



Government Actuary's Department

Local Government Pension Scheme (England and Wales)

Application of a pension credit to the former spouse or civil partner of the member

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1 Introduction

- 1.1 The Secretary of State for Communities and Local Government is required under the Local Government Pension Scheme Regulations 2013 ('the 2013 Regulations') (SI 2013/2356), to issue actuarial guidance on the calculation of the pension credit for the former spouse or civil partner (the "pension credit member") following a divorce proceeding.
- 1.2 This guidance is designed to be consistent with the Welfare Reform and Pensions Act 1999 ("the Act") and associated regulations (principally the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000). It should only be used when the Transfer day is on or after 1 April 2014. Where the Transfer day is earlier, the case should be dealt with according to the guidance dated 5 October 2012.
- 1.3 The remainder of this introduction contains:
- > details of the implementation and future review of this guidance,
 - > the relevant legislative references, and
 - > statements about third party reliance and liability
- 1.4 In the remainder of this note:
- > the second section describes the benefits provided to a pension credit member
 - > the third section describes the calculation of the pension credit
 - > the fourth and fifth sections set out the factors applicable where the former spouse is respectively below or above Normal Pension Age
 - > the sixth section provides example calculations
 - > Appendices A and B contain the legislative references
 - > Appendix C sets out some important limitations

Implementation and Review

- 1.5 The Secretary of State is required to consult with GAD before issuing actuarial guidance under the Local Government Pension Scheme Regulations 2013 ('the 2013 Regulations') [Regulation 2(3) of the 2013 Regulations].
- 1.6 As part of this consultation, the Department for Communities and Local Government (DCLG) has asked GAD to recommend actuarial guidance in respect of the regulations detailed above. This document forms GAD's recommendation for the actuarial guidance required by these regulations.
- 1.7 This note has effect only when this guidance is issued by the Secretary of State in accordance with Regulation 2(3) of the 2013 Regulations, and is subject to the implementation instructions provided at that time.

- 1.8 This guidance applies where the member whose pension rights are being shared had been a member of the 2014 Scheme and the Transfer day is on or after 1 April 2014. Where the member whose pension rights are being shared had not been a member of the 2014 Scheme, or where the Transfer day is before 1 April 2014, the guidance dated 5 October 2012 continues to apply. This guidance uses the same assumptions as those on which the 5 October 2012 guidance was based.
- 1.9 This guidance has been written for pension administrators and assumes some knowledge of general pension terminology, and some familiarity with retirement calculations for the Local Government Pension Scheme. Any questions concerning the application of the guidance should, in the first instance, be referred to DCLG.
- 1.10 The factors contained in this note are taken from other guidance prepared by GAD, which will be reviewed periodically. This will depend on external circumstances, for example when the LGPS cash equivalent transfer value basis is reviewed; when changes in the actuarial assumptions adopted for other scheme factors take place; or following each triennial cycle of future valuations of the LGPS.

Use of this note

- 1.11 This note has been prepared for DCLG and can be relied upon by them. We are content for this note to be released to third parties, provided that:
- > it is released in full
 - > the advice is not quoted selectively or partially, and
 - > GAD is identified as the source of the note.
- 1.12 Third parties may wish to seek their own actuarial advice where appropriate. GAD has no liability to any person or third party for any act or omission taken, either in whole or in part, on the basis of this note.

Third party reliance

- 1.13 When issued by the Secretary of State in accordance with paragraph 1.7 above, this note should be used as the actuarial guidance required under the regulations cited. Other than for this purpose, no person or third party is entitled to place any reliance on the contents of this note, except to any extent explicitly stated herein.

