



Government Actuary's Department

The Local Government Pension Scheme (England and Wales)

Application of a pension credit to the former spouse or civil partner of a pre-2014 leaver

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1 Introduction

- 1.1 The Secretary of State for Communities and Local Government is required under the Regulations 147(4)(b) and 149(2) of the Local Government Pension Scheme Regulations 1997 (SI 1997/1612) (the '1997 Regulations'), 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 The 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).
- 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
 - > Section seven sets out some important limitations

Implementation and Review

- 1.5 Regulations 147(4)(b) and 149(2) of the Local Government Pension Scheme Regulations 1997 (SI 1997/1612) (the '1997 Regulations') require the pension credit to the former spouse or civil partner (the 'pension credit member') following a divorce proceeding to be calculated in accordance with guidance issued by the Government Actuary.
- 1.6 Regulation 3(12) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 requires that any reference to guidance issued by the Government Actuary in the Earlier Regulations is to be construed as a reference to actuarial guidance issued by the Secretary of State as defined by the Local Government Pension Scheme Regulations 2013 ['the 2013 Regulations'].
- 1.7 The Secretary of State is required to consult GAD before issuing actuarial guidance under the 2013 Regulations [Regulation 2(3) of the 2013 Regulations].
- 1.8 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.



- 1.9 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.
- 1.10 Regulation 156(3) requires the commutation of small pensions for pension credit members to be calculated in accordance with guidance issued by the Government Actuary. This is contained within the GAD guidance note on trivial commutation.
- 1.11 This guidance only applies if the member whose pension rights are being shared left the scheme prior to 1 April 2014. Where the member whose pension rights are being shared was a member of the 2014 scheme, the “post-2014” guidance dated 7 December 2015 applies.
- 1.12 The factors contained in this note are taken from other guidance issued 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.
- 1.13 When issued, this guidance will replace the previous guidance dated 5 October 2012. Factors contained in this note have been updated but the calculation methodology remains unchanged. Therefore examples in the previous guidance, updated for factors in this guidance can be used for illustrative purposes.
- 1.14 Administrators need to ensure that they are using the latest factors in circulation, or that the factors used are consistent with the factors used to calculate the cash equivalent value for divorce purposes. The factors contained in this note are consistent with the factors in the GAD note ‘LGPS (E&W) Pensioner Cash Equivalent Factors on Divorce’.

Use of this note

- 1.15 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.
- 1.16 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

- 1.17 When issued by the Secretary of State in accordance with paragraph 1.14 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 or the separate Factor Suite, except to any extent explicitly stated herein.



2 Pension credit benefits

- 2.1 Where a pension sharing order is issued by the Court, the former spouse or civil partner is allocated a percentage (up to 100%) 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 Chapters I and II of Part VI of the 1997 Regulations together with Regulation 14 of the Local Government (Transitional Provisions) Regulations 2008 (SI 2008/238) set out the benefits the pension credit member will be entitled to in the scheme.
- 2.3 The main benefits are as follows:
- 2.3.1 A pension payable for life from age 65.
- 2.3.2 A retirement lump sum of three times the annual rate of the pension is payable in respect of the member's service before 1 April 2008 (but no lump sum is payable if the member has already claimed this by the Transfer day).
- 2.3.3 In the light of advice and following discussions with GAD, DCLG have set the benefit design of pension credits for the former spouse or civil partner, which depend on the member's period of service, as follows:

	Pension Credit Design
Member left before 1 April 2008	Pension and lump sum (but pension only if member has taken their lump sum)
Member joined on or after 1 April 2008	Pension only
Member with service before and after 1 April 2008	Pension and lump sum in respect of the member's CETV for service before 1 April 2008 (but pension only if the member has taken their lump sum); and Pension in respect of the member's CETV for service from 1 April 2008

- 2.3.4 This guidance is written on the basis that pension credit benefits for are in line with DCLG's intentions, as described above.
- 2.3.5 Pension credit benefits can be taken on an actuarially reduced basis at or after age 60; further guidance is contained in GAD's Early Retirement Guidance.
- 2.3.6 Pension and lump sum benefits are increased in accordance with the Pensions Increase Act with effect from the Transfer day.
- 2.4 The general principle is that the pension credited in the fund is actuarially equivalent to the proportion of the cash equivalent awarded to the former spouse or civil partner and the benefits the former spouse or civil partner would be entitled to under the LGPS Regulations in his or her own right.



