

Fire Pensions Board
27 November 2018
HMRC Compliance Matters

Recommendation

The Board is asked to note the report.

1.0 Background

1.1 Two issues have recently been brought to the attention of Fire and Rescue Authorities regarding HMRC compliance. Details, and Warwickshire Fire and Rescue Service's position on them, are set out below.

2.0 Compliance with tax rules on Retained Firefighters' Membership of 2006 Scheme ("Special Member")

2.1 Following a court ruling in the case *Matthews v Kent and Medway Fire Authority*, retained firefighters won the right to elect to join the modified section of the Firefighters Pension Scheme 2006 (FPS 2006) as a special member. Recent contact by HMRC with members and Fire and Rescue Authorities suggested that a number of compliance issues needed to be resolved. e.g. In some cases:

- Relief had been given under a net pay arrangement.
- Contributions and interest due exceeded earnings and so all or part of the relief should have been given by way of IT/SA claim.
- Relief had been given by the wrong method.
- Relief may have been given incorrectly.

2.2 Scheme Managers were required to provide further information to enable HMRC to establish compliance and to ensure consistency of treatment across the sector.

2.3 All WFRS members that chose to buy back contributions are invoiced directly for the amounts, with the option to either pay in a lump sum or split the cost over 10 years. WCC has provided HMRC with the information requested and believes that it is compliant. To date, no further communication has been received from HMRC on this matter.

3.0 Compliance with tax rules relating to Retained Firefighters who have been awarded an ill health pension

3.1 The Local Government Association has recently reissued guidance from HMRC on the correct taxable treatment of ill-health pensions paid from the compensation scheme to retained firefighters only who were employed prior

to 6 April 2006. These firefighters, because they could not join the 1992 pension scheme, were given compensatory provisions under the compensation scheme rules.

3.2 The guidance states that, for certain categories of retained firefighter,

“...Ordinary, short service and ill health pensions are taxable; ‘injury’ pensions are not. Pensions awarded to fire service personnel solely on the grounds of injury whilst on duty, even if called ill health pensions, are regarded as exempt under section 644 ITEPA. These individuals will either not be regular firefighters or will not have served two (previously five) years.”

3.3 This applies to:

- A retained firefighter who was employed prior to 6 April 2006 and prior to 1 April 2014 was awarded an injury and ill health pension for his retained service under the compensation scheme, Part 8, rule 2, paragraph 4.
- A retained firefighter employed prior to 6 April 2006, who didn’t subsequently become a ‘special member’ under the terms of the modified arrangements and after 1 April 2014 has been retrospectively awarded an injury and ill health pension for his retained service under the compensation scheme, where it has been determined that the injury is a qualifying injury and was sustained before the 1st April 2014 under the protected right granted in SI 2014/447 paragraph 2 of rule 3.

3.4 The guidance provides information on how to correct any errors that have occurred in the treatment of these costs.

3.5 Warwickshire County Council is in the process of identifying whether it has any retained firefighters who fall into these categories, and will then ascertain whether it has treated any ill health pension payments in the correct way.

3.6 An update on this matter will be brought to the next Fire Pensions Board.

4 Supporting Documents

None

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