

## **LGA Fire Pensions Annual Conference 2019**

Technical Workshop – Abatement

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# Agenda

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- Purpose of Technical Workshop
- Abatement – A Reminder
- Cases outside of current policy/guidance on Abatement

# **Purpose of Technical Workshop**

## Purpose of Technical Workshop

- a quick reminder of what abatement is and why it is important
- the Home Office has made clear that for those cases not already covered by current policy guidance on abatement, it is for the LGA, FPS SAB and Fire & Rescue Authorities to draft their own policy guidance in relation to such cases
- a discussion of attendees' experience of cases which are currently outside/not covered by the current Home Office policy guidance
- the cases discussed in the workshop will then be taken away for further consideration with a view to the LGA, FPS SAB and Fire & Rescue Authorities drafting their own policy guidance in relation to such cases

# **Abatement and Re-Employment – A Reminder**

## Abatement – A Reminder

What is abatement?

- Abatement is the ability of the Authority to reduce the Member's pension if the Member is receiving a salary from a Fire Authority (or from local government) after retiring
- Caps the total payment received from the Authority (i.e. pension + new salary) to maximum level of pay received in role at retirement
- Abatement provisions contained in relevant Scheme's rules – 1992 and 2006 Scheme Regulations (not contained in 2015 Scheme)
- Authority has the discretion to reduce all or part of a pension where a Member is re-employed "**in whatever capacity**" by an Authority (including local government)

## Abatement – A Reminder

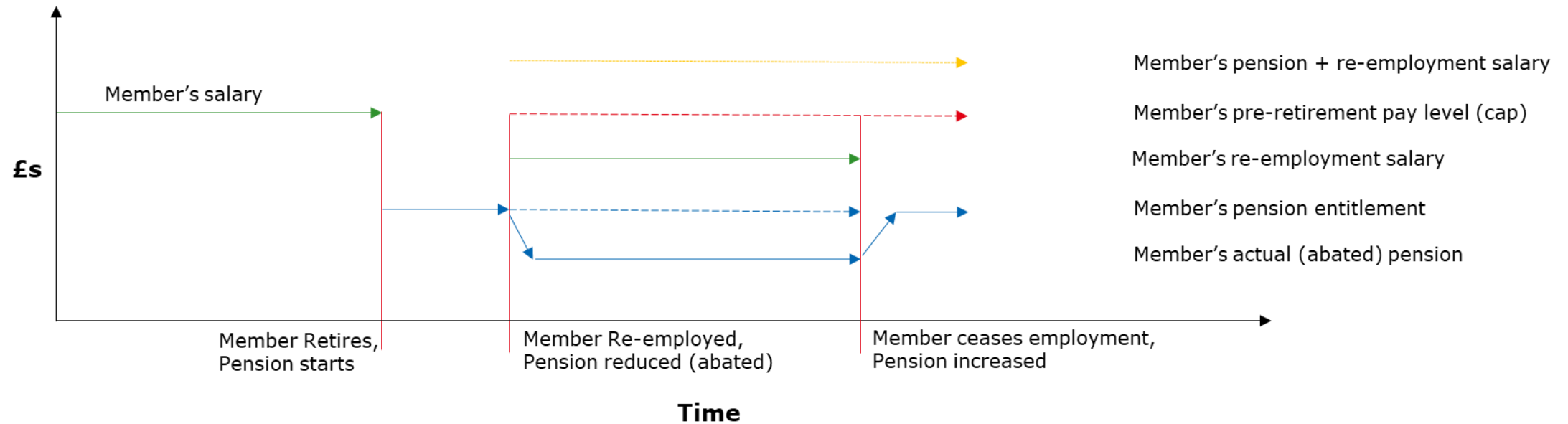
What is abatement?

- Normally only applies in the context of a Protected Pension Age (“PPA”), if the role is **not** “materially different” from that which the Member retired from
- **However, Government as a matter of public policy *require* abatement to be used**
- **Authority therefore *required* to apply its discretion to reduce all or part of a pension where Member re-employed to cap overall payment to the Member**
- Fire Authority guidance on abatement issued:
  - Guidance was first issued in Section 3(i) of Circular FPSC 08/2006, updates in FPSC 10/2009
  - FPSC circular 10/2009 - note that this circular previously issued by DCLG is no longer endorsed by Home Office, LGA or SAB. Nevertheless, it provides useful historic background.



