



# Government Actuary's Department

## **Local Government Pension Scheme (England and Wales)**

Application of a pension debit for divorced members

Transfer date from 1 April 2014

Date: 14 April 2016

Author: Michael Scanlon FIA  
James Pepler FIA



## Contents

<b>1</b>	<b>Introduction</b>	<b>1</b>
<b>2</b>	<b>Background information and definitions</b>	<b>3</b>
<b>3</b>	<b>Calculation of pension debits</b>	<b>4</b>
<b>4</b>	<b>Application of pension debits</b>	<b>5</b>
<b>5</b>	<b>Examples</b>	<b>7</b>
	<b>Appendix A: Reduction to pension debits on early retirement in ill-health</b>	<b>8</b>
	<b>Appendix B: Reduction to pension debits on early retirement in normal health</b>	<b>10</b>
	<b>Appendix C: Legislative references</b>	<b>11</b>
	<b>Appendix D: Cited regulations</b>	<b>12</b>
	<b>Appendix E: Limitations</b>	<b>15</b>



## 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 guidance in respect of the Local Government Pension Scheme on the debit applied to a member's pension due to pension sharing on divorce.
- 1.2 This guidance is designed to be consistent with the Welfare Reform and Pensions Act 1999 ('the Act') and associated regulations. 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 pre-2014 guidance.
- 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 provides background information and states various definitions
  - > The third and fourth sections describe the calculation and application of the pension debit
  - > Appendix A contains the table of factors for the reduction in pension debits where the member subsequently retires early in ill-health
  - > Appendix B contains the table of factors for the reduction in pension debits where the member subsequently retires early in normal health
  - > Appendices C and D quote the relevant statutory references and Regulations
  - > Appendix E 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 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 below. 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 replaces the previous guidance dated 28 March 2014. In particular, factors 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.
- 1.9 This guidance has been written for pension administrators and assumes some knowledge of general pensions terminology, and some familiarity with retirement calculations for the Local Government Pension Scheme (the Scheme, or LGPS). Any questions concerning the application of the guidance should, in the first instance, be referred to DCLG.
- 1.10 GAD recommends that guidance and factors should be reviewed periodically, depending on external circumstances, for example 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 Background information and definitions

### Background

- 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. The member's benefits are reduced accordingly, and the former spouse or civil partner will hold benefits in their own right, independent of the scheme member.
- 2.2 The member's benefits will be reduced by the percentage allocated to their former spouse or civil partner. This reduction is known as a 'pension debit'.
- 2.3 The general principle is that the savings to the LGPS arising from the pension debits are used to provide actuarially equivalent benefits to the member's former spouse or civil partner (the 'pension credit' member).
- 2.4 No spouse or civil partner's benefits will be payable to the member's ex-spouse or ex-civil partner who was party to the divorce resulting in the pension sharing order (except in the event that the member remarried or entered into a new civil partnership or other qualifying partnership with his or her ex-spouse or ex-civil partner).
- 2.5 The methodology and instructions described in this note can be adopted and applied in respect of benefits for Councillor members.

### Definitions

- 2.6 **Appropriate percentage:** the percentage of the member's benefits that the ex-spouse or ex-civil partner will be entitled to. At times, most commonly for divorces in England and Wales, the pension sharing order will specify the appropriate percentage. At other times, most commonly under Scots law, the pension sharing order will specify a monetary amount. In this case, the appropriate percentage for the pension debit should be calculated as the ratio of the specified monetary amount and the cash equivalent.
- 2.7 **Transfer day** is the day on which the pension sharing order takes effect (Section 29(8) of the Act). The Transfer day is sometimes also referred to as the Effective date.
- 2.8 **Retirement age**, for a given tranche of benefits, is the earliest age from which the member can take those benefits unreduced without consent.



### 3 Calculation of pension debits

- 3.1 This section sets out the methodology for calculating the pension debit to be applied to the member's benefits following the issue of a pension sharing order by the Court.
- 3.2 In principle a debit should be calculated for all benefits and tranches of benefit allowed for in the divorce cash equivalent calculation

#### Calculation of pension debits

- 3.3 The debit should be calculated as

*Debit = Benefit accrued as at Transfer day x Appropriate percentage*

- 3.4 for the following benefits:
  - > Member pension (accrued pension and/or pension in payment as at the Transfer day)
  - > Survivor's pension (this should be that amount payable to the survivor of a post-exit marriage)
  - > Retirement Grant (but not if this was paid before the Transfer day)
  - > GMP (pre and post 88 separately).
- 3.5 Debits for separate periods of accrual should be recorded separately if different retirement ages could apply (e.g. pre 2008, 2008 to 2014, 2014 to 16, etc). Unless specified otherwise in the sharing order the same appropriate percentage should be applied to each period of accrual in the scheme up to the Transfer day.
- 3.6 For the avoidance of doubt, debits do not apply to:
  - > Children's contingent pensions
  - > Death grant on death in service.

