

Report to: Pension Committee

Date of meeting: 22 June 2021

By: Chief Finance Officer

Title: Abatement Policy Review

Purpose: To request that members of the Pension Committee approve a proposed change to the Administering Authority policy on abatement.

RECOMMENDATION

The Pension Committee is recommended to:

- 1) approve the removal of the abatement with effect from 1 April 2021; and**
 - 2) delegate authority to the Chief Finance Officer, in consultation with the Chair, to take all necessary actions to give effect to the implementation of the above recommendation**
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1. Background

1.1. This report provides the Committee with information regarding the reduction or suspension of a Local Government Pension on account of further employment within Local Government after an individual has retired (Abatement).

2. Supporting information

2.1. Abatement is a technical term regarding the reduction or suspension of a Local Government Pension Scheme (LGPS) pension where a pensioner has entered into further local government employment. If the annual salary in the second local government employment plus the pension in payment exceed the annual salary at the initial retirement, the pension may then be reduced in part or in full, for the duration of the subsequent local government employment.

2.2. Until 31 March 1998 abatement of pensions was mandatory. However, from 1 April 1998 to 31 March 2014 abatement was at the discretion of the Administering Authority. Following the introduction of new scheme regulations with effect from 1 April 2014, abatement ceased to be applicable for service after this date. Accordingly, a scheme member who only has LGPS membership from 1 April 2014 cannot be subject to abatement.

2.3. Abatement can only apply where an employee is eligible to join the LGPS in their post retirement employment. For example, those over the age of 75, those employed via an agency or on a consultancy basis would not have access to the LGPS and would therefore not be subject to abatement. The criteria for abatement is based upon eligibility, and so an employee who does have access to the LGPS would be subject to abatement, even in circumstances where they have chosen to opt out. A pension payable to the spouse or partner of a former local government employee, cannot be abated if the spouse/partner enters local government employment

2.4. Under the terms for 'flexible' retirement within the LGPS, a scheme member aged 55 or over may, with the agreement of the employer, reduce working hours or take a pay grade reduction and receive the LGPS pension and ongoing salary without being subject to abatement.

2.5. Currently, the Pensions Administration Team receive a number of requests from retired members for a calculation of the maximum earnings permitted before abatement will apply, ensuring no reduction is applied to their pension in payment as a consequence of any new employment. Alternatively, members may work via a third party, avoiding eligibility of access to the

LGPS and therefore avoiding abatement. These practices can be to the detriment of the new scheme employer because the individual restricts their working hours or because the scheme employer incurs additional costs as a result of employing via an agency or contractor/consultant.

2.6. As a consequence, and in spite of being informed of the need to notify the Administering Authority if once retired, further employment is taken up where the person is eligible to join the LGPS, abatement has disproportionate effect on the unwary pensioner who may take up new employment and subsequently be presented with a bill for overpaid pension having forgotten to declare their re-employment.

2.7. As the table below shows a summary of the abatement policy for administering authorities across the country (excluding London):

Policy	Number of Administering Authorities
Full Abatement	3
Partial Abatement	21
No Abatement	20
Unable to establish policy	9

2.8. A decision to cease abatement for all post April 1998 pensions will allow for fairer treatment for all pensioners, as this is currently only enjoyed by pensioners with only post 2014 scheme membership.

2.9. The change in pensions rationale over the last few years, seen with the introduction of "Pension Freedoms", has allowed active and deferred scheme members to access reduced pensions at a date of their choosing, but the continued use of abatement appears to be in conflict with this shift in policy.

2.10. Within the context of Covid-19, on 19 March 2020 a letter was issued to the Chairs of all LGPS Pension Committees by Councillor Roger Phillips, Chair of the Scheme Advisory Board confirming that following a government programme to encourage recently retired health and social care staff to return to work, it was the intention of Government that those returning to employment should not suffer any impact on the public service pension they currently receive. Consequently, requiring the suspension of abatement in such cases.

2.11. The absence of abatement provisions from The LGPS Regulations 2013 means that any employee who leaves on or after 1 April 2014 cannot have their post 1 April 2014 pension benefits abated. However, abatement provisions in regulations 70 and 71 of the Local Government Pension Scheme (Administration) Regulations 2008 continue to have effect in relation to pensions in payment deriving from the pre 1 April 2014 pension schemes regardless of when payment of those pensions commenced by virtue of Regulation 3(13) of the Local Government Pension Scheme (Transitional) Regulations 2014.

2.12. Under regulation 70, the administering authority must keep under review its policy concerning abatement that is, the extent if any, to which the amount of retirement pension payable to a member and applicable to period prior to 1 April 2014, should be reduced (or whether it should

be extinguished) where the member has entered a new employment with a scheme employer within the local government pension scheme.

2.13. In formulating its policy concerning abatement, the administering authority must have regard to:

- the level of potential financial gain at which it wishes abatement to apply;
- the administrative costs which are likely to be incurred as a result of abatement in the different circumstances in which it may occur; and
- the extent to which a policy not to apply abatement could lead to a serious loss of confidence in the public service.

2.14. When reviewing its existing abatement policy, the Administering Authority must have regard to the matters set out above. If, as a result of reviewing its policy concerning abatement, a decision is taken to amend the abatement policy, it must publish a statement of the amended policy before the expiry of the period of one month beginning with the date of its determination.

2.15. The proposal to be put to the Pension Committee is that East Sussex Pension Fund, subject to period of consultation with scheme employers, take the decision to cease to abate pensions for staff who ceased employment after 1 April 1998 with retrospective effect from 1 April 2021.

2.16. The Fund is not currently able to identify those members where an abatement has been applied, as a result pensioners would need to advise the Fund that they believe their pension needs to be reviewed and reinstated to current values. For those who are currently in receipt of an abated pension and their employment ended after 1 April 1998, they will cease to have their pensions abated and will be reinstated to the current values from 1 April 2021 once identified.

2.17. The proposed change was discussed at the Pension Board on 1 June 2021, and was supported, although there were mixed views as to whether the changes from 1 April 2021 should be retrospective or not. The Pension Board requested officers submit a further report to the Pension Board and Committee when the potential impact of making this change retrospective is known.

3. Conclusion and reasons for recommendations

3.1. The continuing practice of abating pensions in payment due to local government re-employment may be considered to be anomalous now that pensions earned in respect of LGPS membership after 1 April 2014 cannot be abated. Additionally continuation of the current Policy encourages individuals to seek further work in local government as agency workers or as a consultant/contractor.

3.2. Members of the Committee are asked to approve the cessation of abatement with effect from 1 April 2021.

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