

## LGPS administrator guide to:

# Survivor benefits for membership before 1 April 2015

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# 1. Introduction

The guide is for Scottish administering authorities.

When calculating a survivor pension in respect of membership before 1 April 2015, what membership you will use depends on the following factors:

- when the active membership ended
- when the member died
- the type of survivor (eg a female survivor of an opposite-sex marriage)
- whether the marriage / civil partnership / cohabiting partnership was entered into before or after the member left the active membership.

The aim is to set out what membership you use when calculating a survivor pension for membership built up before 1 April 2015.

The guide does not set out what you use to calculate survivor pensions under the 2015 Scheme. This is because the factors above do not impact on what you use.

## 2. How to use the guide

The guide sets out what membership you use to calculate survivor partner pensions and eligible children's pensions for membership built up (or treated as having built up) before 1 April 2015.

If the member joined before 1 April 2015 and left on or after then, you need to calculate the survivor pension under the 2015 Scheme and add that figure to the survivor pension for membership built up before 1 April 2015.

The guide applies to councillors and non-councillors.

The guide sets out what you should use for each type of survivor and covers:

- [Section 3](#) cohabiting partners
- [Section 4](#) female survivors of opposite-sex marriages
- [Section 5](#) male survivors of opposite-sex marriages
- [Section 6](#) survivors of same-sex civil partnerships

- [Section 7](#) survivors of same-sex marriages
- [Section 8](#) eligible children.

In those sections, where a term is defined, we have linked the term to its definition in [section 10](#).

In [section 11](#) we have listed the legislation we have relied on.

[The Local Government Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2022](#) ('the Amendment Regulations') amended the rules on what membership you use to calculate survivor pensions for membership built up (or treated as having built up) before 1 April 2015. A lot of the amendments are retrospective and you will need to revisit calculations for past deaths. To help you identify cases, we have set out the scenarios which are impacted by the Amendment Regulations.

The guide does not apply to:

- deaths that happened before 5 December 2005
- members to whom regulation E19 of the Local Government Superannuation (Scotland) Regulations 1987 apply. These are members who were in the Scheme before 16 May 1974 and were entitled under the Acts of 1937 to 1953 to benefits which did not include a lump sum and a widow's pension, or to benefits which did not include a widow's pension and where the member did not make an election under E19(3) of the Local Government Superannuation (Scotland) Regulations 1974
- members entitled to equivalent pension benefits.

### 3. Cohabiting partners

Following the death of a member (councillor or non-councillor) who left active membership after 31 March 2009, you identified their cohabiting partner is eligible to receive a survivor partner's pension.

This means you are satisfied that the member and the partner were able to marry or form a civil partnership with each other on the date the member died. You are also satisfied that the following conditions were met for a continuous period of at least two years ending with the member's date of death:

- the member and the partner were living together as if they were a married couple or civil partners
- neither the member nor the partner were living with a third person as if they were a married couple or civil partners
- either the partner was financially dependent on the member, or the member and the partner were financially interdependent.

Where the member died before 1 June 2018, the member and the partner would also need to have been free to marry or form a civil partnership with each other for the continuous period (rather than just on the date of death).

For deaths occurring after 31 March 2015, if the member has any [relevant additional membership](#), you need to determine whether the couple were previously cohabiting with each other while the member was active after 31 March 2009.

**Table 1 - sets out what membership you use to calculate the survivor pension payable to a cohabiting partner for membership before 1 April 2015**

Scenario	Member left active membership:	Member cohabited with partner while active after 31 March 2009:	Member died:	Membership you use to calculate the survivor pension payable to the partner for membership before 1 April 2015:
1	Before 1 April 2009	Not relevant	Not relevant	Not relevant, survivor partner pension not payable
2	After 31 March 2009	Yes	After 31 March 2009 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• any membership the member bought (or was deemed to have bought) by paying additional survivor benefit contributions (ASBCs)</li> </ul>

Scenario	Member left active membership:	Member cohabited with partner while active after 31 March 2009:	Member died:	Membership you use to calculate the survivor pension payable to the partner for membership before 1 April 2015:
3	After 31 March 2009	Yes	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• any membership the member bought (or was deemed to have bought) by paying additional survivor benefit contributions (ASBCs), plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>
4	After 31 March 2009	No	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a> plus</li> <li>• any membership the member bought (or was deemed to have bought) by paying additional survivor benefit contributions (ASBCs)</li> </ul>

## 4. Opposite-sex marriages - female survivor

A male member died leaving a female survivor of an opposite-sex marriage.

