

# Employer Guide

# Absence and Assumed Pensionable Pay

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## **Introduction**

This section of the guide covers processes to follow when a scheme member is absent, the application of assumed pensionable pay, and the purchase of lost pension following absence through the payment of Additional Pension Contributions (APCs).

For more information about contributions payable during absence, see the Employer Guide on Contributions. For more information about paying APCs, see the Employer Guide on Increasing Benefits.

Further information about absence and assumed pensionable pay can be found in LGA's HR Guide and Payroll Guide at [www.lgpsregs.org](http://www.lgpsregs.org).

## **Assumed Pensionable Pay - Introduction**

The 2014 LGPS introduced a new method of protecting benefits during absence called Assumed Pensionable Pay (APP) and this guide describes the application of APP.

When someone is absent, under the particular circumstances as described in Appendix I, **Assumed Pensionable Pay** (APP) is used to protect benefits. It is an amount reported to LPP to determine a member's pension pot and replaces the reporting of any actual pensionable pay received during absence. An employer needs to have in place the relevant systems and processes to be able to deal with APP, so that

- Employee contributions are deducted from the correct pay
- Employer contributions are deducted from the correct pay.
- APP is reported correctly for application to the member's pension pot.

## **Assumed Pensionable Pay – The Theory**

Regulation 21 of the LGPS Regulations 2013 (effective from 1.4.2014) deals with the calculation of APP. Regulations 11, 12, 13, 14 and 15 deal with contributions payable during absence. Regulation 16 deals with Additional Pension Contributions payable during absence.

The table at Appendix I summarises the application of assumed pensionable pay during absence.

### **To calculate Assumed Pensionable Pay – if paid monthly**

1. Look at the pensionable pay received\* in the 3 months preceding the pay period in which APP becomes effective.
2. Take off any lump sums or "extras" received during that period
3. Gross up to an annual figure
4. Add back in any regular lump sums received during the 12 months preceding the effective date.

### **To calculate Assumed Pensionable Pay – if paid other than monthly**

1. Look at the pensionable pay received\* in the 12 weeks preceding the pay period in which APP becomes effective.
2. Take off any lump sums or "extras" received during that period
3. Gross up to an annual figure
4. Add back in any regular lump sums received during the 12 months preceding the effective date.

\*If the pensionable pay the member received in the 3 month/12 week period was reduced as a result of an absence due to a trade dispute or an absence authorised by the employer, the reduction is to be ignored when calculating the pensionable pay received in those periods. Additionally, where the pensionable pay received was, in the opinion of the employer, materially lower than the level of pensionable pay that the member normally receives, the employer has discretion to replace the actual

pensionable pay received with a higher level of pensionable pay to reflect the level of pensionable pay that the member would normally have received. An employer must have regard to the level of pensionable pay received in the previous 12 months when working out what level of pensionable pay the member normally receives.

For the purposes of the above calculations a “*regular lump sum*” is a payment for which the member's employer determines there is a reasonable expectation that such a payment would be paid on a regular basis.

APP must be increased on the second 1<sup>st</sup> April following the date from which it was effective. The increase is determined by the "revaluation adjustment" determined by the Secretary of State which will be published in the Employer Bulletin each year end.

Where a member reduced their contractual hours because of ill health and had reduced pay as a result, the reduction in pay is ignored when calculating the APP which is used to determine the ill health enhancement, as long as the reduction in hours was connected with the condition that caused or contributed to the ill health retirement and an independent registered medical practitioner has certified to that effect.

Where a member dies in service, APP is used to calculate the death grant and survivor benefits. If the member had previously reduced their hours because of the condition that later caused or contributed to their death, the reduction in pay is ignored when calculating the APP provided an independent registered medical practitioner has certified to that effect.

The regulations stipulate that when APP is used during absence, employee contributions are payable on any actual pay received, but employer contributions are payable on APP instead of on actual pay (except during reserve forces leave). For further information see Appendix I, and the Employer Guide – Contributions.

### **Part month calculation**

An employee goes on half pay due to sickness absence on 14 June 2014.

Actual pay 1<sup>st</sup> to 13<sup>th</sup> June            £520

Actual pay 14<sup>th</sup> to 30<sup>th</sup> June        £340

APP -                                        £14400 pa or £1200pcm

**Employee contributions** are payable on – total of actual pay £860

Employer contributions are payable on

Actual pay for 1 to 13<sup>th</sup> June –                                        £520; plus

APP for 14<sup>th</sup> to 30<sup>th</sup> June –  $17/30 * £1200 =$                     £680

**Employer contributions** payable on £1200 \*\*

\*\* This is also the **reportable pensionable pay** to be reported to determine the member's pension pot in respect of the pay period, in the data collection file that you submit each pay period.