#### Additional voluntary contributions

- 3.7 Where the member has purchased added years of service or additional pension, the pension debit will apply to added years of service or additional pension purchased up to the Transfer day. These benefits will be treated in the same way as main scheme benefits.
- 3.8 If the member has a Money Purchase AVC fund at the Transfer day, then the pension debit at the Transfer day in respect of the Money Purchase AVCS is the appropriate percentage times the value of the fund at the Transfer day.



## 4 Application of pension debits

- 4.1 Debits in respect of active and deferred members' benefits should be applied when benefits come into payment. Debits in respect of pensioner members' benefits which are already in payment should be applied immediately (ie at the Transfer day). For any benefits not yet in payment (e.g. contingent survivor's pension or GMP) the relevant debit, if any, should be applied when those benefits come into payment.
- 4.2 If a member is receiving a Tier 3 ill health pension at the Transfer day, then the member's pension debit should apply to the Tier 3 pension in payment and also to any future Tier 2 ill health pension or normal health pension if and when they come into payment.
- 4.3 On flexible retirement the debit should be applied pro rata to the benefits that come into payment, both at the time flexible retirement benefits are taken and on final exit.

### Treatment of active and deferred member debits before retirement

- 4.4 Both active and deferred members' debits should be increased from the Transfer day until benefits come into payment as if they were deferred pensions.
- 4.5 Increases and revaluations should be applied to these debits as if they were the corresponding benefits. E.g. a debit applying to a GMP should have GMP revaluation up to GMP Payment Age and then the applicable GMP increases after that.

### Application of debits to survivor and death benefits

- 4.6 For the avoidance of doubt, the survivor's pension debit should be applied to any survivor's pension that comes into payment, regardless of whether it is in respect of a post retirement marriage or otherwise. It should be applied at the same level to be both short term and long term survivor's pensions.
- 4.7 For the lump sum on death in deferment the debit should be applied to the member's pension before the lump sum is calculated.
- 4.8 For the death after retirement guarantee lump sum the member's debit should not be applied again. The debit ought already to have been applied.

### Application of a debit before or after retirement age

- 4.9 Where an active or deferred member has a pension debit and the member's benefits come into payment before or after the retirement age that applies to the corresponding benefit then the debit should be reduced or increased in accordance with the early retirement or late retirement guidance in force in exactly the same way as the corresponding benefit – with the following exceptions:
- 4.10 Where the Transfer day is after Normal Pension Age, the late retirement uplift should be applied from the Transfer day to the date benefits come into payment.



- 4.11 Where a member retires in normal health below age 60 and has a CRA below 60 then the debit should be reduced as if the member's CRA had been 60 and not their actual CRA (ie should be reduced for the number of years between their retirement and reaching age 60). This applies regardless of whether the member has their employer's (or former employer's) consent to receive unreduced benefits before 60.
- 4.12 For a member retiring in ill health, see the following subsection.

#### **Application of a debit to a member retiring in ill health**

- 4.13 If the member retires early due to ill health on Tier 1 or Tier 2 benefits after the Transfer day then the debit (unlike the benefit) should be reduced. However the early retirement reduction applied to the debit (but not the benefit) should be taken from table A in Appendix A, rather than from the early retirement guidance.
- 4.14 For the avoidance of doubt any enhancement used to calculate the Tier1 or Tier 2 ill health retirement pension should not be applied to the debit.
- 4.15 If the member with a pension debit retires early due to ill health on Tier 3 no debit is to be applied to the Tier 3 benefit. (But see paragraph 4.2 for members receiving a Tier 3 ill health pension at the Transfer day). If the member moves onto Tier 2 benefits debits should be applied as described in the paragraphs above. For the avoidance of doubt if the member does not move onto Tier 2 benefits then the pension debit should be applied to any future benefit that comes into payment (such as normal retirement pension) as described in this guidance.