Other than where the member was a councillor member, you need to confirm whether the marriage took place before the member left the active membership. If the marriage took place after the member left the active membership, you need to determine whether the couple were previously married to each other while the member was an active member after 31 March 1972.

If the member was a councillor member, when calculating the survivor partner's pension for membership before 1 April 2015, you use the member's [total membership](#).

**Table 2 - sets out what membership you use to calculate the survivor pension payable to a female survivor of an opposite-sex marriage (non-councillor members) for membership before 1 April 2015. Other than where the member died in service, the table is also relevant when calculating the short-term pension if payable.**

<b>Scenario</b>	<b>Member left active membership:</b>	<b>Marriage took place before member left active membership:</b>	<b>Member married to spouse while active after 31 March 1972:</b>	<b>Member died</b>	<b>Membership you use to calculate survivor pension payable to female survivor of an opposite-sex marriage (non-councillors) for membership before 1 April 2015</b>
1	Before 1 April 1998	Yes	Not relevant	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
2	Before 1 April 1998	No	Yes	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
3	Before 1 April 1998	No	No	After 4 December 2005 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Contracted-out membership after 5 April 1978</a></li> </ul>



<b>Scenario</b>	<b>Member left active membership:</b>	<b>Marriage took place before member left active membership:</b>	<b>Member married to spouse while active after 31 March 1972:</b>	<b>Member died</b>	<b>Membership you use to calculate survivor pension payable to female survivor of an opposite-sex marriage (non-councillors) for membership before 1 April 2015</b>
4	Before 1 April 1998	No	No	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a></li> </ul>
5	After 31 March 1998 and before 1 April 2009	Yes	Not relevant	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
6	After 31 March 1998 and before 1 April 2009	No	Yes	After 4 December 2005 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Contracted-out membership after 5 April 1978</a></li> </ul>

<b>Scenario</b>	<b>Member left active membership:</b>	<b>Marriage took place before member left active membership:</b>	<b>Member married to spouse while active after 31 March 1972:</b>	<b>Member died</b>	<b>Membership you use to calculate survivor pension payable to female survivor of an opposite-sex marriage (non-councillors) for membership before 1 April 2015</b>
7	After 31 March 1998 and before 1 April 2009	No	Yes	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>
8	After 31 March 1998 and before 1 April 2009	No	No	After 4 December 2005 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Contracted-out membership after 5 April 1978</a></li> </ul>
9	After 31 March 1998 and before 1 April 2009	No	No	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a></li> </ul>

<b>Scenario</b>	<b>Member left active membership:</b>	<b>Marriage took place before member left active membership:</b>	<b>Member married to spouse while active after 31 March 1972:</b>	<b>Member died</b>	<b>Membership you use to calculate survivor pension payable to female survivor of an opposite-sex marriage (non-councillors) for membership before 1 April 2015</b>
10	After 31 March 2009	Yes	Not relevant	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
11	After 31 March 2009	No	Yes	After 31 March 2009 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Contracted-out membership after 5 April 1978</a></li> </ul>
12	After 31 March 2009	No	Yes	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>

Scenario	Member left active membership:	Marriage took place before member left active membership:	Member married to spouse while active after 31 March 1972:	Member died	Membership you use to calculate survivor pension payable to female survivor of an opposite-sex marriage (non-councillors) for membership before 1 April 2015
13	After 31 March 2009	No	No	After 31 March 2009 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Contracted-out membership after 5 April 1978</a></li> </ul>
14	After 31 March 2009	No	No	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a></li> </ul>

## 5. Opposite-sex marriages - male survivor

A female member died leaving a male survivor of an opposite-sex marriage.