## **Returning officer pensionable fees**

Where the member received pensionable returning officer fees, you need to work out the APP for those fees as set out below. If the member also received other types of pensionable pay, you need to work out the APP as normal for those elements and then add that to the APP for the returning officer fees.

### If the period of membership in the employment lasted for 3 years or more

In the 3-year period ending with the date of the relevant event (e.g. nil pay sick leave, ill health retirement), work out the pensionable returning officer (or acting returning officer) fees the member received in relation to the employment. If the person received less fees because of an authorised absence (including a trade dispute absence), ignore the reduction. Then divide that figure by 3.

### If period of membership in the employment lasted for less than 3 years

In the period ending with the date of the relevant event (e.g. nil pay sick leave, ill health retirement), work out the pensionable returning officer (or acting returning officer) fees the member received in relation to the employment. If the person received less fees because of an authorised absence (including a trade dispute absence), ignore the reduction. Then divide that figure by the period of membership.

## **Child related leave – actual pay higher than APP during leave**

Where during any part of child-related leave the pensionable pay received for a period is greater than the APP (maybe because the member attended a Keep in Touch day) treated as received for that period, for that period, you should add in the actual pensionable pay to the figure for the reportable pensionable pay for the period, rather than the APP. Use the APP for the remainder of the pay period as appropriate.

## **Practical Method to deal with Assumed Pensionable Pay – An Example**

When implementing a method to deal with APP, you as the employer will need to make sure that you can still meet your statutory obligations for the payment of employee and employer contributions and the reporting of pensionable pay to LPPA. The following is an example only of how APP might be applied in practice.

When someone goes on leave, APP is manually calculated by the employer based on the last 3 months or 12 weeks earnings. The employer sets up a non-payable “top up” element, on which employee contributions are not payable, the employer contributions are payable. Each pay period during the absence, an amount for the top up element needs to be manually calculated as the difference between APP and the actual

pensionable pay for the period. Employer and employee contributions will be based as normal on the actual pensionable pay received. The top up element will have employer contributions based on it and should be included in the pensionable pay reported to LPPA

## **Assumed Pensionable Pay During Reserve Forces Leave**

The following is an extract from the HR guide on [www.lgpsregs.org](http://www.lgpsregs.org) -

If an employee is on Reserve Forces Service Leave (and, if eligible to be in the Armed Forces Pension Scheme during that period, has elected to remain a member of the LGPS) the employer will calculate Assumed Pensionable Pay (APP) whilst the reservist is on leave and drop that into the person's pensionable pay cumulative on the payroll (i.e. into the main or 50/50 section) so the person continues to build up a pension as if they were still at work. This APP is reported on the LGPS2014 data collection file submitted every pay period.

The employer would pay no employer contribution to the Fund on that Assumed Pensionable Pay. The employer would notify the reservist and, via the reservist, the Ministry of Defence (MoD) of both the Assumed Pensionable Pay figure and the employee and employer contribution rate due on that amount, and the amount of any additional contributions being paid by the member (except where the MoD pay is less than the member's pensionable pay as defined in the 2008 Scheme, and the additional contributions are Additional Regular Contributions (ARCs), contributions to purchase added years, or Additional Survivor Benefit Contributions (ASBCs)). The MoD would deduct the employee contribution and the additional employee contributions (if any) from the reservist and pay those contributions, together with the employer contribution, directly over to the Pension Fund administering authority or to the AVC provider, as appropriate. Note that any employer contributions to a SCAPC or SCAVC remain payable by the employer. If the employer continues to pay the reservist some pay whilst they are on reserve forces service leave, neither employee or employer contributions are payable on that pay (because that pay is non-pensionable and contributions are payable on the Assumed Pensionable Pay figure) and the pay paid by the employer is not added into the person's cumulative pensionable pay figure (i.e. into the main or 50/50 section pensionable pay cumulative) because the Assumed Pensionable Pay has been added into the pensionable pay cumulative.

## **Purchasing "Lost" pension following absence**

Before 1 April 2014 employers had to deduct contributions for the first 30 days of absence, based on the pay prior to absence. From 1 April 2014 this is no longer the case. Instead the employee can elect to pay an Additional Pension Contribution (APC). See the separate Employer Guide on Increasing Benefits for more information about APCs.

