



Government Actuary's Department

Local Government Pension Scheme (Scotland)

Application of a Pension Credit to the Former Spouse or Civil Partner of the Member

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1 Introduction

- 1.1 The Scottish Ministers are required under the Local Government Pension Scheme (Scotland) Regulations 2014 ('the 2014 Regulations') (SSI 2014/164), 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.
- 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
- 1.5 The Government Actuary's Department (GAD) seeks to achieve a high standard in all our work. Please go to our [website](#)¹ for details of the standards we apply.

Implementation and Review

- 1.6 The Scottish Ministers are required to consult the Scheme Actuary before issuing actuarial guidance under the 2014 Regulations [Regulation 2(3) of the 2014 Regulations].
- 1.7 As part of this consultation the Scottish Public Pensions Agency (SPPA) has asked GAD, as Scheme Actuary, 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 <https://www.gov.uk/government/organisations/government-actuaries-department/about/terms-of-reference>



- 1.8 This note has effect only when this guidance is issued by the Scottish Ministers in accordance with Regulation 2(3) of the 2014 Regulations, and is subject to the implementation instructions provided at that time.
- 1.9 This guidance applies where the member whose pension rights are being shared had been a member of the 2015 Scheme and the Transfer day is on or after 1 April 2015. Where the member whose pension rights are being shared had not been a member of the 2015 Scheme, or where the Transfer day is before 1 April 2015, the guidance dated 20 December 2012 continues to apply. This guidance uses the same assumptions as those on which the 20 December 2012 guidance was based.
- 1.10 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 ("the Scheme", or LGPS). Any questions concerning the application of the guidance should, in the first instance, be referred to SPPA.
- 1.11 As noted at paragraphs 3.9 and 3.10, the main factors contained in this note are taken from other guidance documents, and these 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

- 1.12 This note has been prepared for SPPA 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.
- 1.13 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

- 1.14 When issued by the Scottish Ministers in accordance with paragraph 1.8 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 issued by the Court, the former spouse or civil partner is allocated a monetary amount of the member's benefits. This can be converted into a percentage by dividing this monetary amount by the cash equivalent value of the member's total 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 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. The value of the pension credit is calculated in a manner which is consistent with the methodology and assumptions for incoming transfers from Club schemes.
- 2.3 It is assumed that the cash equivalent of a member's benefit for divorce purposes has already been determined in accordance with the latest "Individual Incoming & Outgoing Transfers" or "Pensioner Cash Equivalent Factors on Divorce" guidance as appropriate.
- 2.4 The methodology and instructions described in this note can be applied in respect of the benefits for the former spouse or civil partner of a Councillor member.
- 2.5 The main benefits are as follows:
- 2.5.1 A pension payable for life from the pension credit member's Normal Pension Age (with no dependants' pensions payable on death).
 - 2.5.2 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.
 - 2.5.3 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.
 - 2.5.4 A lump sum on death (whether the date of death is before or after the award of pension credit by the administering authority), payable to the pension credit member's beneficiaries, in accordance with the 2014 Regulations and based on the annual amount of the pension at the time of death.
 - 2.5.5 The pension is increased in accordance with the Pensions Increase Act with effect from the Transfer day.



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 Scotland, the pension sharing order will usually specify a monetary amount, which can be translated into a percentage of the member's benefits that the former spouse or civil partner will be entitled to (the "appropriate percentage"). This guidance note will refer to the 'appropriate percentage' rather than a monetary amount.
- 3.3 The former spouse's or civil partner's cash equivalent ("ESCE") is determined by applying the appropriate percentage to the cash equivalent of the member's benefits for divorce purposes (see paragraph 2.3). The member's cash equivalent can be expressed as an amount for pre 1 April 2009 service; an amount for service between 1 April 2009 and 31 March 2015; and an amount for post 1 April 2015 service. The appropriate percentage can be applied to each of these elements separately, in order to express the ESCE as an amount in respect pre 1 April 2009 service ("ESCE₁"), an amount for service between 1 April 2009 and 31 March 2015 ("ESCE₂") and an amount for post 1 April 2015 service ("ESCE₃").