Other than where the member was a councillor member, you need to confirm whether the marriage took place before the member left the active membership. If the marriage took place after the member left the active membership, you need to determine whether the couple were previously married to each other while the member was an active member after 31 March 1972.

If the member was a councillor member, when calculating the survivor partner's pension for membership before 1 April 2015, you use the member's [total membership](#).

**Table 3 - sets out what membership you use to calculate the survivor pension payable to a male survivor of an opposite-sex marriage (non-councillor members) for membership before 1 April 2015. Other than where the member died in service, the table is also relevant when calculating the short-term pension if payable.**

<b>Scenario</b>	<b>Member left active membership:</b>	<b>Marriage took place before member left active membership:</b>	<b>Member married to spouse while active after 31 March 1972:</b>	<b>Member died:</b>	<b>Membership you use to calculate survivor pension payable to male survivor of an opposite-sex marriage (non-councillor members) for membership before 1 April 2015</b>
1	Before 1 April 1998	Yes	Not relevant	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
2	Before 1 April 1998	No	Yes	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
3	Before 1 April 1998	No	No	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>

Scenario	Member left active membership:	Marriage took place before member left active membership:	Member married to spouse while active after 31 March 1972:	Member died:	Membership you use to calculate survivor pension payable to male survivor of an opposite-sex marriage (non-councillor members) for membership before 1 April 2015
4	After 31 March 1998 and before 1 April 2009	Yes	Not relevant	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
5	After 31 March 1998 and before 1 April 2009	No	Yes	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>
6	After 31 March 1998 and before 1 April 2009	No	No	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>

Scenario	Member left active membership:	Marriage took place before member left active membership:	Member married to spouse while active after 31 March 1972:	Member died:	Membership you use to calculate survivor pension payable to male survivor of an opposite-sex marriage (non-councillor members) for membership before 1 April 2015
7	After 31 March 2009	Yes	Not relevant	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
8	After 31 March 2009	No	Yes and No	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>



## 6. Same-sex civil partners

A member died leaving a survivor of a same-sex civil partnership.

Other than where the member was a councillor member, you need to confirm whether the civil partnership took place before the member left the active membership.

If the member was a councillor member, when calculating the survivor partner's pension for membership before 1 April 2015, you use the member's [total membership](#).

If the member elected to pay additional contributions under regulation 17A of the Local Government Pension Scheme (Scotland) Regulations 1998 to count pre-6 April 1988 membership, the regulations are silent on how this membership might be included in the surviving civil partner's pension calculation, where the member paid for pre-6 April 1978 membership and the civil partnership took place after the member left the active membership.

**Table 4 - sets out what membership you use to calculate the survivor pension payable to a survivor of a same-sex civil partnership (non-councillor members) for membership before 1 April 2015. Other than where the member died in service, the table is also relevant when calculating the short-term pension if payable.**

<b>Scenario</b>	<b>Member left active membership:</b>	<b>Civil partnership took place before member left active membership:</b>	<b>Member died:</b>	<b>Membership you use to calculate survivor pension payable to survivor of a same-sex civil partnership (non-councillor members) for membership before 1 April 2015</b>
1	Before 1 April 1998	Yes	After 4 December 2005	Event not possible as same-sex civil partnerships were introduced on 5 December 2005
2	Before 1 April 1998	No	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>
3	After 31 March 1998	Yes	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
4	After 31 March 1998	No	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>

## 7. Same-sex marriages

A member died leaving a survivor of a same-sex marriage.

Other than where the member was a councillor member, you need to determine whether the marriage took place before the member left the active membership.

Where a member has converted a same-sex civil partnership into a same-sex marriage, the same-sex marriage is to be treated as if it began when the civil partnership took place.

If the member was a councillor member, when calculating the survivor partner’s pension for membership before 1 April 2015, you use the member’s [total membership](#).

