Havering
LONDON BOROUGH

PENSIONS COMMITTEE

Subject Heading:	Havering Pension Fund Voluntary Scheme Pays Policy
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Policy context:	Local Government Pension Scheme Regulations 2013
Financial summary:	The introduction of the Voluntary Scheme Pays policy is cost neutral to the Pension Fund

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[x]
Places making Havering	[x]
Opportunities making Havering	[x]
Connections making Havering	[x]

SUMMARY

The purpose of this report is to present to Committee the Havering Pension Fund ("the Fund") policy on Voluntary Scheme Pays (VSP) for members of the Local Government Pension Scheme, who breach HMRC's Annual Allowance (AA) limit for pension saving growth in a financial year.

The AA is the amount by which a member's pension benefits may increase in a year without attracting a tax charge. If the value of their pension benefits grows by more than the AA, the excess will be taxed as income.

Scheme Pays is the mechanism by which a member can ask the Fund to pay the tax charge to HMRC in exchange for a reduction to their future pension benefits.

Each Local Government Pension Fund has the discretion to offer VSP to its members.

RECOMMENDATIONS

That the Committee consider and approve the Fund VSP Policy, attached as Appendix A to this report.

The policy is to approve the use of VSP where:

- a member's pension savings within the Fund is subject to the tapered annual allowance, and
- the tax breach stems only from the member's London Borough of Havering Pension Fund benefits rather than via growth in multiple pension schemes, and
- The application is received in writing to the Fund by 30 November in the tax year following the year to which the tax charge relates.
- Late applications may be considered by the Head of People Transactional Services on a case by case basis.

REPORT DETAIL

1. The AA is the amount by which a member's pension benefits may increase in a year without attracting a tax charge. If the value of their pension benefits grows by more than the AA, the excess will be taxed as income. The annual allowance limit is currently £40,000.

2. The Fund has a statutory duty to write to any scheme member, who breaches the AA, by the 6 October following the end of the tax year (i.e. 6 October 2020 for charges arising from tax year 2019/20).

3. AA Scheme pays is a mechanism by which a Scheme Member can request their excess annual allowance tax charge is met by the Fund. They then repay the Fund by having a reduction applied to their pension once it comes into payment.

4. Mandatory Scheme Pays (MSP) has been available for many years and VSP has been identified, by the Local Government Association (following legal advice), as being available to LGPS members. The legal advice confirmed that administering authorities, that are local authorities, have the vires to agree to a VSP request.

5. **AA Mandatory Scheme Pays**

Under MSP, a Scheme member who breaches the standard AA has the following options to pay their tax charge;

Make payment of the tax directly to HMRC, **or**
Use MSP if the following qualifying conditions are met;

- The standard AA limit has been exceeded in the pension scheme that the Scheme Pays election is made; and
- The AA tax charge exceeds £2,000 and
- The relevant time limit for making an election has been met

If the Scheme Member meets the qualifying condition and elects for MSP must agree to the request as the member has a mandatory right under section 237B of the Finance Act 2004.

6. **AA VSP**

Under VSP, where a member does not meet the conditions for MSP, or they do not make their nomination in time, they may ask the Fund to pay the AA tax charge on a voluntary basis. This, however, is subject to the administering authority's approval which is discretionary.

7. An important consideration is that changes to the tax rules now mean that some high earning members with income of more than £240,000 per annum are now subject to a Tapered Annual Allowance ('tapered AA') which reduces their AA from £40,000 to £4,000 incrementally for those earning between £240,000 and £312,000 per annum. The income limit includes, amongst other things, pension growth in that tax year.

8. As it currently stands, Scheme members who breach the tapered annual allowance have only the following options;

- Pay the whole of the tax charge directly to HMRC

- Opt for MSP option for the breach over the £40,000 allowance and pay the rest directly to HMRC.

Therefore, if a member's AA had been reduced to £4,000, they would have no option other than to pay a potentially significant tax charge directly to HMRC on the amount between £40,000 and their tapered annual allowance, i.e. tax on potentially £36,000.

9. The VSP tax charge will be recovered from future pension benefits in payment.

   The Secretary of State in conjunction with the Government Actuaries Department (GAD) set out guidance on the calculation of the reduction to members' benefits. This has been issued to ensure that the Scheme pays offset is cost neutral to the pension scheme.

10. If the Fund allows members to use VSP, there does not seem any reason not to allow this option for those members who have a tax charge of under £2,000.

11. If a member exceeds the annual allowance by virtue of savings across multiple pension schemes, without exceeding the annual allowance in any one scheme and a tax charge were to arise, it would not be appropriate for the London Borough of Havering Pension Fund to offer the VSP option.

12. The policy can also be found in the Administering Authorities Discretions Policy, Section 10 Discretionary policy under the Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011 which is covered in a separate report on this meeting agenda.

IMPLICATIONS AND RISKS

Financial implications and risks:

Guidance on the calculation of the reduction in pension benefits following a Scheme Pays election has been issued by the Secretary of State for Communities and Local Government in conjunction with the GAD in order to ensure the Scheme Pays offset is cost neutral to the scheme.

Legal implications and risks:

There is no statutory requirement for an administering authority to agree to Voluntary Scheme Pays requests. It is therefore for each authority to determine its policy on 'Voluntary Scheme Pays' requests.

The proposals are lawful.

Human Resources implications and risks:

There appear to be no HR implications or risks arising directly as a result of this report.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have due regard to:

(i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
(ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
(iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants. We will ensure that disabled people with sensory impairments are able to access the strategy.