

Lewisham Pension Fund Scheme Pays Policy

Mandatory Scheme Pays

Where a member has a tax charge as a result of breaching the Annual Allowance they have a right to Mandatory Scheme Pays from the Lewisham Pension Fund when **ALL** of the following criteria are met:

- The member's Annual Allowance tax charge exceeds £2,000.
- The member has a Pension Input Amount within the LGPS in England and Wales (2) exceeding the standard Annual Allowance (currently £40,000).
- An irrevocable election for Mandatory Scheme Pays is made by 31 July in the year following that in which the tax charge arose (i.e. for a tax charge arising from the 2017/18 year the mandatory Scheme Pays election must be made by 31 July 2019) or before they retire, if earlier.
- The member's full retirement benefits from the Fund are not yet in payment.

(2) Although the LGPS is administered by 89 funds across England and Wales, it is considered one scheme by HMRC and therefore, when assessing pension input in the LGPS, members must take into account ALL benefits they hold in different funds in the LGPS across England and Wales. The LGPS in Scotland, and the LGPS in Northern Ireland, are considered separate schemes by HMRC.

Where a member meets all of the above criteria the Lewisham Pension Fund must pay the tax to HMRC on the member's behalf when requested and must notify the member of the resulting reduction to their benefits. The Fund is not allowed to levy an administration charge for Mandatory Scheme Pays elections.

Note that a member does not need to ask the Fund to pay the full tax charge – the member can request that a lower amount is covered by Mandatory Scheme Pays and would have to make their own arrangements to pay the remaining tax charge to HMRC. Members should note that their pension cannot be reduced below the level of their Guaranteed Minimum Pension (GMP) (if any), so the Fund may not be able to pay the full tax charge if the corresponding reduction to benefits would reduce the pension below GMP(3).

For Mandatory Scheme Pays, the member must indicate to HMRC that they will be using Mandatory Scheme Pays on their self-assessment tax return by 31 January in the year following that in which the tax charge arose, but the election to the Fund does not have to be made until 31 July, six months later, and the Fund then has until the following 14 February to pay the tax.

(3) Guaranteed Minimum Pension is the minimum amount of pension that the Fund must pay in respect of any scheme membership between 1978 – 1997 that was contracted-out of the State Earnings Related Pension Scheme (SERPS).

Voluntary Scheme Pays

The list below shows some potential situations in which a member may have incurred a tax charge *but does not have an entitlement to Mandatory Scheme Pays*. In these situations the member can ask the scheme to allow a Voluntary Scheme Pays election, but the scheme does not have to agree. This list is not intended to be exhaustive:

- The member is subject to the Tapered Annual Allowance or the Money Purchase Annual Allowance, and their Pension Input Amount in the LGPS exceeds their Tapered/Money Purchase Annual Allowance but does not exceed the Standard Annual Allowance (See example below).
- The member is subject to the Tapered Annual Allowance or the Money Purchase Annual Allowance, and their Pension Input Amount in the LGPS exceeds both the Tapered/Money Purchase Annual Allowance and the Standard Annual Allowance – there is a right to Mandatory Scheme Pays in respect of the input above the Standard Annual Allowance, but not for the input between the Tapered/Money Purchase Annual Allowance and the Standard Annual Allowance (See example below).
- The member met all the other criteria for a Mandatory Scheme Pays election, but did not make the election by the 31 July deadline.
- The member has not exceeded the Annual Allowance based on their pension benefits in the LGPS in England and Wales, but in aggregate across all pension arrangements they have exceeded the Annual Allowance and the member's total tax charge when taking input from other arrangements into account is more than £2,000.
- The member has a Mandatory Scheme Pays right in respect of pension input in the LGPS in England and Wales, but also has a tax charge relating to input in a separate pension arrangement and wants to use Voluntary Scheme Pays from the Fund to cover this as well.
- The member's tax charge is less than £2,000. There is no time limit set in the legislation for an election for Voluntary Scheme Pays (if permitted), but members should note that if the tax is not paid by 31 January in the year following the year in which the tax charge arises (i.e. 31 January 2018 for a tax charge arising in the 2016/17 year) interest and late payment penalties will be due.

Interest and late payment penalties do not apply for tax charges that are settled by Mandatory Scheme Pays, assuming the member provides the appropriate notifications to HMRC via self-assessment or otherwise, because in this circumstance the member and the Administering Authority are jointly and severally liable for the payment of the tax charge, whereas the member remains solely liable for any tax due that is not covered by Mandatory Scheme Pays.