**Table 5 - sets out what membership you use to calculate the survivor pension payable to a survivor of a same-sex marriage (non-councillor members) for membership before 1 April 2015. Other than where the member died in service, the table is also relevant when calculating the short-term pension if payable.**

Scenario	Member left active membership:	Same-sex marriage took place before the member left the active membership:	Member died:	Membership you use to calculate the survivor pension payable to the survivor of a same-sex marriage (non-councillor members)
1	Before 1 April 1998	Yes	After 15 December 2014	Event not possible as same-sex marriages were introduced on 16 December 2014

Scenario	Member left active membership:	Same-sex marriage took place before the member left the active membership:	Member died:	Membership you use to calculate the survivor pension payable to the survivor of a same-sex marriage (non-councillor members)
2	Before 1 April 1998	No	After 15 December 2014	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>
3	After 31 March 1998	Yes	After 15 December 2014	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
4	After 31 March 1998	No	After 15 December 2014	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>

## 8. Eligible children

A member died leaving eligible children.

**Table 6 - sets out what membership you use to calculate the survivor pension payable to eligible children (in respect of councillor and non-councillor members)**

Scenario	Member left active membership:	Membership you use to calculate short-term pension for membership before 1 April 2015	Membership you use to calculate long-term pension for membership before 1 April 2015
1	Before 1 April 2009	<ul style="list-style-type: none"> <li><a href="#">Total membership</a></li> </ul>	<ul style="list-style-type: none"> <li><a href="#">Total membership</a> or if <a href="#">Total membership</a> is less than both:               <ul style="list-style-type: none"> <li>(a) 10 years, or</li> <li>(b) The membership the member would have been able to count had they continued as a member until their 65th birthday</li> </ul> </li> </ul> <p>The lesser of (a) or (b) is used.</p>

Scenario	Member left active membership:	Membership you use to calculate short-term pension for membership before 1 April 2015	Membership you use to calculate long-term pension for membership before 1 April 2015
2	After 31 March 2009	Not relevant	<ul style="list-style-type: none"> <li data-bbox="1599 424 1906 448">• <a href="#">Total membership</a></li> </ul>

## 9. LGPS (Scotland) (Miscellaneous Amendments) Regulations 2022

The Local Government Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2022 were laid on 3 May 2022. The regulations make several amendments to the rules governing what membership you use to calculate survivor partner pensions for membership before 1 April 2015. Primarily, the changes are made in response to two court cases: Walker v Innospec and Mrs Goodwin v the Department for Education.

In summary, the regulations:

- effective for deaths after 4 December 2005 for survivors of non-councillor members who are male survivors of opposite-sex marriages, survivors of same-sex civil partnerships and survivors of same-sex marriages:
  - place them in a similar position to female survivors of opposite-sex marriages
  - confirm that you always use [relevant additional membership](#) or [E6\(3A\) membership](#)
- effective for deaths after 31 March 2015 for survivors of councillor members:
  - confirm you always use [total membership](#) when calculating pensions payable to survivors of opposite-sex marriages, same-sex civil partnerships and same-sex marriages.

The Amendment Regulations also make several technical changes to confirm the policy intent.

You need to:

- amend your systems / calculations for future deaths, and
- revisit the calculations for deaths that have occurred in the past.

To assist, the following table sets out the specific cases where the Amendment Regulations have changed what you use. You must recalculate all the survivor benefits set out in the table.

For councillors, we have not shown cases where the Amendment Regulations require you to use [total membership](#), rather than membership after 5 April 1978 or 1988 plus [relevant additional membership](#). This is because the outcome is the same as councillors will not have any membership before 6 April 1978 or 1988 and in both cases, you will use [relevant additional membership](#).

The Scottish Public Pensions Agency confirmed the following in [Circular 2022/04](#):

“Where the recalculation of a partner’s pension causes a reduction to the rate of an eligible child’s pension, administering authorities will need to recalculate that child’s pension and adjust future payments. We would not expect authorities to recoup past overpayments.”