2 Pension credit benefits

- 2.1 Where a pension sharing order is made by the Court, the former spouse or civil partner is allocated a percentage (up to 100%) of the value of the member's benefits. These rights can be discharged by the administering authority, either by making a transfer payment to another appropriate scheme (as prescribed in the relevant legislation), or by establishing a pension credit within the administering authority's fund.
- 2.2 The main benefits are as follows:
- 2.2.1 A pension payable for life from the Normal Pension Age (with no dependants' pensions payable on death);
- 2.2.2 The pension can be commenced from an earlier or later age between ages 55 and 75, subject to adjustment for early or late payment in accordance with the appropriate guidance;
- 2.2.3 Part of the pension can be commuted for a cash sum at its commencement so long as the member whose pension rights are being shared had not commuted a part of his or her pension for a cash sum on retirement or on flexible retirement where the date of retirement or flexible retirement was prior to the valuation date used for implementing the pension sharing order;
- 2.2.4 The pension is increased in accordance with the Pensions Increase Act with effect from the Transfer day.
- 2.3 Regulations 30(10), 30(11) and 30(12) from the 2013 Regulations and Regulation 20 of The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulation 2014 ('the 2014 Scheme Transitional Regulations') (SI 2014/525) set out the benefits the pension credit member will be entitled to in the Scheme. The text of these regulations is reproduced in Appendix A.
- 2.4 The general principle is that the pension credit established in the fund is actuarially equivalent to the proportion of the cash equivalent of the member's benefits that is awarded to the former spouse or civil partner. The benefits from the pension credit are additional to any benefits the former spouse or civil partner may be entitled to under the LGPS Regulations in his or her own right.
- 2.5 It is assumed that the cash equivalent of a member's benefit for divorce purposes has already been determined.
- 2.6 The methodology and instructions described in this note can be adopted and applied in respect of the benefits for the former spouse or civil partner of a Councillor member.

3 Calculation of the pension credit

- 3.1 This section sets out the methodology for calculating the pension credit following the issue of a pension sharing order by the Court.

Appropriate percentage

- 3.2 For divorces in England and Wales, the pension sharing order will specify the percentage of the cash equivalent of the member's benefits that the former spouse or civil partner will be entitled to (the "appropriate percentage").
- 3.3 The former spouse or civil partner's cash equivalent ("ESCE") is determined by applying the appropriate percentage to the cash equivalent of the member's benefit for divorce purposes (see paragraph 2.5).

Calculation

- 3.4 Section 29(8) of the Act defines the Transfer day as the day on which the pension sharing order takes effect. (The Transfer day is sometimes also referred to as the Effective date.)
- 3.5 The calculation of the pension credit should be based on the age, Normal Pension Age, and gender of the former spouse or civil partner at the Transfer day. Do not use the age, Normal Pension Age, and gender of the member.

Pension credit calculation for former spouse or civil partner below Normal Pension Age

- 3.6 The pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2008 service:

$$PC_1 = ESCE_1 \div (F_P \times Adj_Fac)$$

Pension credit in respect of post 1 April 2008 Pre 1 April 2014 service:

$$PC_2 = ESCE_2 \div (F_P \times Adj_Fac)$$

Pension credit in respect of post 1 April 2014 service:

$$PC_3 = ESCE_3 \div (F_P \times Adj_Fac)$$

$$\text{Total pension credit} = PC_1 + PC_2 + PC_3$$

Where:

ESCE₁ the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2008

ESCE₂ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2008 pre 1 April 2014

ESCE₃ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2014

| | |
|---------|---|
| F_P | factor for pension for former spouse or civil partner from Table 4.1 or 4.2. The factors in this table are designed to be copies of the 'Club and outward CETV factors' in tables 1.1 and 1.2 of version 4.1 of the transfer value guidance dated 22 February 2012, and are set out in this guidance for convenience. If the transfer value guidance has been updated in the meantime then the most recent factors from that guidance should be used in these calculations. |
| Adj_Fac | this factor is taken from table 4.3 and is used to adjust the F_P factor to allow for the change in NPA as the current F_P factors assume a NPA of 65. |

[All the elements PC_1 , PC_2 , and PC_3 should be stored for possible future reference.]*

Pension credit calculation for former spouse or civil partner at or above Normal Pension Age