Calculation

- 3.4 There are two dates which are of relevance when determining the pension credits; the "Transfer day" and the "Valuation day".
- 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 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.
- 3.7 Section 29(7) of the Act defines the Valuation day as a day within the implementation period specified by the administering authority by notice in writing to the pension debit member and pension credit member. (The Valuation day is sometimes referred to as the Implementation date or the Calculation date.)
- 3.8 The former spouse or civil partner's Normal Pension Age (NPA) will be the higher of age 65 and their State Pension Age. The calculation of the pension credit should be based on their NPA, gender, and age at the Transfer day. Do not use the NPA, gender, and age of the member.



Pension credit calculation for former spouse or civil partner below normal pension age

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

Pension credit in respect of pre 1 April 2009 service:

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

Pension credit in respect of service between 1 April 2009 and 31 March 2015:

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

Pension credit in respect of post 1 April 2015 service:

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

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

Where:

ESCE ₁	the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2009
ESCE ₂	the former spouse or civil partner's cash equivalent in respect of service between April 2009 and 31 March 2015
ESCE ₃	the former spouse or civil partner's cash equivalent in respect of service post 1 April 2015
F _P	factor for pension for former spouse or civil partner from Table 4.1 or 4.2. The factors in these tables are copies of the 'Gross pension of £1 per annum' factors in tables 5.1 and 5.2 of the guidance 'Incoming and Individual Transfers' in force at 1 April 2015. If that 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 pension credit to allow for the change in NPA as the current F _P factors assume a NPA of 65.



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

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

Pension credit in respect of pre 1 April 2009 service:

$$PC_1 = ESCE_1 \div F_P$$

Pension credit in respect of service between 1 April 2009 and 31 March 2015:

$$PC_2 = ESCE_2 \div F_P$$

Pension credit in respect of post 1 April 2015 service:

$$PC_3 = ESCE_3 \div F_P$$

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

Where:

$ESCE_1$ the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2009

$ESCE_2$ the former spouse or civil partner's cash equivalent in respect of service between 1 April 2009 and 31 March 2015

$ESCE_3$ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2015

F_P factor for pension for former spouse or civil partner from Table 5.1 or 5.2. The factors in these tables are copies of the 'Gross pension of £1 per annum' factors in tables 5.1 and 5.2 of the guidance 'Incoming and Individual Transfers' in force at 1 April 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 Factors applicable to the former spouse or civil partner below Normal Pension Age

Table 4.1 – Males

Age last birthday at relevant date	Factor (F _P)	Age last birthday at relevant date	Factor (F _P)
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 (F _P)	Age last birthday at relevant date	Factor (F _P)
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).



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

Table 5.1 – Males

Age last birthday at relevant date	Factor (F_P)	Age last birthday at relevant date	Factor (F_P)
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 (F_P)	Age last birthday at relevant date	Factor (F_P)
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).



6 Examples

Both the examples in this section assume that the member whose pension rights are being shared had been a member of the 2015 Scheme.

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

Former spouse data:

Date of birth: 1 March 1972
Sex: Female
Transfer day: 1 July 2016
Age at Transfer day: 44
Normal Pension Age (NPA): 67 (illustrative)

Factors (Female former spouse aged 44 last birthday at Transfer day)

Gross pension factor (NRA 65) – 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 2009 =	£60,643.90
CETV in respect of service between 1 April 2009 and 31 March 2015 =	£15,160.98
CETV in respect of service from 1 April 2015=	£5,950.62
Total CETV	£81,755.50
Appropriate percentage =	50%
ESCE ₁ = 50% x £60,643.90 =	£30,321.95
ESCE ₂ = 50% x £15,160.98 =	£7,580.49
ESCE ₃ = 50% x £5,950.62 =	£2,975.31
Pension credit from NPA in respect of service pre 1 April 2009: PC ₁ = ESCE ₁ ÷ (F _P x Adj_Fac) =	£3,472.95 pa
Pension credit from NPA in respect of service between 1 April 2009 and 31 March 2015: PC ₂ = ESCE ₂ ÷ (F _P x Adj_fac) =	£868.24 pa
Pension credit from NPA in respect of service post 1 April 2015: PC ₃ = ESCE ₃ ÷ (F _P x Adj_fac) =	£340.78 pa
Total pension credit = PC ₁ + PC ₂ + PC ₃ =	£4,681.97 pa