**Table 7 sets out the situations where the Amendment Regulations (AR) have amended what membership you use when calculating the survivor partner pension for membership before 1 April 2015**

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
1	Female survivor of an opposite-sex marriage	No	No, though the couple were previously married to each other while the member was active after 31 March 1972	Before 1 April 1998	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
2	Female survivor of an opposite-sex marriage	Yes	No, and the couple were not previously married to each other while member was active after 31 March 1972	After 31 March 1998	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
3	Male survivor of an opposite-sex marriage	No	Yes	Before 1 April 1998	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• Membership on or before then which the member paid contributions for it to count towards a survivor partner's pension, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
4	Male survivor of an opposite-sex marriage	No	No, though the couple were previously married to each other while the member was active after 31 March 1972	Before 1 April 1998	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• Membership before then for which the member paid contributions for it to count towards a survivor partner's pension, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
5	Male survivor of an opposite-sex marriage	No	No, and the couple were not previously married to each other while the member was active after 31 March 1972	Before 1 April 1998	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>
6	Male survivor of an opposite-sex marriage	No	Yes	After 31 March 1998 and before 1 April 2009	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
7	Male survivor of an opposite-sex marriage	No	No, though the couple were previously married to each other while the member was active after 31 March 1972	After 31 March 1998	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
8	Male survivor of an opposite-sex marriage	No	No, and the couple were not previously married to each other while member was active after 31 March 1972	After 31 March 1998	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>
9	Male survivor of an opposite-sex marriage	Yes	No, and the couple were not previously married to each other while the member was active after 31 March 1972	After 31 March 1998	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
10	Survivor of same-sex civil partnership / same-sex marriage	No	No, and the couple were not previously in the relationship with each other while member was active after 31 March 1972	Before 1 April 1998	After 4 December 2005 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
11	Survivor of same-sex civil partnership / same-sex marriage	No	No, and the couple were not previously in the relationship with each other while the member was active after 31 March 1972	Before 1 April 1998	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">E6(3A) membership</a></li> </ul>
12	Survivor of same-sex civil partnership / same-sex marriage	No	Yes	After 31 March 1998 and before 1 April 2009	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
13	Survivor of same-sex civil partnership / same-sex marriage	No	No, though the couple were previously in the relationship with each other while the member was active after 31 March 1972	After 31 March 1998	After 4 December 2005	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
14	Survivor of same-sex civil partnership / same-sex marriage	No	No, and the couple were not previously in the relationship with each other while the member was an active member after 31 March 1972	After 31 March 1998	After 4 December 2005 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>
15	Survivor of same-sex civil partnership / same-sex marriage	No	No, and the couple were not previously in the relationship with each other while the member was an active member after 31 March 1972	After 31 March 1998	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1978</a>, plus</li> <li>• <a href="#">relevant additional membership</a></li> </ul>
16	Survivor of same-sex civil partnership / same-sex marriage	Yes	No, and the couple were not previously in the relationship with each other while the member was an active member after 31 March 1972	After 31 March 1998	After 31 March 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>

Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
17	Survivor of same-sex civil partnership / same-sex marriage	No	Yes	After 31 March 2009	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
18	Survivor of same-sex civil partnership / same-sex marriage	Yes	Yes	After 31 March 2009	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>
19	Survivor of same-sex civil partnership / same-sex marriage	Yes	No, though the couple were previously in the relationship with each other while the member was an active member after 31 March 1972	After 31 March 2009	After 31 March 2009 and before 1 April 2015	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>



Case	Survivor	Councillor	Relationship took place before active membership ended:	Active membership ended:	Member died:	Membership used before AR:	Membership used after AR:
20	Survivor of same-sex civil partnership / same-sex marriage	Yes	No, and the couple were not previously in the relationship with each other while the member was an active member after 31 March 1972	After 31 March 2009	After 31 March 2009	<ul style="list-style-type: none"> <li>• <a href="#">Membership after 5 April 1988</a></li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Total membership</a></li> </ul>

## 10. Meaning of terms used

### Contracted-out membership after 5 April 1978

Contracted-out membership means [Membership after 5 April 1978](#) excluding transferred-in membership.