## 5 Examples

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



## Appendix A: Reduction to pension debits on early retirement in ill-health

Table A: Reduction to pension and retirement grant debits on ill-health retirement

Years Early	Pension Reduction (%)		Retirement Grant Reduction All Members %
	Males	Females	
0	0.0	0.0	0.0
1	6.5	5.8	2.9
2	12.2	11.1	5.7
3	17.4	15.9	8.5
4	22.2	20.5	11.2
5	26.6	24.6	13.7
6	30.7	28.5	16.3
7	34.4	32.1	18.7
8	37.9	35.5	21.1
9	41.1	38.6	23.4
10	44.1	41.6	25.6
11	46.9	44.3	27.8
12	49.4	46.9	29.9
13	51.8	49.3	31.9
14	54.1	51.5	33.9
15	56.2	53.6	35.8
16	58.2	55.6	37.7
17	60.0	57.5	39.5
18	61.8	59.3	41.3
19	63.4	61.0	43.0
20	65.0	62.6	44.6
21	66.5	64.1	46.3
22	67.9	65.5	47.8
23	69.3	66.9	49.3
24	70.5	68.2	50.8
25	71.7	69.4	52.2
26	72.9	70.6	53.6
27	73.9	71.7	55.0
28	75.0	72.8	56.3
29	75.9	73.8	57.6
30	76.8	74.7	58.8
31	77.7	75.6	60.0
32	78.5	76.5	61.2
33	79.3	77.4	62.3
34	80.1	78.2	63.4
35	80.8	78.9	64.5
36	81.5	79.7	65.5
37	82.1	80.4	66.5



Years Early	Pension Reduction (%)		Retirement Grant Reduction <i>All Members %</i>
	Males	Females	
38	82.8	81.0	67.5
39	83.4	81.7	68.4
40	83.9	82.3	69.3
41	84.5	82.9	70.2
42	85.0	83.4	71.1
43	85.5	84.0	72.0
44	86.0	84.5	72.8
45	86.5	85.0	73.6
46	86.9	85.5	74.3
47	87.3	85.9	75.1
48	87.8	86.4	75.8
49	88.2	86.8	76.5

Notes:

- (1) The number of *Years Early* is the period between the dates (i) and (ii) below, where:
  - (i) is the date of the member's ill health early retirement.
  - (ii) is the date (or dates) on which the member would have been entitled to unreduced benefits **without** employer consent on normal retirement - ie CRA (between 60 and 65) or PA65 or the normal pension age NPA, depending on the membership being considered.
- (2) Practitioners may need to refer to this table more than once (with different values of *Years Early*) when preparing calculations. For example if tapered factors are required they should be derived by these using these factors twice and tapering between the resulting reductions.
- (3) If the date in (1)(i) is later than the date in (1)(ii), then it should be clear that no reductions are to be applied (to the relevant part of the membership under consideration, if applicable).
- (4) Where the number of *Years Early* is not an integer number, the reduction factors from the table should be interpolated for part years.



## Appendix B: Reduction to pension debits on early retirement in normal health

**Table B: Reduction to pension and retirement grant debits on normal health early retirement**

Years Early	Pension Reduction (%)		Retirement Grant Reduction (%)
	Males	Females	All Members
0	0.0	0.0	0.0
1	5.6	5.2	2.9
2	10.8	10.1	5.7
3	15.5	14.6	8.5
4	20.0	18.8	11.2
5	24.0	22.7	13.7
6	27.8	26.4	16.3
7	31.4	29.8	18.7
8	34.7	33.0	21.1
9	37.7	36.1	23.4
10	40.6	38.9	25.6
11	44.2	42.2	N/A
12	47.6	45.5	N/A
13	50.9	48.6	N/A

Notes:

- (1) The number of *Years Early* is the period between the dates (i) and (ii) below, where:
  - (i) is the effective date of the member's election under the relevant regulations; and
  - (ii) is the date (or dates) on which the member would be entitled to unreduced benefits.
- (2) Practitioners may need to refer to this table more than once (with different values of *Years Early*) when preparing calculations. For example if tapered factors are required they should be derived by these using these factors twice and tapering between the resulting reductions.
- (3) If the date in (1)(i) is later than the date in (1)(ii), then it should be clear that no reductions are to be applied (to the relevant part of the membership under consideration, if applicable).
- (4) Where the number of *Years Early* is not an integer number, the reduction factors from the table should be interpolated for part years.
- (5) These factors should not be used to calculate the reductions to be applied to members aged below 55 at the date of retirement. Such cases should be referred to DCLG.