EXAMPLES

Tapered Annual Allowance Examples

Member's Pension Input Amount is £60,000 and they are subject to a Tapered Annual Allowance of £10,000. The tax charge will be £20,000 assuming they are a 40% taxpayer and have no carry-forward available. Mandatory Scheme Pays only applies to £8,000 of that tax charge (in respect of the input in excess of £40,000). The remaining £12,000 of the tax charge would need to be settled by the member directly with HMRC, unless a Voluntary Scheme Pays arrangement is agreed with the Fund.

Member's pension input is £39,000 and they are subject to a Tapered Annual Allowance of £10,000. Their tax charge will be £11,600 assuming they are a 40% taxpayer and have no carry-forward available. This does not qualify for Mandatory Scheme Pays as the pension input is less than the Standard Annual Allowance of £40,000, so would need to be settled by the member directly with HMRC, unless a Voluntary Scheme Pays arrangement is agreed with the Fund.

It should be noted that it is the member's responsibility to notify the Fund if they are subject to a Tapered Annual Allowance and the amount of tax due. The Fund cannot calculate this as it does not have details of total taxable income.

Lewisham Pension Fund's Policy

The Fund **will** accept applications for Voluntary Scheme Pays in the following circumstances:

- A member is subject to the Tapered Annual Allowance or the Money Purchase Annual Allowance and has a tax charge of more than £2,000 relating to input in the Lewisham Pension Fund, and the irrevocable election is received by 31 December following the end of the tax year in which the input arises (i.e. 31 December 2018 for input in the 2017/18 year).
- A member meets all the criteria for Mandatory Scheme Pays but was unable to meet the 31 July deadline due to an administrative error or omission by Lewisham Council (e.g. the member was not notified of their pension input in time for them to meet the deadline). In these circumstances the application for Voluntary Scheme Pays should be made within two months of the member receiving notification of their pension input.

The Fund **will not** accept applications for Voluntary Scheme Pays in the following circumstances:

- The member's tax charge relating to pension input in the LGPS in England and Wales is less than £2,000, but they have applied for Voluntary Scheme Pays because their total tax charge when taking input from other arrangements into account is more than £2,000, and the irrevocable election is received by 31 December following the end of the tax year in which the input rises (i.e. 31 December 2018 for input in the 2017/18 year). It is the member's responsibility to notify the Fund at this time of the amount of tax due. The Fund cannot calculate this as it does not have details of the input from the member's other arrangements.
- The member has a Mandatory Scheme Pays right in respect of pension input in the LGPS in England and Wales, but has also asked the Fund to pay a tax charge relating to input in a separate pension arrangement, and the irrevocable election is received by 31 December following the end of the tax year in which the input arises (i.e. 31 December 2018 for input in the 2017/18 year). It is the member's responsibility to notify the Fund at this time of the amount of tax due. The Fund cannot calculate this as it does not have details of the input from the member's other arrangements.
- The member's total tax charge, including when taking input from other arrangements into account is less than £2,000. Lewisham Council has not set a minimum level of tax charge that the member must face before they can make an application but will consider each such request on its merits.

- Where the member in question did not meet the 31 July deadline for applying for Mandatory Scheme Pays, and this failure to meet the deadline was not due to any administrative error or omission by Lewisham Council.

A Voluntary Scheme Pays request in any other scenario will be considered on its merits.

Following the acceptance of an election for Voluntary Scheme Pays, the member's benefits will be reduced by an amount corresponding to the tax charge paid by the Fund, using the guidance issued by the Government Actuary's Department.

Members approaching retirement

There are situations where a member may breach the Annual Allowance in the Pension Input Period in which they retire, even if they retire relatively near the start of the tax year. This could be, for example, where there has been an ill health enhancement (and the member did not meet the severe ill-health condition under S229(4) of the Finance Act 2004) or a large pay increase, bonus or service enhancement before or at retirement.

Where a member breaches the Annual Allowance in the tax year in which they receive their final retirement benefits, Scheme Pays can only be used if the election is made and processed *before* the benefits are put into payment (or "crystallise"). Otherwise members will have to pay the tax charge directly. Members in this situation may choose to pay the tax charge using any lump sum payable on retirement.

The Fund will issue an individual pension savings statement to those active members who become a pensioner member during the Pension Input Period and who have exceeded the standard Annual Allowance. This will be provided when the retirement benefits are notified rather than under the usual timescales. This gives the member the time to determine whether a Mandatory Scheme Pays option applies and/or whether they wish to make an election for Mandatory or Voluntary Scheme Pays. If the member wishes to use Scheme Pays they should contact Lewisham Council well before the retirement date so that the relevant reduction can be calculated and applied before the benefits are put into payment.

It should be noted that it is the member's responsibility to notify the Fund at this time if they are subject to a Tapered Annual Allowance and the amount of tax due. The Fund cannot calculate this as it does not have details of total taxable income.