3.7 The pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2008 service:

$$PC_1 = ESCE_1 \div F_P$$

Pension credit in respect of post 1 April 2008 Pre 1 April 2014 service:

$$PC_2 = ESCE_2 \div F_P$$

Pension credit in respect of post 1 April 2014 service:

$$PC_3 = ESCE_3 \div F_P$$

$$\text{Total pension credit} = PC_1 + PC_2 + PC_3$$

Where:

$ESCE_1$ the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2008

$ESCE_2$ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2008 Pre 1 April 2014

$ESCE_3$ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2014

F_P factor for pension for former spouse or civil partner from Table 5.1 or 5.2. The factors in this table are designed to be copies of the 'Pensioner Cash Equivalent Factors on Divorce' contained in tables 1.1 and 1.2 of version 1.0 of the GAD's 'Pensioner Cash Equivalent Factors on Divorce' dated 18 January 2012, and are set out in this guidance for convenience. If that guidance has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.

[All the elements PC_1 , PC_2 , and PC_3 should be stored for possible future reference.]*

**The words shown in square brackets are part of the issued guidance but are expected to be deleted in a future revision*

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4 Factors applicable to former spouse or civil partner below Normal Pension age

Table 4.1 – Males

| Age last birthday at relevant date | Factor | Age last birthday at relevant date | Factor |
|------------------------------------|--------|------------------------------------|--------|
| 16 | 4.32 | 41 | 8.47 |
| 17 | 4.44 | 42 | 8.70 |
| 18 | 4.56 | 43 | 8.94 |
| 19 | 4.69 | 44 | 9.19 |
| 20 | 4.81 | 45 | 9.45 |
| 21 | 4.94 | 46 | 9.71 |
| 22 | 5.08 | 47 | 9.98 |
| 23 | 5.22 | 48 | 10.26 |
| 24 | 5.36 | 49 | 10.55 |
| 25 | 5.50 | 50 | 10.84 |
| 26 | 5.65 | 51 | 11.15 |
| 27 | 5.80 | 52 | 11.46 |
| 28 | 5.96 | 53 | 11.79 |
| 29 | 6.12 | 54 | 12.13 |
| 30 | 6.29 | 55 | 12.48 |
| 31 | 6.46 | 56 | 12.84 |
| 32 | 6.64 | 57 | 13.22 |
| 33 | 6.82 | 58 | 13.62 |
| 34 | 7.00 | 59 | 14.03 |
| 35 | 7.19 | 60 | 14.46 |
| 36 | 7.39 | 61 | 14.92 |
| 37 | 7.59 | 62 | 15.39 |
| 38 | 7.80 | 63 | 15.89 |
| 39 | 8.02 | 64 | 16.42 |
| 40 | 8.24 | | |

Notes

The factor should reflect the age and gender of the former spouse or civil partner on the Transfer day (not the age and gender of the member).

At a future date it will be necessary to extend this table to allow for former spouses or civil partners aged over 64 last birthday who have not yet reached their Normal Pension Age. Such cases cannot currently arise and this guidance is likely to have been revised before such a case will exist.

Table 4.2 – Females

| Age last birthday at relevant date | Factor | Age last birthday at relevant date | Factor |
|------------------------------------|--------|------------------------------------|--------|
| 16 | 4.59 | 41 | 9.03 |
| 17 | 4.72 | 42 | 9.29 |
| 18 | 4.84 | 43 | 9.54 |
| 19 | 4.98 | 44 | 9.81 |
| 20 | 5.11 | 45 | 10.09 |
| 21 | 5.25 | 46 | 10.37 |
| 22 | 5.40 | 47 | 10.66 |
| 23 | 5.54 | 48 | 10.96 |
| 24 | 5.70 | 49 | 11.27 |
| 25 | 5.85 | 50 | 11.59 |
| 26 | 6.01 | 51 | 11.92 |
| 27 | 6.18 | 52 | 12.27 |
| 28 | 6.35 | 53 | 12.62 |
| 29 | 6.52 | 54 | 12.99 |
| 30 | 6.70 | 55 | 13.37 |
| 31 | 6.88 | 56 | 13.77 |
| 32 | 7.07 | 57 | 14.18 |
| 33 | 7.26 | 58 | 14.61 |
| 34 | 7.46 | 59 | 15.05 |
| 35 | 7.67 | 60 | 15.52 |
| 36 | 7.88 | 61 | 16.00 |
| 37 | 8.10 | 62 | 16.49 |
| 38 | 8.32 | 63 | 17.01 |
| 39 | 8.55 | 64 | 17.55 |
| 40 | 8.79 | | |

Notes

The factor should reflect the age and gender of the former spouse or civil partner on the Transfer day (not the age and gender of the member).