Under LGPS2014, in certain cases the application of "Assumed Pensionable Pay" will protect a scheme member's pension pot. In these circumstances there will be no need for the member to pay APCs to cover absence.

In the following circumstances, APP does not protect the member's pension pot, and they may choose to pay APCs to purchase "lost" pension. Also if the member makes an election to purchase some or all of the lost pension within 30 days of return to work, sometimes the employer must fund 2/3rds of the cost of the purchase, as follows –

<b>Circumstances under which APP does not protect the member's pension pot</b>	<b>Employer must fund 2/3rds if election made within 30 days of return</b>
A period of unpaid additional maternity leave, unpaid additional adoption leave or unpaid shared parental leave	Yes
A period of authorised unpaid leave	Yes
A period of unauthorised absence	No
Strike	No

It is important that you notify the member at the earliest opportunity of the 30 day deadline so that they can take advantage of this.

The 30 day deadline can be extended at the discretion of the employer, and it is advisable that the employer has a policy on if and when this should apply.

If the member does not elect to purchase the FULL amount of the lost pension, the employer is not required to fund 2/3<sup>rd</sup> of the cost, even if they elect within 30 days (but the employer may use the general discretion to fund a shared cost APC to do this).

The employee must elect to purchase the FULL amount of the lost pension in order that any pre-2014 scheme protections are not affected due to a break in service. Otherwise the break in service will apply.

If the unpaid period is for longer than 36 months, the employer will fund 2/3rds of the cost of the lost pension calculated up to 36 months. Any further period would need to be funded by the member alone.



If the member chooses to pay the cost of purchasing the "lost pension" by way of a lump sum contribution, the employer will pay 2/3rds of that lump sum and the member will pay the other third. Alternatively, if the member chooses to pay the cost by regular contributions each month, the employer will fund 2/3rds of each regular contribution with the member funding the other third.

If the unpaid leave straddles 1 April 2014 it's only the 'lost' pension from 1 April 2014 that is covered under APCs. The leave prior to 1 April 2014 is covered under the 2008 regulations.

A member cannot elect to purchase lost pension after leaving the scheme. If they are due to leave they need to make an election and pay as a lump sum before their leaving date.

**Action needed at start of parental or authorised unpaid leave**

You do not need to notify LPPA of the start of the absence, however if you have an absence indicator on your payroll system you should include this indicator on your data collection file (the file you submit to LPPA every pay period).

As the member normally only has within 30 days of returning from absence to share the cost of purchasing lost pension with the employer, it is suggested that a letter is sent to them at the start of the absence, as follows. This is only required for absences that are not covered by APP, and is not required for strike or unauthorised absence.

If you are absent on Ordinary maternity/adoption leave, or paternity leave, or Additional maternity, adoption leave or shared parental leave with pay, your pension benefits are protected.

If you have a leave of absence without pay, or Additional maternity/adoption leave or shared parental leave without pay or unpaid parental bereavement leave (from 06/04/2020), there will be a break in service for pension purposes during which you will not be adding to your pension pot. In addition, if you have protections as are result of being a member of the previous final salary pension scheme, your final salary membership will be reduced as a result of the break. This might only affect you if you were over age 55 on 1 April 2012 and are eligible for the final salary underpin, or if you have rule of 85 protections.

You may wish to take out an Additional Pension Contribution (APC) Contract to purchase the lost pension and restore your final salary membership if applicable.

To take out an APC contract you need make an election when you return to work. There is a form to complete which we (your Employer) will send to you.

If you return the form within 30 days of returning to work, your employer will fund 2/3rds of the cost of buying back the lost pension, and you will pay 1/3<sup>rd</sup>.

If you return the form after 30 days of returning to work, you will normally need to pay the full cost, although the deadline might be extended at our discretion as your employer.

For more information about APCs please see the "Topping Up" section at [www.yourpensionservice.org.uk](http://www.yourpensionservice.org.uk)

**Action needed on return to work following authorised unpaid leave, or additional parental leave without pay**

1. Log into the employer area of [www.yourpensionservice.org.uk](http://www.yourpensionservice.org.uk). Click the left hand menu "Forms Access and Bulk Spreadsheet Layouts". Complete the form "Return from absence"
2. Download form "Purchase of Lost Pension" from the employer area
3. Calculate the lost pension by following the steps below:

- Determine the period of membership which is not protected by assumed pensionable pay
- Work out the lost pay for the unprotected period of membership
- Determine whether the member was in the main section of the scheme or the 50/50 section of the scheme) immediately prior to absence
- If in the main section, the lost pension will be the lost pay for the unprotected period of membership divided by 49.
- If in the 50/50 section, the lost pension will be the lost pay for the unprotected period of membership divided by 98.

