Committee: Police Pensions Board	**Date:** 14th May 2018
Subject: Protected Pension Ages and re-employment for City of London Police Officers	**Public**
Report of: City of London Police	**For Information**
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Summary

In reference to the PPA, the Chairman of the Police Pension Board asked for confirmation that the City of London Police were fully aware of the risk relating to the break in work required before returning to work with CoLP. Members requested that the length of the break required, and their methodology of mitigating this risk be made known to the Board.

Recommendation

Members are asked to note this report.

Main report

Background

1. Since April 2006 individuals who take pension and/or lump sum benefits from a registered pension scheme before normal minimum retirement age have been liable to a tax charge, unless benefits are ill-health related.

2. The normal minimum pension age increased from age 50 to age 55 in April 2010. Some individuals in the Police Pension Scheme 1987 (PPS 1987) had the right (on 5 April 2006) to take a pension before the normal minimum pension age. Where certain conditions are met, these individuals can still take benefits at an age earlier than the normal minimum pension age without incurring a tax charge. This is known as the member's 'protected pension age' (PPA).

3. The PPA for PPS 1987 members is the earlier of:

   - their age the day after they attain 30 years of service; or
   - when they have reached 25 years of service beyond age 50.

4. The member, generally, can rely on this protection and continue to receive their benefits without any tax charges. However, there are certain circumstances where this protection can be lost if the member is re-employed following retirement before age 55.

5. An officer that retires between the ages of 50 and 55 may lose their PPA if they are re-employed by the same 'sponsoring' employer and do not take the required break between retirement and re-employment.

6. The break required depends upon the nature of the work. The default break is 6 months, but this can be reduced to 1 month if the new job is materially different from the job from which they have retired.

7. In relation to an occupational pension scheme, sponsoring employer means-

    - the employer, or
    - any of the employers, to or in respect of any or all of whose employees the pension scheme has, or is capable of having, effect as to provide benefits.)

8. When the issues regarding the loss of PPA first came to light it was established that 1 ex-officer may have lost their PPA and therefore be liable for a tax charge. The officer concerned had retired from The City Police and had subsequently been employed by the City Corporation. In this case it was argued that the City Corporation should not be considered a 'sponsoring employer' and therefore the PPA had not been lost. However, to err on the side of caution, for all future cases it was considered that it should mean the City of London Police and the City of London Corporation.

9. The definition provided by HMRC in respect of 'materially different' employment is as follows:

    The tax rules refer to an employment that is materially different in nature. It is for the relevant Police Pension Scheme sub-scheme administrator (not HMRC), on being notified that a retired police officer who took their benefits as authorised payments before age 55, relying on a protected pension age to do so, to decide whether in the circumstances the retired police officer has lost their protected pension age. They will need to decide (perhaps after discussing with the employer(s) concerned) whether or not the new employment is "materially different in nature" from the employment in which the retired police officer was employed before they took their benefits. However, in HMRC's view, employment as a serving police officer and employment as a member of civilian staff will normally be materially different in nature.

10. Where PPA is lost any benefits that continue to be paid become unauthorised payments. The member would be liable to a 40% unauthorised payment charge and the Authority would also be liable to a scheme sanction charge on all payments made, including any commuted lump sum, until the member reaches age 55.

Conclusion

11. To ensure officers are kept informed, the issues regarding PPA's and re-employment are covered in detail in the presentations given to officers by the Pensions Office at the pre-retirement courses held 2 or 3 times a year by City Police.

12. The City Police Federation representatives are aware of the issues and are therefore able to advise officers of their options.

13. An agreement was made between the Pensions Office and Police HR that for each case where an officer retired between the ages of 50 and 55 and wished to be re-employed by the City Police or the City of London Corporation they would be looked at on an individual basis and a decision would to be made by the Force in consultation with the Pensions Office as to whether or not a 1 or 6 month break would be required.

14. Please note, the issues regarding the loss of PPA will only affect officers retiring from the PPS 1987. The earliest retirement age in the 2 new Schemes (PPS 2006 & PPS 2015) is 55 and therefore they cannot fall foul of this problem. As the number of officers in the 1987 Scheme reduces, so too does the risk.

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