

# Abatement

Refresher, TPO, and PSPJO  
Also PPA



# What is abatement?

Applies in FS schemes when member retires and remains employed or is re-employed

New salary + pension cannot exceed old salary

Abatement does not apply in FPS 2015

Each FRA to have policy on abatement

No prescribed guidance on application and calculation of abatement

# TPO determination PO-25374

FPS 1992. Benefits: overpayment (recovery of)

FRS sought to recover an overpayment of pension following decision to abate

Member claims FRS had a duty of care to alert him that pension would be abated

Partly upheld:

- No additional duty of care than to provide factual information
- FRS did not follow a “reasonable process”

# The member's position

He was not aware of the position on abatement or other members who have been abated

His total earnings did not exceed his pre-retirement earnings

He has been caused financial distress and should not have to repay the overpayment

Issues raised:

- Did the FRS have a duty of care
- Was the FRS decision making procedure reasonable
- Is there a legal defence against recovery

# The FRS position

Abatement is a government policy and is common in the FRS

Information on abatement was available and pensioners are expected to inform the Pensions Section

Duty of care argument is not accepted

Recovery of overpayment is not time-barred and FRS has obligation to recover overpaid amounts

# TPO conclusions

Rule K4 allows FRS to abate pensions

Evidence and case law show that FRS did not act negligently as factual information was available

Evidence indicates that a blanket policy in respect of abatement was applied

- Merits of individual case were not considered
- Member should have been invited to provide “exceptional factors”

# Directions

£500 payment for distress and inconvenience

Member to be invited to make representations against recovery of overpayment

FRS to review decision and make a new discretionary determination

If overpayment still to be recovered, payment plan should equal overpayment term at least

# Regulations (SI 2013/1392)

K4 The fire and rescue authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death—spouses and civil partners), for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity.

LA2(9) Where an authority exercises its discretion not to withdraw the payment in whole or in part of any pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority), the authority shall in the financial year in which payment is not withdrawn, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which could have been abated or withdrawn.



# LGA view

Abatement is a government policy and is common in the FPS

Wording of Rule LA2(9) suggests that discretion is NOT to abate, due to funding arrangements

Most FRAs apply a blanket policy

It is common practice to inform new starters of requirement to declare pensions in payment

Opinion sought from HO and SAB legal adviser on application of blanket policies and if FRAs need to consider amendments

Abatement guidance will be updated to reflect views

# Abatement and the 2015 Remedy

Abatement will continue to apply in the legacy schemes (FPS 1992 and FPS 2006)

Abatement provisions are contained in scheme rules, so no specific provision made in PSPJO Bill

Transitional members may become liable to abatement or increased abatement when “roll-back” occurs

Should be flagged to members as part of DCU decision

Could constitute a contingent decision claim for those already re-employed

# Abatement resources

[Abatement factsheet](#)

[Protected pension age factsheet](#)

Historic archived circulars:

- [FPSC 10/2009](#)
- [FPSC 08/2006](#)

[CLG commentary – Rule K4](#)

[FPS AGM – Workshop 2](#)

[Current draft abatement guidance](#)

# Protected Pension Age (PPA)

NMPA = 55 from 6 April 2010

FPS 1992 PPA = 50 with min 25 years' service

Can be lost on re-employment or concurrent employment

Tax charges apply:

- 55% PCLS
- 40% pension (up to age 55)

# Retaining a PPA

If one of the following employment conditions is met:

- Break in employment of min 6 months
- Break in employment of 1 month and abatement may apply
- Break in employment of 1 month and re-employment is “materially different” e.g. grey to green book

# Increase to NMPA

NMPA increasing from 55 to 57 on 6 April 2028

- [HMT consultation response](#)
- [Policy paper and draft regulations](#)

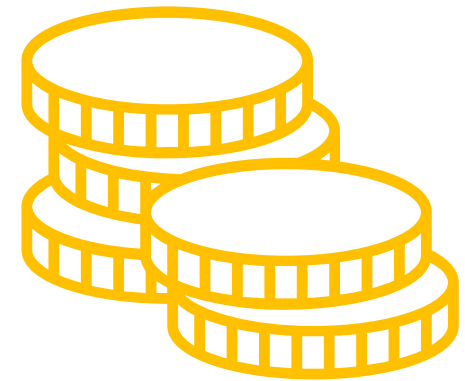
Measures do not affect members who:

- Ill-health retire
- Have a PPA
- Are members of Fire, Police and Armed Forces PS schemes

No change to the PPA employment conditions as set out in [Schedule 36, Part 3, paragraph 22 of the FA 2004](#)

# Public service PI: 2022

- Public service pensions which have been in payment for a year will be increased by 3.1% from 11 April 2022 in line with the September-to-September increase in the Consumer Price Index (CPI)
  - [2022 PI multiplier tables](#)
  - [HMT covering note](#)



# Any questions





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**Thank you for listening!**

[claire.hey@local.gov.uk](mailto:claire.hey@local.gov.uk)

[claire.johnson@local.gov.uk](mailto:claire.johnson@local.gov.uk)