## Appendix C: Legislative references

- C.1 Regulation 20(3) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525 ('the 2014 Scheme Transitional Regulations')) states that, where a Pension Sharing Order requires a pension debit in respect of a percentage a member's pension benefits, the debit shall be calculated in accordance with actuarial guidance issued by the Secretary of State.
- C.2 Regulation 23(9) of the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) ('the 2013 Regulations') states that the appropriate administering authority shall reduce the balance in an active member's account to reflect the reduction in the member's rights, calculated in accordance with actuarial guidance issued by the Secretary of State.
- C.3 Regulation 24(10), Regulation 23(6) and Regulation 23(9) of the 2013 Regulations provide for the appropriate administering authority to reduce the balance in a deferred member's account to reflect the reduction in the member's rights, calculated in accordance with actuarial guidance issued by the Secretary of State.
- C.4 Regulations 25(5)(a) and 26(5)(b) of the 2013 Regulations provide for the appropriate administering authority to reduce the balance in the retirement accounts of a member to reflect the reduction in the member's rights, calculated in accordance with actuarial guidance issued by the Secretary of State
- C.5 Regulation 52(1) of the 2013 Regulations states that administering authorities shall have regard to guidance issued by the Secretary of State as to the reduction of benefits payable in consequence of a pension debit created under Section 29(1)(a) of the Welfare Reform and Pensions Act 1999 ('the Act').



## Appendix D: Cited regulations

### D.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.

#### Active member's pension accounts

23. —

- ...  
(6) Other than to correct an error in a pension account, a pension account adjustment can only arise as a consequence of:  
...  
(c) a pension debit being made;  
(d) a Scheme pays election;  
...  
(9) Where-  
(a) a pension debit as is mentioned in paragraph (6)(c) is made, or  
(b) the joint liability specified in a notice given in relation to an election as mentioned in paragraph (6)(d) is met by the pension fund, the appropriate administering authority shall reduce the balance in the member's account to reflect the reduction in the value of the member's rights, calculated in accordance with actuarial guidance issued by the Secretary of State.

#### Deferred member's pension accounts and deferred refund account

24. —

- ...  
(10) Other than to correct an error in a deferred member's pension account, the only pension account adjustment that can only arise under this regulation is an adjustment as a consequence of a matter specified in regulation 23(6) (adjustments to active member's pension accounts).

#### Retirement pension accounts: active members

25. —

- ...  
(2) The retirement pension account must specify-  
(a) the amount of accrued pension;  
...  
(e) the amount of any pension adjustment;



- (5) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes paragraph (2)(e)-
- (a) the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Secretary of State to account for any tax to which the administering authority may become chargeable under the Finance Act 2004 in accordance with regulation 87(tax) or as a result of a pension sharing order;
- ...

**Retirement pension accounts: deferred, deferred pensioner and pension credit members**

**26. —**

- ...
- (2) The retirement pension account must specify-
- (a) the amount of accrued pension;
- ...
- (e) the amount of any pension adjustment;
- ...
- (5) The amount of any pension adjustment not already accounted for under paragraph (2)(a) is, for the purposes paragraph (2)(e), the aggregate of the amounts calculated in accordance with actuarial guidance issued by the Secretary of State to account for-
- ...
- (b) a pension sharing order.

**Pension debits**

**52. —**

- (1) Administering authorities shall have regard to actuarial guidance issued by the Secretary of State as to reduction of benefits payable under these Regulations in consequence of a pension debit.
- (2) An administering authority shall make such adjustment to a member's pension accounts as are required to give effect to a pension debit.

**D.2 Excerpts from the 2014 Scheme Transitional Regulations**

**Pension Sharing**

**20.—**

- ...
- (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 E: Limitations

- E.1 This note should not be used for any purpose other than to determine the pension debit to be applied to a member's benefits in accordance with the regulations cited above.
- E.2 The factors contained in this note are subject to periodic review. Administrators need to ensure that they are using the latest factors, as relevant, when processing cases.
- E.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.
- E.4 This note only covers the actuarial principles around the calculation and application of pension debits. Any legal advice in this area should be sought from an appropriately qualified person or source.
- E.5 Administrators should satisfy themselves that pension debits comply with all legislative requirements including, but not limited to, tax and contracting-out requirements.
- E.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.