### E6(3A) membership

E6(3A) membership includes, for a member who left the active membership before 1 April 1998:

- enhancement awarded on ill health retirement after 5 April 1978
- added years the member bought either by lump sum or by regular contributions, but only where the lump sum was made after 5 April 1978 or where the regular contributions started after 5 April 1978
- added years awarded by the employer where the resolution was passed after 5 April 1978
- where the member holds reckonable service after 5 April 1988, membership before 1 April 1986 for which the member paid extra to convert from qualifying service to reckonable membership. Note that there is an error in the regulations for members who elected to convert membership before 1 April 1986 from qualifying service to reckonable membership and who do not hold reckonable service after 5 April 1988. The regulations are unclear on whether the converted membership counts as E6(3A) membership. We don't, however, anticipate many (if any) cases
- membership bought by certain members who were active before 1 April 1998 (for example, manual workers who had a 12-month waiting period) for periods where the member was not eligible to be an active member, but only where the payment was made after 5 April 1978.

When calculating a long-term pension, you ignore any 1/240th increase to certain additional membership the member bought or was awarded by their employer.

### Membership after 5 April 1978

Membership after 5 April 1978 is generally any period of membership between 6 April 1978 and 31 March 2015 (inclusive) for which the member has paid / treated as having paid / deemed by the employer to have paid contributions. It includes

transferred-in membership where the transfer value was received after 5 April 1978 which purchased pre-April 2015 membership.

However, It excludes any [E6\(3A\) membership](#) and any [relevant additional membership](#).

When calculating a long-term pension, you ignore any 1/240th increase to certain additional membership the member bought or was awarded by their employer.

## **Membership after 5 April 1988**

Membership after 5 April 1988 is generally any period of membership between 6 April 1988 and 31 March 2015 (inclusive) for which the member has paid / treated as having paid / deemed by the employer to have paid contributions. It includes transferred-in membership where the transfer value was received after 5 April 1988 which purchased pre-April 2015 membership.

However, It excludes any [E6\(3A\) membership](#) and any [relevant additional membership](#).

When calculating a long-term pension, you ignore any 1/240th increase to certain additional membership the member bought or was awarded by their employer.

## **Relevant additional membership**

Relevant additional membership in respect of a member who left the active membership after 31 March 1998 includes:

- enhancement awarded on ill health retirement before 1 April 2015
- membership awarded by the employer where the resolution was made after 5 April 1978\*
- added years the member bought either by lump sum or by regular contributions, but only where the lump sum was made, or the regular contributions started, after 5 April 1978\*
- membership treated as post 5 April 1978\* membership by virtue of the LGPS (Transitional Provisions) Regulations 1998, such as (but not limited to):
  - membership from 1 April 1972 to 5 April 1978\* where a female member paid contributions (or contributions were deemed to be paid) for that period to count towards a long-term pension to a male survivor of an opposite-sex marriage

- membership before 1 April 1972 where a female member paid contributions for that period to count towards a long-term pension to a male survivor of an opposite-sex marriage
- Membership awarded by an employer who passed a resolution after 5 April 1978\* to convert added years awarded under the compensation regulations into membership
- Membership the member bought by way of a lump sum made after 5 April 1978\* permitted by the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990 - ie if additional payments made by a Class B or C member under an agreement started before 1 April 1998 (other than AVCs), when added to the member's basic pension contributions, obligatory and optional contributions during an absence and contributions to a FSAVC scheme, exceeded 15 per cent of remuneration, the member was allowed to pay a lump sum representing the excess to the Scheme.

When calculating a long-term pension, you ignore any 1/240th increase to certain additional membership the member bought or was awarded by their employer.

\*references to "5 April 1978" are references to "5 April 1988" for survivor pensions payable to cohabiting partners.