4. Complete the "Purchase of Lost Pension" form and send it to the member.

5. If the member wishes to purchase the lost pension they will return the form to the Employer's payroll department. The employer will check the proposed contributions and pension, determine whether the form was received within 30 days, and whether the employer will share the cost. Complete Section C of the form, set up the deduction, and forward the form to LPPA.

6. Notify LPPA of the period of absence using "Return from Absence" form. Where many members are absent due to a trade union dispute, you can use a spreadsheet to do this.

**It is very important that you send the election for APCs back to LPPA, otherwise the amounts won't be applied to the member's pension pot.**

## Calculating Lost Pension - Example

Member A is on maternity leave from 1 April 2015 to 31 March 2016.

The period from 1 April 2015 to 30 September 2015 is ordinary maternity leave so the pension pot is not impacted as APP applies.

The period from 1 October 2015 to 31 March 2016 is additional maternity leave. For the period up to 31 December 2015, the member receives pay so APP protects the earned pension for that period.

The period from 1 January 2016 to 31 March 2016 is unpaid so APP will not protect the earned pension. The member could elect to buy back the "lost pension" by paying APCs.

Throughout the unpaid part the member was in the main section of the scheme.

The lost pay is £4,250.50

The member's lost pension is as follows:

£4,250.50/49 = £86.74pa.

### **Action needed on return to work following strike leave**

There is no requirement on the employer to pay 2/3<sup>rd</sup> of the cost of purchasing lost pension.

Inform LPPA of the strike break using the Strike Break spreadsheet format.

If the member wishes to purchase the pension lost due to the strike break, they should complete form "Purchase of Strike Break" and forward it to the employer. This can only be done by means of a lump sum. The employer should check the form and arrange for deduction/recovery of the one off lump sum, then forward the form to LPPA.

### **Additional Contributions taken out prior to absence**

If additional contributions contracts were taken out prior to the absence, then contributions remain payable during all types of absence except illness. During sick leave, additional contributions remain payable whilst the employee is being paid, but then if the member stops being paid the additional contributions are deemed to have been paid. For other absences without pay, missing additional contribution payments must be recovered when the member returns to work.

If the member was paying AVCs prior to the absence, they can continue whilst the member is being paid unless the member elects to stop payment. If the member does not have enough pay to recover the contributions then no deduction can be taken – if the member is paying for life assurance they will need to make their own arrangements to pay the provider so that life cover does not lapse.

### **Special Note regarding members who buy extra leave**

Before LGPS2014 contributions were deducted from the first 30 days of a leave of absence. Therefore if the member bought unpaid leave for less than this period, their pension benefits were automatically protected.

In the 2014 scheme, benefits are not protected. If the member does not choose to purchase the full lost pension, then they will suffer a break in service (which will affect their benefits if they have protections and were in the final salary scheme before 1.4.2014). Also they will have a reduced amount of pensionable pay applied to their pension pot.

Strictly employers should notify LPPA at the end of each service break i.e. each time the member takes a day of unpaid leave. However if the member elects at the start of the year to buy a number of unpaid days leave, you may wish to notify LPPA of all the days taken in one notification at the end of the leave year.

Furthermore, strictly the employer should issue form "Purchase of Lost Pension" to the member following each period of unpaid leave, so that the employee can elect within 30 days and share the cost of buying the lost pension with the employer. However you may wish to consider using the general employer discretion to share the cost of an APC, and allow the employee to purchase the lost pension throughout the year.

*This section only affects members who purchase unpaid leave via a reduction to pensionable pay. If you have a net pay arrangement in place for employees to purchase extra leave, there will be no reduction in benefits.*

### **Absences Spanning 31 March 2014/1 April 2014**

Where an absence spans 31st March 2014 and 1st April 2014 the absence prior to 1st April 2014 should be dealt with in accordance with the 2008 Scheme rules and the absence post 31st March should be dealt with in accordance with the 2014 Scheme rules (i.e. deduct contributions for the first 30 days but only up until 31 March, which might mean less than 30 days are deducted).