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

Former spouse data:

Date of birth: 1 March 1947
Sex: Female
Transfer day: 1 December 2016
Age at Transfer day: 69

Factors (Female former spouse aged 69 last birthday at Transfer day)

Gross pension factor – Table 5.2	F_P	15.68
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Calculations

CETV in respect of service before 1 April 2009 =	£0
CETV in respect of service between 1 April 2009 and 31 March 2015 =	£65,103.30
CETV in respect of service from 1 April 2015=	£40,499.05
Total CETV	£105,602.35
Appropriate percentage =	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 payable immediately in respect of service pre 1 April 2009: $PC_1 = ESCE_1 \div F_P =$	£0 pa
Pension credit in respect of service between 1 April 2009 and 31 March 2015: $PC_2 = ESCE_2 \div F_P =$	£2,076.00 pa
Pension credit in respect of service on and after 1 April 2015 $PC_3 = ESCE_3 \div F_P =$	£1,291.42 pa
Pension credit payable immediately = $PC_1 + PC_2 + PC_3 =$	£3,367.42 pa



Appendix A: Cited Regulations

A.1 Excerpts from the 2014 Regulations²

Introductory

2. —

...

(3) The Scottish Ministers may, after consultation with the Scheme Actuary, issue actuarial guidance to administering authorities.

Pension credit accounts

28. —

(1) When a person becomes a beneficiary of a pension sharing order, a pension credit member account must be opened.

(2) The pension credit account at the date it is opened must be credited from the member's pension account that is to be debited with an amount in compliance with the pension sharing order and calculated in accordance with actuarial guidance issued by the Scottish Ministers.

(3) The amount credited under paragraph (2) is the opening balance for the following Scheme year and, thereafter, the balance in the account each year is adjusted by the index rate adjustment from the date that an increase would apply if that balance were a pension in payment to which the Pensions (Increase) Act 1971 applied.

(4) The amount in a pension credit account may be adjusted by amounts calculated in accordance with actuarial guidance issued by the Scottish Ministers—

(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 85 (tax).

² The Local Government Pension Scheme (Scotland) Regulations 2014 (SSI 2014/164)



Retirement benefits

29. —

...

(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, before reaching normal pension age, 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 Scottish Ministers, 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 Scottish Ministers, irrespective of whether the pension credit member is also an employee in local government service.

Election for lump sum instead of pension

32.—

(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 the benefit crystallisation event in respect of which any benefits are 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) any additional pension purchased by the member under regulation 17(7)(b)(i) (additional voluntary contributions).



A.2 Excerpts from the 2015 Scheme Transitional Regulations³

Pension sharing

20. —

- (1) A valuation of benefits of a person who is a member of the 2015 Scheme shall, for the purposes of a pension sharing order which has an effective date on or after 1st April 2015, 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 2015 Scheme in compliance with the pension sharing order and calculated in accordance with actuarial guidance issued by the Scottish Ministers.
- (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 2015 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 Scottish Ministers.
- (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 2015 Scheme unless the order specifies otherwise.

³ The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014 / 233)



Appendix B: Legislative references

- B.1 Regulation 28(2) of the 2014 Regulations provides that the pension credit conferred on the former spouse or civil partner (the “pension credit member”) following a divorce proceeding is calculated in accordance with actuarial guidance issued by the Scottish Ministers.
- B.2 Regulation 20(2) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 (SSI 2014 / 233) (the “2015 Scheme Transitional Regulations”) states that the pension credit is provided under the 2015 Scheme and in accordance with actuarial guidance issued by the Scottish Ministers.
- B.3 Regulation 41(5) of the 2014 Regulations provides that, where the former spouse or civil partner dies before the administering authority has awarded the pension credit, that liability may be discharged by the appropriate authority by the payment of a lump sum equal to 3 times the annual rate of the pension which would have been awarded as a pension credit.



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 divorce proceedings, in accordance with the regulations cited above.
- C.2 The factors 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 order 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 the Scottish Public Pensions Agency. In no circumstances should this guidance take precedence over the Regulations. Administrators should ensure that they comply with all relevant Regulations.