's tax liability arose. This ensures late payment penalties and additional interest charges are not incurred by the member who remains solely liable for these fines.

Next Steps

The decision needs to be communicated to Kier as soon as possible, in writing. This allows them to make any payments within the timescales prescribed.

1. Record a formal decision by Scheme Managers to allow VSP, with any restrictions or specific requirements. Share this decision with Kier at the earliest opportunity.
2. Communicate the provision to those affected across the workforce about Annual Allowance, the use of VSP, how to access it, reporting to HMRC, penalties etc and the impact on pension.
3. Ensure effective liaison between the individual officer affected and pension administrator to correctly determine the level of tax charge (taking into account any non-employment income and tax relief).
4. Completion of a formal VSP Election Form by any individual and provided back to Pension Administrator.
5. Calculation by the administrator of pension debit.

6. Employer notification of tax due by the pension administrator and reporting and payment of the sum to HMRC on quarterly Accounting For Tax (AFT) return and pays the tax to HMRC on behalf of the employee, charging it to the pension fund.
7. Any affected officers with then be contacted to ensure their own advisors are aware of the options and what they will recommend. Derbyshire Police and Derbyshire PCC are not in a position to recommend one or the other route and Officers should seek out their own FSA attributed advisor.

Declaration

I confirm that I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct for the Police and Crime Commissioner for Derbyshire. Any such interests are recorded below.

None

The above request has my approval.

Signature

Hardyal Dhindsa

Date

PUBLICATION SCHEME CONSIDERATIONS

Is the related Section B report to be published Yes

The report contains commercially sensitive information.

Is the publication of this approval to be deferred No

If Yes, provide reasons below

Date to be deferred to –

NB Statutory Instrument 2011/3050 (as amended by SI 2012/2479) states that: *all decisions made by a PCC are in the types of information that must “be published as soon as practicable after it becomes available to the elected local policing body”.*

OFFICER APPROVAL

Chief Executive or Nominee:

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report.

I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner

Name Andrew Dale

Date