At a future date it will be necessary to extend this table to allow for former spouses or civil partners aged over 64 last birthday who have not yet reached their Normal Pension Age. Such cases cannot currently arise and this guidance is likely to have been revised before such a case will exist.

Table 4.3 – Adjustment factors

| NPA | Adjustment factor male | Adjustment factor female |
|-----|---------------------------|-----------------------------|
| 65 | 1.00 | 1.00 |
| 66 | 0.94 | 0.95 |
| 67 | 0.88 | 0.89 |
| 68 | 0.83 | 0.84 |

Notes

Interpolation should be used for non-integral pension ages.

The factor should reflect the NPA and gender of the former spouse or civil partner on the Transfer day (not the NPA and gender of the member).

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5 Factors applicable to former spouse or civil partner over Normal Pension age

Table 5.1 – Males

| Age last birthday at relevant date | Factor | Age last birthday at relevant date | Factor |
|------------------------------------|--------|------------------------------------|--------|
| 65 | 16.37 | 81 | 8.39 |
| 66 | 15.90 | 82 | 7.89 |
| 67 | 15.43 | 83 | 7.40 |
| 68 | 14.94 | 84 | 6.93 |
| 69 | 14.44 | 85 | 6.49 |
| 70 | 13.94 | 86 | 6.07 |
| 71 | 13.45 | 87 | 5.67 |
| 72 | 12.95 | 88 | 5.30 |
| 73 | 12.45 | 89 | 4.96 |
| 74 | 11.95 | 90 | 4.64 |
| 75 | 11.45 | 91 | 4.35 |
| 76 | 10.95 | 92 | 4.08 |
| 77 | 10.44 | 93 | 3.82 |
| 78 | 9.93 | 94 | 3.58 |
| 79 | 9.42 | 95 | 3.35 |
| 80 | 8.90 | | |

Note

The factor should reflect the age and gender of the former spouse or civil partner on the Transfer day (not the age and gender of the member).

Table 5.2 – Females

| Age last birthday at relevant date | Factor | Age last birthday at relevant date | Factor |
|---|---------------|---|---------------|
| 65 | 17.54 | 81 | 9.46 |
| 66 | 17.09 | 82 | 8.92 |
| 67 | 16.63 | 83 | 8.39 |
| 68 | 16.16 | 84 | 7.89 |
| 69 | 15.68 | 85 | 7.40 |
| 70 | 15.19 | 86 | 6.94 |
| 71 | 14.70 | 87 | 6.50 |
| 72 | 14.20 | 88 | 6.09 |
| 73 | 13.69 | 89 | 5.69 |
| 74 | 13.18 | 90 | 5.32 |
| 75 | 12.67 | 91 | 4.97 |
| 76 | 12.15 | 92 | 4.63 |
| 77 | 11.62 | 93 | 4.31 |
| 78 | 11.09 | 94 | 4.01 |
| 79 | 10.55 | 95 | 3.72 |
| 80 | 10.00 | | |

Note

The factor should reflect the age and gender of the former spouse or civil partner on the Transfer day (not the age and gender of the member).

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6 Examples

Both the examples in this section assume that the member whose pension rights are being shared had been a member of the 2014 Scheme.