# Abatement – A Reminder

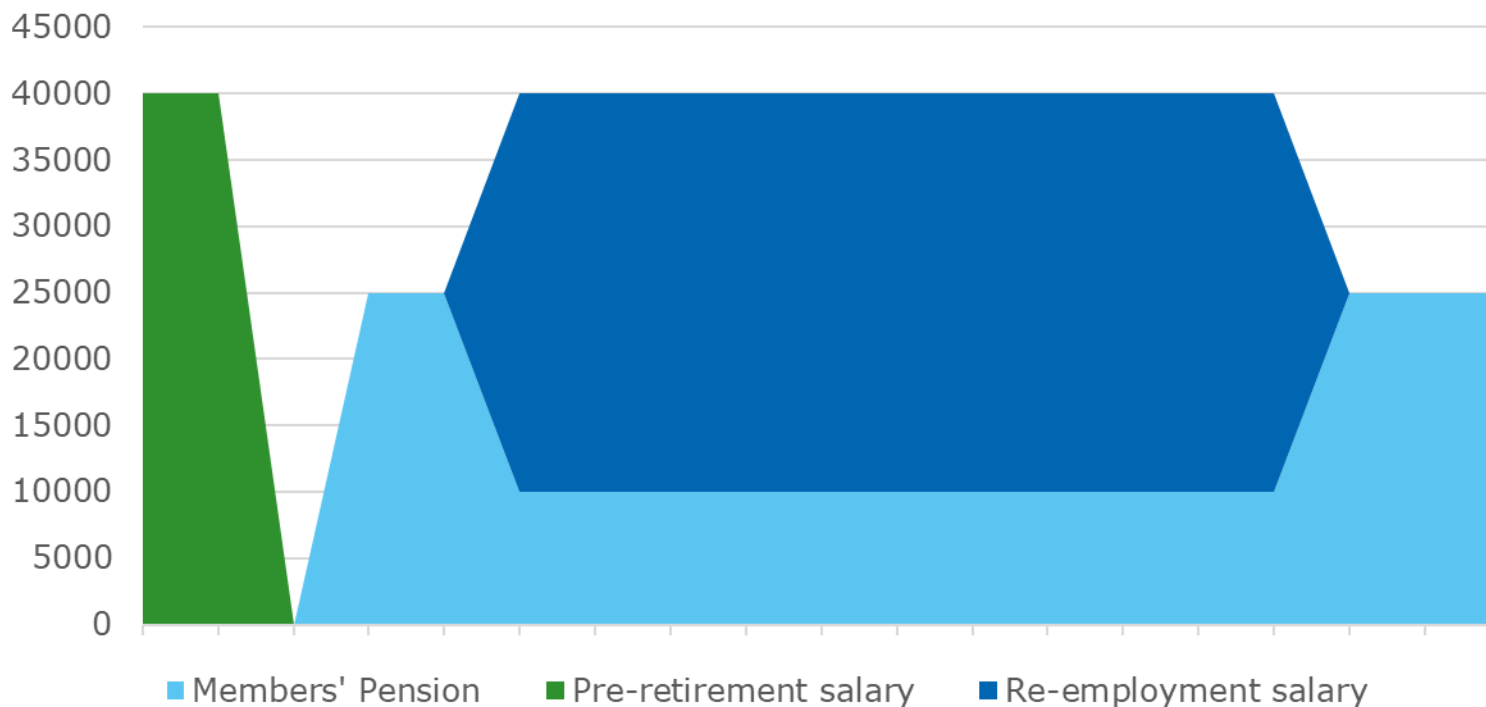
Abatement – a diagram to explain



# Abatement – A Reminder

Abatement – a worked example

Example of an abated of a pension



Member's pre-retirement salary was £40,000 (this is the cap)

Member retires on £25,000 pension

Re-employed by Authority on £30,000 salary

Member's pension reduced/abated to £10,000 (so Member does not exceed £40,000 cap)

# **Abatement and Re-Employment – Discussion**

## Abatement and Re-Employment – Discussion

- experience of cases which are currently outside/not covered by the Home Office policy guidance on abatement?
- any advice/guidance sought on those cases?
- what was the approach taken?
- were there any challenges as a result of the approach taken?
- any other comments/feedback?

## Should the test be performed annually

- Should the test of whether the salary plus pension be performed each year with pension increases applied?
    - One option would be to undertake an annual calculation to see how much salary and pension was being received and compare that to an index linked salary at retirement. Any excess above the indexed linked salary at retirement could be abated.
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## What counts as re-employment?

- Would any work for the Fire Authority even though self-employed, be considered for abatement -
  - Re-employed as a contractor and is currently in receipt of 1992 pension.
    - A likely test as to whether the member is subject to abatement, is how they are assessed under the new IR35 rules. If through that assessment they are classed as an employee for tax purposes, then it is likely they will also be classed as an employee for abatement purposes too. Another test would be whether they qualify under auto enrolment as a ‘worker’ - <http://www.thepensionsregulator.gov.uk/docs/detailed-guidance-1.pdf>
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## Responsibility for abatement when pension with previous FRA

- Unsure where responsibility / liability sits to monitor and calculate the abatement in this case.
  - Is this new employer or authority paying pension, reducing the employee's salary may cause non-compliance with other legislation such as equal pay, National Minimum Wage etc...
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## What pay figure to use?

- Current Value of pension is £19808.26, member rejoined the FRA on a salary of £24799.00, which totals £44607.2

What pay figure I should use. Is it the annual rate of pay at retirement? As the member had an APB at that time should it be included? Alternatively do I use the pay figure used in the retirement calculation?

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## Transitional 1992 member of 2015 scheme

- Re-employment of 2015 scheme member with transitional 1992 benefits. Retiring at age 50 in 2020 with payment of 1992 benefits only, with 2015 benefits being deferred until age 60.

Does abatement apply?

- 1 – As member is fully in the 2015 scheme we do not abate
  - 2 – As he is only taking 1992 benefits we abate.
  - 3 – Leave decision up to FRA to decide on abatement or not.
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## Retained

- Retained NFPS Pensioner who is looking to return to a retained post.
  - How should the abatement apply given the variable nature of retained work
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