### **Furlough due to Co-Vid 19**

Furlough pay received by members is pensionable. Employee and employer contributions should be deducted based on the actual pay the furloughed employee receives. Assumed Pensionable Pay does not apply.

**Appendix I – Table to Determine Contributions Payable During Absence and Use of Assumed Pensionable Pay**

Type of Absence	Employee Contributions	Assumed Pensionable Pay (APP)	Employer contributions	Employee APCs that were in place before the start of the absence	Employer shared APC that was in place before the start of the period of absence	Tiered Contribution rate	Other comments eg Buying back the period of absence through shared APC
<p><b>"Child Related Leave"</b> i.e. Ordinary adoption leave or ordinary maternity leave or paternity leave or paid parental bereavement leave (from 06/04/2020) or Additional maternity or adoption leave, or shared parental leave <b>during which the member receives some pensionable pay</b></p>	<p>Due on Pay received including statutory pay (11 (1))</p>	<p>APP used for whole period of absence, whether on full pay, reduced pay or no pay. (21(2)).</p> <p>If actual pay for part of the leave exceeds APP for that part, use actual pay for that part (use APP for the other parts of the leave).</p>	<p>Payable on APP (15 (1)).</p> <p>If actual pay for part of the leave exceeds APP for that part, the employer contributions should be payable on the actual pay for that part of the leave.</p>	<p>Must be paid even when no pay (16(17))</p>	<p>Remain payable (15(4))</p>	<p>Disregard reduction in pay when determining tiered contribution band (9 (6))</p>	<p>No need to buy back, as APP protects.</p> <p>If in 50/50 scheme and the member goes on to no pay while on ordinary maternity leave, ordinary adoption leave or paternity leave, they are returned to the main section, as long as they are still on nil pay at the start of the next pay period (10(5)) **</p>

Additional adoption leave, additional maternity leave, unpaid parental bereavement leave and shared parental leave <b>during which the member is entitled to no pay</b>	None payable	Does not apply	None payable	Must be paid even when no pay (16(17))	Remain payable (15(4))	Disregard reduction in pay when determining tiered contribution band (9 (6))	Employer pays 2/3rds of buy back cost, subject to certain conditions (15(7)).
Illness/injury	Payable on any pensionable pay received, including	APP used for whole period of reduced or no pay. (21(2))	Payable as normal until pay reduced; then payable	Payable during period for which entitled to pay (16(17)). Not payable	Payable during period for which entitled to pay. Not payable (assumed paid)	Disregard reduction in pay when determining tiered	If in 50/50 scheme, at the point the member goes on to no pay, they are returned to main scheme, as long as they are still on nil pay at the start of

v4.0

Type of Absence	Employee Contributions	Assumed Pensionable Pay (APP)	Employer contributions	Employee APCs that were in place before the start of the absence	Employer shared APC that was in place before the start of the period of absence	Tiered Contribution	Other comments eg Buying back the period of absence through shared APC
	statutory pay (14)		on APP (15 (2))	(assumed paid) for period of no pay.(14(2)(b))	during period of no pay.	contribution band (9 (6))	the next pay period (10(5)) **

Reserve forces Leave	Payable on assumed pensionable pay (13)	APP used for whole period (21(2)) UNLESS they become entitled to membership of another occupational pension scheme (21(3))	Payable by the MOD upon the member's APP at your normal employer rate	Must be paid (16(17))	Remain payable (15(4))	Disregard reduction in pay when determining tiered contribution band (9 (6))	Employer must write to member providing details about the assumed pensionable pay, employer's contribution, APCs and AVCs (if any) that are liable to be paid by the member during the leave and the admin authority (15(3)).  If the MOD pays the employee/employer contributions to yourself, you are required to pass those amounts onto the fund.
Strike	None payable.	Does not apply	None payable	Must be paid – recover from payroll on return if required (16(17))	Remain payable	Disregard reduction in pay when determining tiered contribution band (9 (6))	Employer would not fund 2/3rds of buy back option (15(7))
Other Leave of absence with permission on nil pay	None payable	Does not apply	None payable	Must be paid – recover from payroll on return if required (16(17))	Remain payable	Disregard reduction in pay when determining tiered contribution band (9 (6))	If member elects to buy back within 30 days of return, employer pays 2/3rds of buy back cost, subject to certain conditions (15(7)).

\*\* This also applies at automatic re-enrolment date