EXAMPLE 1: Pension credit calculation for a former spouse aged under Normal Pension Age

Former spouse data:

| | |
|------------------------------------|-------------------|
| Date of birth: | 1 March 1972 |
| Sex: | Female |
| Transfer day: | 1 December 2016 |
| Age last birthday at Transfer day: | 44 |
| Normal Pension age (NPA): | 67 (illustrative) |

Factors

Gross pension factor (NRA 65) for female former spouse aged 44 last birthday at Transfer day – Table 4.2: $F_P = 9.81$

SPA adjustment factor for female with SPA 67: $Adj_Fac = 0.89$

Calculations

CETV in respect of service before 1 April 2008 = **£60,643.90**

CETV in respect of service between 1 April 2008 and 31 March 2014 = **£15,160.98**

CETV in respect of service from 1 April 2014 = **£5,950.62**

Total CETV **£81,755.50**

Appropriate percentage (from Court Order) = **50%**

$ESCE_1 = 50\% \times £60,643.90 =$ **£30,321.95**

$ESCE_2 = 50\% \times £15,160.98 =$ **£7,580.49**

$ESCE_3 = 50\% \times £5,950.62 =$ **£2,975.31**

Pension credit from NPA in respect of service pre 1 April 2008:

$PC_1 = ESCE_1 \div (F_P \times Adj_fac) =$ **£3,472.95 pa**

Pension credit from NPA in respect of service between 1 April 2008 and 31 March 2014:

$PC_2 = ESCE_2 \div (F_P \times Adj_fac) =$ **£868.24 pa**

Pension credit from NPA in respect of service post 1 April 2014:

$PC_3 = ESCE_3 \div (F_P \times Adj_fac) =$ **£340.78 pa**

Total pension credit from NPA = $PC_1 + PC_2 + PC_3 =$ **£4,681.97 pa**

EXAMPLE 2: Pension credit calculation for a former spouse aged over Normal Pension age

Former spouse data:

Date of birth: 1 January 1947

Sex: Female
Transfer day: 1 December 2016
Age last birthday at Transfer day: 69

Factors

Gross pension factor for female former spouse aged 69 last birthday at Transfer day –
Table 5.2: $F_P = 15.68$

Calculations

| | |
|---|---------------------|
| CETV in respect of service before 1 April 2008 = | £0 |
| CETV in respect of service between 1 April 2008 and 31 March 2014 = | £65,103.30 |
| CETV in respect of service from 1 April 2014 = | £40,499.05 |
| Total CETV | £105,602.35 |
| Appropriate percentage (from Court Order) = | 50% |
| $ESCE_1 = 50\% \times £0 =$ | £0 |
| $ESCE_2 = 50\% \times £65,103.30 =$ | £32,551.65 |
| $ESCE_3 = 50\% \times £40,499.05 =$ | £20,249.53 |
| Pension credit from age 69 in respect of service pre 1 April 2008: $PC_1 = ESCE_1 \div F_P =$ | £0 pa |
| Pension credit from age 69 in respect of service between 1 April 2008 and 31 March 2014: $PC_2 = ESCE_2 \div F_P =$ | £2,076.00 pa |
| Pension credit from age 69 in respect of service post 1 April 2014: $PC_3 = ESCE_3 \div F_P =$ | £1,291.42 pa |
| Total pension credit from age 69 = $PC_1 + PC_2 + PC_3 =$ | £3,367.42 pa |

Appendix A: Cited regulations

A.1 Excerpts from the 2013 Regulations

Introductory

2.—

...

- (3) The Secretary of State may, after consultation with the Government Actuary's Department, issue actuarial guidance to administering authorities.

Pension credit accounts

29.—

...

- (4) The amount in a pension credit account may be adjusted by amounts calculated in accordance with actuarial guidance issued by the Secretary of State-
- (a) as a result of a further pension sharing order; or
 - (b) to account for any tax to which the administering authority may become liable under the Finance Act 2004 in accordance with regulation 87 (tax).

Retirement benefits

30.—

...

