

ITEM No ...3.....

REPORT TO: PENSION SUB-COMMITTEE OF THE POLICY & RESOURCES COMMITTEE & PENSION BOARD– 5th JUNE 2017

REPORT ON: ADMINISTERING AUTHORITY DISCRETION – REQUEST TO CEASE ABATEMENT OF PENSION BENEFITS

REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES

REPORT NO: 193-2017

1 PURPOSE OF REPORT

This report reviews the current policy of Tayside Pension Fund in respect of pension abatement on re-employment in the context of changes to pension regulations, the financial implications in terms of administration, and also the costs to individuals. The report also comments on the policies of the other Scottish LGPS.

2 RECOMMENDATIONS

That the Sub-Committee approve to cease abatement of pension payments in respect of pre-2015 entitlements to be more compatible with modern working practices and in line with 9 other Scottish LGPS with effect from 1ST April 2017.

3 FINANCIAL IMPLICATIONS

At present, there are 28 live abatements incurring pension reductions of over £75,000 p.a. to individuals, 18 of these are not due to ill-health and incur individual reductions of £52,800. Full pension values (not abated) are taken into consideration when valuing pension liability and the resultant employer contribution rate at triennial actuarial valuation. The value of these reductions noted is not material in value to a fund of over £3.2 billion and provide no benefit to the fund.

4 BACKGROUND

Abatement is defined as where a person is reemployed with a Local Government Pension Scheme employer and is entitled to join the Local Government Pension Scheme, the pension will be abated if their new pay and their pension exceed the pay they were receiving immediately before retirement plus index linking.

The Local Government Pension Scheme (Administration) Scotland Regulations 2008 64(1) which came into effect 1st April 2009, stated that Administering Authorities must publish a policy on abatement of pension on reemployment in Local Government after consulting fund employers.

Dundee City Council (as administering authority for the fund) recommended to apply this discretion (Article I of the minutes of the Policy and Resources Committee meeting of the 11th May 2009, Report No 170-2009 Local Government Pension Scheme - Authority Discretions refers). The other employing authorities which contribute to the Tayside Pension Fund had undergone prior consultation with Angus Council stating at that time that they would prefer not to abate pensions of re-employed pensioners.

April 2015 introduced regulations containing no abatement provision, and as a result, anyone leaving the scheme after 31 March 2015 who draws pension benefits and is subsequently reemployed will not suffer abatement, but this is only in respect of their CARE benefits.

5 OTHER SCOTTISH LGPS ABATEMENT POLICIES

Of the 11 Scottish LGPS schemes, Tayside and Falkirk are the only schemes still applying abatement.

6 FINDINGS - ADMINISTRATIVE IMPACT

6.1 2 Tier Process (Current Abatement & Flexible Retirement Cases)

Tayside pension fund are currently operating a 2 tier process as the 402 flexible retirement arrangements are not subject to abatement, thus employees undertaking this arrangement benefit from receiving unabated pension benefits in addition to salary.

Dundee City Council have a policy whereby those on flexible retiring arrangements are not permitted to benefit beyond their pre-retirement salary. Other employers operate their own arrangements in relation to flexible retirees.

Of the 28 re-employed members of the Fund in receipt of pension, 10 retired on ill health grounds between 1992 and 2004. The 18 who did not retire under these grounds also undergo recalculation of benefits and receive a reduced pension until their employment ceases. Any changes to salary circumstance during the period of employment is subject to recalculation of pension benefit and payment.

A simple comparison is shown below which demonstrates that those on flexible retirement arrangements would receive the same income for working less hours (assuming no post 2015 membership and employment is at same grade as pre-retirement):

Income Comparison	Re-employment	Flexible retirement
Salary prior to retirement	£30,000	£30,000
Full Time Equivalent	1	1
Annual Pension	£10,000	£10,000
Post retirement	0.8	0.67
Post retirement salary	£24,000	£20,000
Pension abatement	-£4,000	£0
Combined Income	£30,000	£30,000

6.2 Abatement Process

- Each retiring member is informed in their documentation at retirement that the onus is on the individual to inform Tayside Pension Fund that they have become, or are intending to take up employment which would be subject to LGPS regulations.
- Although some of the reductions on benefits are as little as £150 per year, the simplest case calculation takes over 2 hours process.
- Tayside Pension Fund are part of the National Fraud Initiative, and as a result receive potentially new cases annually to review in respect of those who they have found to be in receipt of salary and pension. There are approximately 500 of these cases received per year. As the current discretion is to abate pensions, each case

has to be investigated, either to confirm that the correct action has been taken, or to start the process of abatement in line with the current policy. Each investigation takes up to an hour and an additional 2 hours if requiring abatement calculation and processing.

- There are approximately 10 calls per month received from individuals requiring calculations to ascertain whether their offer of employment will have impact on the amount of pension they will receive as a result of abatement.

7 **CHANGES IN PENSION REGULATION**

As demonstrated below, there is no provision for abatement in the current pension scheme regulations which highlights the inequitable impact of abatement on individuals where applied in comparison to those on flexible arrangements. This could be viewed as a barrier to employment.

- **The Local Government Pension Scheme (Administration) Scotland Regulations 2014**

The regulations which came into effect 1st April 2015 contained no abatement provision, and anyone who leaves the scheme after 31 March 2015 who draws pension benefits and is subsequently reemployed will not suffer abatement. However, this is only in respect of the CARE pension.

- **The Local Government Pension Scheme (Transitional Provisions & Savings)(Scotland) Regulations 2014**

Regulation 3(1) states that membership accrued in the earlier schemes in respect of service before 1st April 2015, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2015, are preserved.

- Therefore, in the context of abatement, this means that a pre-1 April 2015 pensioner's benefits continue under the old scheme rules. Whether they are reemployed before 1 April 2015 or after 31 March 2015, they will still be subject to **The Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008**

Introduced on 1st April 2009, regulation 18 allows a member who has attained the age of 60 (55 with employing authority's consent) to working hours, or grade and receive all or part of their pension benefits. The payment of pension benefits under this regulation are not subject to any reduction through abatement.

8 **EXCEPTIONS**

- 8.1 Compensatory Added Years - The rules governing abatement and claw-back of compensatory added years are not affected and would be subject to abatement as directed by Local Government (Discretionary Payments) (Amendment) Regulations 1998.
- 8.2 Tier 1 ill-health retirement - Assessed and certified by an Independent Medical Practitioner as 'Permanently incapable', meaning that the person will, more likely than not, be incapable of discharging efficiently the duties of their employment or office with the employer because of ill health or infirmity of mind or body until, at the earliest, their 'normal pension age'. Those granted tier 1 ill-health retirement status

are entitled to state benefits, therefore should not be undertaking employment as in receipt of enhanced benefits calculated to state pension age.

9 POLICY IMPLICATIONS

This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues

10 CONSULTATION

The Chief Executive and Head of Democratic and Legal Services have been consulted in the preparation of this report.

11 BACKGROUND PAPERS

None

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26 MAY 2017