

Review of LCPF Policy on abatement of pre-1 April 2014 element of pension in payment following re-employment – March 2024

Pension abatement is the extent, if any, to which a Scheme member's pension in payment is reduced or suspended where – whilst retirement benefits are in payment - the member re-enters a new employment under which they are again eligible for membership of the LGPS.

Under the current LGPS Regulations 2013, effective from 1 April 2014, pension abatement has been removed. Accordingly, a scheme member who only has LGPS membership from 1 April 2014 will not be subject to abatement.

However, under former Regulations still in force, as set out in regulations 70 and 71 of the Local Government Pension Scheme (Administration) Regulations 2008, abatement can still be applied in relation to pensions in payment derived from the pre-1 April 2014 pension scheme¹ regardless of when payment of those pensions commenced by virtue of Regulation 3(13) of the Local Government Pension Scheme (Transitional) Regulations 2014.

The LGPS Regulations require that each Administering Authority must formulate and keep under review a policy on pension abatement, that is, the extent, if any, to which the amount of retirement pension payable to a member and applicable to a period prior to 1 April 2014, should be reduced or stopped where the member has entered a new employment with a scheme employer within the Local Government Pension Scheme.

When formulating an abatement policy, the Pension Regulations require that the Administering Authority has 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;
- the extent to which a policy not to apply abatement could lead to a serious loss of confidence in the public service.

* (This is a reference to the financial gain which it appears to the Administering Authority may be obtained by a member as a result of their entitlement both to a pension and to pay under any new Local Government employment)

Current Policy (Last reviewed March 2019)

Lancashire County Pension Fund's (LCPFs) current policy is -

Only members in receipt of ill-health pensions will be subject to abatement where the aggregate of the pension in payment and the earnings in the new employment exceed the rate of pay on leaving the first employment.

The test is that if the pension plus new Local Government earnings exceeds the pay the member on just before retiring i.e. on leaving the first employment, (index-linked between the last day of service within their employer and commencement date of the new employment), then the pension must be reduced so that the total reward is not greater than the leaving pay, or suspended if the new pay is more than the leaving pay.

¹ Applies to the Pre-14 element of the pension

Our policy does not necessitate the abatement of other early retirements such as redundancy or efficiency.

Review of Policy – March 2024

This review looks at whether the Fund wishes to continue to apply abatement to members impacted by the former Scheme regulations or stop abatement entirely.

The main reason that ill health pensions are abated is that when a person is awarded an ill-health pension the criteria is that they 'are permanently unfit of carrying out *gainful employment*'. Gainful employment is determined as not more than 30 hours. If a member then commences '*gainful employment*' then they would effectively be at a financial gain i.e., benefiting from their pension and pay under their new local government employment.

Scheme members seeking further employment often opt to work outside of local government or aim to keep their working hours at a level to ensure no reduction to their pension.

Benefits of abatement

- By abating a member's ill-health pension the Fund isn't paying out enhanced pensions to pensioners that have now secured '*gainful*' employment.
- Employer's liabilities reduce as the ongoing pension is less. This will be less material for large and medium employers.
- Moral and reputational considerations i.e. if a member has found '*gainful employment*' then by clawing back the ongoing payment there is no unintended financial gain.

Considerations

- Administering abatement of pensions involves considerable work for LPPA and following changes to the scheme regulations in 2014 there is a greater risk that abatement is not applied correctly because it is a low frequency situation for a small, limited cohort of members.
- If the Fund decides to stop abatement of pension from 1 April 2024, it also needs to be considered that any pensions abated prior to this date should be reinstated from this date. This would result in a cost to the Fund as it would result in higher pensions being paid which would otherwise have remained reduced. However, the impact is not likely to be material and the anticipated number of affected members is estimated at less than 100 (this is intended to indicate the potential magnitude of affected members and the actual number of affected members could be far lower than this).
- The number of ill-health pensions currently abated is thought to be very small and the occurrence of new cases is infrequent. Furthermore, the potential for new cases is ever dwindling as more and more members only have post 2014 membership. It is a lot of work for LPPA to determine exact numbers as there is no '*abatement*' flag on suspended or reduced pensions and they will need to review each case to determine if the member's pension was adjusted due to abatement. In view of the work involved it is only intended to ask LPPA to identify cases should we decide to reinstate any pensions.
- Should the Local Pension Board deem it appropriate to amend the policy then the Fund team would engage with all Scheme employers prior to making any amendment.

Other Pension Fund's approach to abatement

A number of other fund's administered by LPPA have discontinued the abatement of pensions. For two funds this has been the practice since 2016 and two other funds stopped abatement in 2022.

Recommendations

1. To discontinue the abatement of all ill-health pensions in payment on the basis that -
 - This would align with the approach for pensions earned in respect of LGPS membership after 1 April 2014 which cannot be abated;
 - numbers of ill-health pensions paid out which include pre 2014 membership are dwindling as the population ages and more members retiring have only joined the scheme post April 2014;
 - see comment above on likelihood of a member in receipt of an ill-health pension taking on gainful employment;
 - Avoids inconsistent treatment between members who receive an ill-health pension and take up a role in Local Government compared to those who take a role in the private or non-Local government sector;
 - reduces potential for overpayment of pensions if LPPA miss cases that should be abated;
 - financial and reputational impact to the Fund or employers is not likely to be material; and
 - other Fund's have also discontinued the abatement of pensions.
2. That LPPA reinstate any pensions currently abated with effect from 1st July 2024, the date from which the new abatement policy will apply.