- 2.5 The value of the pension credit is calculated in a manner which is consistent with the methodology and assumptions for incoming transfers from non-Club schemes under Regulation 84 of the Local Government Pension Scheme (Administration) Regulations 2008 (SI 2008/239); the benefit design, though, should reflect paragraph 3.2.3 of this guidance (rather than 1/60ths in every case).
- 2.6 It is assumed that the cash equivalent of a member's benefit for divorce purposes has already been determined.
- 2.7 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 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 a member's benefit for divorce purposes (see paragraph 2.3).

Calculation

- 3.4 There are two dates which are of relevance when determining the pension credits; the 'Transfer day' and the 'Valuation date'.
- 3.5 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.)
- 3.6 Regulation 151 of the 1997 Regulations defines the Valuation date as the first day of the Implementation Period. Section 34(1) of the Act defines the Implementation Period as the four month period that starts on the Transfer day, or if later, on the date the pension scheme has the prescribed information needed to implement the pension sharing order. (The Valuation date is sometimes referred to as the Implementation date or the Calculation date.)
- 3.7 The calculation of the pension credit should be based on the age and gender of the former spouse or civil partner at the Transfer day. Do not use the age and gender of the member.
- 3.8 The calculation of the pension credit will depend on:
- > gender of the former spouse or civil partner
 - > whether the former spouse or civil partner is above or below age 65 at the Transfer day
 - > whether the member has any service before 1 April 2008 and is therefore entitled to an automatic lump sum, and
 - > whether the member had received their automatic lump sum prior to the Transfer day.



Pension credit calculation for former spouse or civil partner below age 65

- 3.9 If the member has **not** received their lump sum prior to the Transfer day but is entitled to an automatic lump sum in respect of service before 1 April 2008, the pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2008 service:

$$PC_1 = ESCE_1 \div (F_P + 3 \times F_L)$$

Pension credit in respect of post 1 April 2008 service:

$$PC_2 = ESCE_2 \div F_P$$

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

A lump sum of three times the annual pension credit in respect of pre 1 April 2008 service (ie $3 \times PC_1$) will also be due to the former spouse or civil partner at age 65 (or earlier if benefits are taken on an actuarially reduced basis).

If a member has pre 1 April 2008 service only then PC_2 is zero.

- 3.10 If the member **has** received their lump sum prior to the Transfer day or has no service before 1 April 2008, the former spouse or civil partner is not entitled to a lump sum, and the pension credit as at the Transfer day will be:

$$\text{Pension credit} = ESCE \div F_P$$

Where:

ESCE the former spouse or civil partner's cash equivalent (see paragraph 4.3 of this note)

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

F_P factor for pension for former spouse or civil partner from Table 6.1 or 6.2.

F_L factor for lump sum for former spouse or civil partner from Table 6.1 or 6.2.

Pension credit calculation for former spouse or civil partner age 65 or above

- 3.11 If the member has **not** received their automatic lump sum prior to the Transfer day but is entitled to an automatic lump sum in respect of service before 1 April 2008, the pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2008 service:



$$PC_1 = ESCE_1 \div (F_P + 3)$$

Pension credit in respect of post 1 April 2008 service:

$$PC_2 = ESCE_2 \div F_P$$

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

A lump sum of three times the annual pension credit in respect of pre 1 April 2008 service (ie $3 \times PC_1$) will be also due to the former spouse or civil partner in addition to the credit so determined.

- 3.12 If the member *has* received their automatic lump sum prior to the Transfer day or has no service before 1 April 2008, the former spouse or civil partner is not entitled to a lump sum, and the pension credit as at the Transfer day will be:

$$\text{Pension credit} = ESCE \div F_P$$

Where:

ESCE the former spouse or civil partner's cash equivalent (see paragraph 4.3 of this note)

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

F_P factor for pension for former spouse or civil partner from Table 7.1 or 7.2. The factors in this table for those over Normal Retirement Age are consistent with the 'Pensioner Cash Equivalent factors on divorce' dated 7 December 2015. If that guidance has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.



4 Examples

- 4.1 The calculation methodology is unchanged from the previous guidance and therefore examples in the previous guidance dated 5 October 2012, updated for factors in this guidance can be used for illustrative purposes.