- (10) Subject to paragraph (11), a pension credit member who attains normal pension age is entitled to, and must take, immediate payment of a retirement pension deriving from the pension credit, without reduction, irrespective of whether that pension credit member is also an employee in local government service.
- (11) A pension credit member may elect to defer payment of a retirement pension deriving from a pension credit to a date after that member's normal pension age and, if the member does so, is entitled to immediate payment of a retirement pension from any date up to the date when that member attains the age of 75, enhanced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State, irrespective of whether the pension credit member is also an employee in local government service.
- (12) A pension credit member who has attained the age of 55 or over may elect to receive immediate payment of a retirement pension deriving from the pension credit, reduced by the amount shown as appropriate in actuarial guidance issued by the Secretary of State, irrespective of whether the pension credit member is also an employee in local government service.

Election for lump sum instead of pension

33.—

- (1) Subject to paragraph (4), a member entitled to a retirement pension under the Scheme may by written notice given to the appropriate administering authority before any benefits in relation to the benefit crystallisation event become payable, commute the

retirement pension payable, or part thereof, at a rate of £12 for every £1 of annual pension commuted.

...

- (4) Paragraph (1) does not apply to-
- (a) a pension credit member where the member of the Scheme to whom the Pension Sharing Order applied has made an election under this regulation before the valuation date used when implementing the Pension Sharing Order;
 - (b) a deferred pensioner member; or
 - (c) any additional pension purchased by the member under regulation 17(7)(b)(i) (additional voluntary contributions).

A.2 Excerpts from the 2014 Scheme Transitional Regulations

Pension Sharing

20.—

- (1) A valuation of benefits of a person who is a member of the 2014 Scheme shall, for the purposes of a pension sharing order which has an effective date on or after 1st April 2014, take account of any benefits the member has accrued in the Earlier Schemes.
- (2) The beneficiary of an order of the type described in paragraph (1) is not to be credited with any benefits under the Earlier Schemes, but is entitled to a pension credit under the 2014 Scheme in compliance with the pension sharing order and calculated in accordance with actuarial guidance issued by the Secretary of State.
- (3) Where a pension sharing order requires a pension debit in respect of a percentage of a member's pension benefits, any benefits accrued in the Earlier Schemes or 2014 Scheme shall be debited by the same percentage unless the order specifies otherwise, with the debit being calculated in accordance with actuarial guidance issued by the Secretary of State.
- (4) Where a pension sharing order requires a pension debit in terms other than a percentage of a member's pension benefits, the debit is to apply in proportion to the cash equivalent transfer value of the benefits accrued within the Earlier Schemes and the 2014 Scheme unless the order specifies otherwise.

Appendix B: Legislative references

- B.1 The Secretary of State for Communities and Local Government is required under the 2013 Regulations to:
- (i) issue actuarial guidance on the establishment of pension credit accounts for former spouses or civil partners of members in respect of whom the Court makes a pension sharing order [regulation 29 (2)]; and to
 - (ii) consult with the Government Actuary's Department (GAD) before issuing such guidance [regulation 2(3)].
- B.2 Regulation 29(4) of the 2013 Regulations recognises that a pension credit may itself be the subject of a pension sharing order. This guidance also applies for any such "second generation" pension credit.

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Appendix C: Limitations

- C.1 This note should not be used for any purpose other than to determine the pension credit in the scheme for an ex-spouse or ex-civil partner following a divorce proceeding in accordance with the regulations cited above.
- C.2 The factors contained in this note are subject to regular review. Administrators need to ensure that they are using the latest factors, as relevant, when processing cases.
- C.3 This note should be considered in its entirety as individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
- C.4 This note only covers the actuarial principles around the calculation and application of pension credit benefits. Any legal advice in this area should be sought from an appropriately qualified person or source.
- C.5 Administrators should satisfy themselves that the pension credit resulting from a pension sharing on divorce complies with all legislative requirements including, but not limited to, tax and contracting out requirements.
- C.6 This guidance is based on the Regulations in force at the time of writing. It is possible that future changes to the Regulations might create inconsistencies between this guidance and the Regulations. If users of this guidance believe there to be any such inconsistencies, they should bring this to the attention of DCLG. In no circumstances should this guidance take precedence over the Regulations. Administrators should ensure that they comply with all relevant Regulations.

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