## **Total membership**

As a general rule, this means the membership that has been used to calculate the deceased member's benefits. It includes, though is not limited to:

- membership before 1 April 2015 for which the member has paid (or is treated as having paid) contributions
- transferred-in membership which purchased pre-April 2015 membership
- enhancement awarded on ill health retirement before 1 April 2015
- where the member died as an active member before 1 April 2015, for the purposes of the long-term pension, the ill health enhancement that would have been added had the member become entitled to an ill health pension on the date of death
- added years the member bought or was awarded
- part-time buyback membership

- membership bought by certain members who were active before 1 April 1998 (for example, manual workers who had a 12-month waiting period) for periods during which the member was not eligible to be an active member
- membership before 1 April 1986 for which the member paid extra to convert from qualifying service to reckonable membership
- Membership awarded by an employer to convert added years awarded under the compensation regulations into membership
- Membership the member bought by way of a lump sum made permitted by the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990 - ie if additional payments made by a Class B or C member under an agreement started before 1 April 1998 (other than AVCs), when added to the member's basic pension contributions, obligatory and optional contributions during an absence and contributions to a FSAVC scheme, exceeded 15 per cent of remuneration, the member was allowed to pay a lump sum representing the excess to the Scheme
- If not mentioned above, though not as a duplication, [E6\(3A\) membership](#) or [relevant additional membership](#) as appropriate.

When calculating a long-term pension, you ignore any 1/240th increase to certain additional membership the member bought or was awarded by their employer.

For certain male members who left after 31 March 1998, their membership before 1 April 1972 may have been reduced to 89% of its length.

## 11. Regulatory references used in this guide

This section lists the regulatory references used throughout the guide (instead of footnotes). It is divided into the same sections as the guide for ease of use.

### Regulatory references (RR) used in section 3 – cohabiting partners

#### **Member left the active membership between 1 April 2009 and 31 March 2015 and died before 1 April 2015**

- Regulations 14A(5), 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulations 3(4) and 7(1) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008

#### **Member left the active membership between 1 April 2009 and 31 March 2015 and died After 31 March 2015**

- Regulations 14A(5), 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulations 3(4) and 7(1) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 17(4), 17(9A)(c) and 17(13A)(e) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

#### **Member left the active membership after 31 March 2015**

- Regulations 14A(5), 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulations 3(4) and 7(1) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 17(2), 17(9A)(c) and 17(13A)(e) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

## **Regulatory references (RR) used in section 4 – female survivors of opposite-sex marriages**

### **Member left the active membership before 1 April 1998 and died before 1 April 2015**

- Regulations E5(4), E5(5) and E6(4) of the Local Government Superannuation (Scotland) Regulations 1987

### **Member left the active membership before 1 April 1998 and died After 31 March 2015**

- Regulations E5(5) and E6(4) of the Local Government Superannuation (Scotland) Regulations 1987
- Regulations 17(4) and 17(9A)(c) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Member left the active membership between 1 April 1998 and 31 March 2009 and died before 1 April 2015**

- Regulations 39, 40 and 41 of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)

### **Member left the active membership between 1 April 1998 and 31 March 2009 and died After 31 March 2015**

- Regulations 39, 40 and 41 of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)
- Regulations 17(4), 17(9A)(c) and 17(13A)(d) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Member left the active membership After 31 March 2009 and died before 1 April 2015**

- Regulations 7(1) and 7(3) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008

- Regulations 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulation 41(1) of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)

**Member left the active membership After 31 March 2009 and died After 31 March 2015**

- Regulations 7(1) and 7(3) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulation 41(1) of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)
- Regulations 17(2), 17(4), 17(9A)(c) and 17(13A)(d) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

**Regulatory references (RR) used in section 5 – male survivors of opposite-sex marriages**

**Member left the active membership before 1 April 1998 and died After 4 December 2005**

- Regulations E5(4), E5(5) and E6(4) of the Local Government Superannuation (Scotland) Regulations 1987
- Regulations 17(4), 17(9A)(b), 17(13) and 17(16) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014



### **Member left the active membership between 1 April 1998 and 31 March 2009 and died on or 5 December 2005**

- Regulations 39, 40 and 41 of the LGPS (Scotland) Regulations 1998
- Schedule 7 of the LGPS (Scotland) Regulations 1998 (for councillors)
- Regulations 17(4), 17(9A)(b), 17(13) and 17(16) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Member left the active membership After 31 March 2009**