5 Factors applicable to former spouse or civil partner below age 65

Table 6.1 – Males

Age last birthday at relevant date	Gross Pension of £1 per annum	Lump Sum of £1
16	4.80	0.26
17	4.93	0.27
18	5.05	0.28
19	5.18	0.29
20	5.31	0.31
21	5.44	0.30
22	5.58	0.31
23	5.73	0.33
24	5.87	0.34
25	6.01	0.35
26	6.16	0.36
27	6.33	0.37
28	6.48	0.38
29	6.64	0.39
30	6.81	0.40
31	6.98	0.41
32	7.16	0.42
33	7.34	0.43
34	7.53	0.44
35	7.72	0.46
36	7.92	0.47
37	8.12	0.47
38	8.33	0.48
39	8.54	0.50
40	8.76	0.51
41	8.99	0.53
42	9.23	0.54
43	9.46	0.56
44	9.71	0.57
45	9.96	0.59
46	10.22	0.61
47	10.48	0.62
48	10.75	0.64
49	11.03	0.66
50	11.33	0.68
51	11.62	0.70
52	11.93	0.72
53	12.24	0.74
54	12.57	0.76

Note: The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



Table 6.1 – Males (continued)

Age last birthday at relevant date	Gross Pension of £1 per annum	Lump Sum of £1
55	12.91	0.77
56	13.27	0.79
57	13.63	0.81
58	14.02	0.84
59	14.41	0.86
60	14.83	0.89
61	15.26	0.91
62	15.72	0.93
63	16.20	0.96
64	16.71	0.99

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



Table 6.2 – Females

Age last birthday at relevant date	Gross Pension of £1 per annum	Lump Sum of £1
16	5.11	0.26
17	5.25	0.27
18	5.38	0.28
19	5.51	0.29
20	5.66	0.29
21	5.80	0.30
22	5.95	0.31
23	6.10	0.33
24	6.26	0.34
25	6.42	0.35
26	6.58	0.36
27	6.75	0.37
28	6.92	0.38
29	7.09	0.39
30	7.27	0.40
31	7.46	0.41
32	7.65	0.42
33	7.85	0.43
34	8.05	0.44
35	8.26	0.46
36	8.46	0.47
37	8.68	0.47
38	8.91	0.48
39	9.15	0.50
40	9.38	0.51
41	9.62	0.53
42	9.87	0.54
43	10.12	0.56
44	10.39	0.57
45	10.66	0.59
46	10.94	0.60
47	11.23	0.62
48	11.52	0.64
49	11.83	0.66
50	12.14	0.68
51	12.47	0.70
52	12.81	0.72
53	13.15	0.74
54	13.52	0.76

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



Table 6.2 – Females (continued)

Age last birthday at relevant date	Gross Pension of £1 per annum	Lump Sum of £1
55	13.88	0.77
56	14.28	0.79
57	14.67	0.81
58	15.09	0.84
59	15.52	0.86
60	15.95	0.89
61	16.42	0.91
62	16.89	0.93
63	17.40	0.96
64	17.92	0.99

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



6 Factors applicable to former spouse or civil partner age 65 or above

Table 7.1 – Males

Age last birthday at relevant date	Member's Pension of £1 per annum
65	16.47
66	15.95
67	15.42
68	14.88
69	14.33
70	13.78
71	13.22
72	12.67
73	12.12
74	11.58
75	11.07
76	10.56
77	10.06
78	9.57
79	9.07
80	8.58
81	8.09
82	7.60
83	7.12
84	6.64
85	6.18
86	5.74
87	5.31
88	4.91
89	4.55
90	4.21
91	3.91
92	3.63
93	3.38
94	3.14
95	2.93

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



Table 7.2 – Females

Age last birthday at relevant date	Member's Pension of £1 per annum
65	17.79
66	17.30
67	16.81
68	16.30
69	15.79
70	15.27
71	14.74
72	14.21
73	13.68
74	13.15
75	12.64
76	12.12
77	11.61
78	11.10
79	10.59
80	10.07
81	9.55
82	9.03
83	8.51
84	8.00
85	7.50
86	7.03
87	6.57
88	6.13
89	5.73
90	5.35
91	4.99
92	4.65
93	4.34
94	4.03
95	3.74

Note

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



7 Limitations

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 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.
- 7.6 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.