- Regulations 7(1) and 7(3) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulation 41(1) of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)
- Regulations 17(2), 17(4), 17(9A)(b), 17(13), 17(13A)(a) and 17(16) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Regulatory references (RR) used in sections 6 and 7 – survivors of same-sex civil partnerships / same-sex marriages**

#### **Member left the active membership before 1 April 1998**

- Regulation 4A(3) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998
- Regulations E5(4), E5(5) and E6(4) of the Local Government Superannuation (Scotland) Regulations 1987
- Regulations 17(4), 17(9A)(a), 17(9A)(c), 17(13) and 17(16) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Member left the active membership between 1 April 1998 and 31 March 2009**

- Regulations 39, 40 and 41 of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)
- Regulations 17(4), 17(9A)(a), 17(9A)(c), 17(13), 17(13A) and 17(16) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Member left the active membership After 31 March 2009**

- Regulations 7(1) and 7(3) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 24(2), 33(2) and 36(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulation 2008
- Regulations 41(1), (3A) and 41(3B) of the Local Government Pension Scheme (Scotland) Regulations 1998
- Regulations 17(2), 17(4), 17(9A)(a), 17(9A)(c), 17(13), 17(13A) and 17(16) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Regulatory references (RR) used in section 8 – eligible children**

#### **Member left the active membership before 1 April 1998 and died before 1 April 2015**

- Regulation E9 of the Local Government Superannuation (Scotland) Regulations 1987

#### **Member left the active membership before 1 April 1998 and died After 31 March 2015**

- Regulation E9 of the Local Government Superannuation (Scotland) Regulations 1987
- Regulation 17(4) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

**Member left the active membership between 1 April 1998 and 31 March 2009 and died before 1 April 2015**

- Regulations 44 and 45 of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)

**Member left the active membership between 1 April 1998 and 31 March 2009 and died After 31 March 2015**

- Regulations 44 and 45 of the Local Government Pension Scheme (Scotland) Regulations 1998
- Schedule 7 of the Local Government Pension Scheme (Scotland) Regulations 1998 (for councillors)
- Regulation 17(4) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

**Member left the active membership After 31 March 2009 and died before 1 April 2015**

- Regulation 7(1) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 28, 34 and 37 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008

**Member left the active membership After 31 March 2009 and died After 31 March 2015**

- Regulation 7(1) of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulations 28, 34 and 37 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008
- Regulations 17(2) and 17(4) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

## **Regulatory references (RR) used in section 9 – meanings of terms used**

### **Contracted-out membership after 5 April 1978**

- Regulation 17(9A)(c) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **E6(3A) membership**

- Regulations E6(3A)(a), E6(3A)(b), E6(3A)(c), E6(3A)(d) and E6(3A)(e) of the Local Government Superannuation (Scotland) Regulations 1987
- Regulation 17(13B)(a) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Membership after 5 April 1978**

- Regulation 17(13B)(c) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Membership after 5 April 1988**

- Regulation 17(13B)(c) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Relevant additional membership**

- Regulation 41(4) of the Local Government Pension Scheme (Scotland) Regulations 1998
- Regulations 17(13B)(a) and 17(13B)(b) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014

### **Total membership**

- Regulation D1 of the Local Government Superannuation (Scotland) Regulations 1987
- Regulation 8 of the Local Government Pension Scheme (Scotland) Regulations 1998
- Regulation 6 of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998

- Schedule 1 of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008
- Regulation 7 of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008
- Regulation 3 of the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 2008
- Regulation 3 of the Local Government Pension Scheme (Transitional Provisions and savings) (Scotland) Regulations 2014

## **12. Disclaimer**

The information contained in this summary guide has been prepared by the LGPC Secretariat, a part of the LGA. It represents our views and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any piece of legislation. No responsibility whatsoever will be assumed by either party for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Guide.

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