LPP

Local Pensions Partnership
Administration

Employer Guide

Absence and Assumed Pensionable Pay

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Introduction

The Local Government Pension Scheme (LGPS) is a salary-related pension scheme which means that the benefits it provides are based upon each member's pay.

As an employer, you are required to calculate certain pay figures regarding your employees and to provide them to us so that we can accurately determine the level of pension benefits.

The aim of this Guide is to provide information that will assist you when performing such pay calculations.

1 April 2014 changes

Prior to 1 April 2014, the LGPS was a final salary pension scheme. Generally, this meant that the benefits it provided were based upon membership built up and the pay earned at the end of that membership.

On 1 April 2014, the LGPS was changed to a Career Average Revalued Earnings (CARE) Scheme. Generally, this means that benefits now build up based upon pay received for the entire period of post 31 March 2014 membership (rather than just the pay at the end).

For people who have membership both prior to and after 1 April 2014, the pension benefits regarding pre 1 April 2014 membership will still be determined based upon the pay earned when they eventually leave the Scheme (i.e. the final pay) and will be calculated assuming that the 1 April 2014 changes did not occur.

Therefore, in most instances, you will need to provide to us both the pay figures regarding the post 31 March 2014 benefits and the pay figures regarding the pre 1 April 2014 benefits. The process to calculate these differs, which this Guide will outline. Consequently, the Guide is broken down into the following 2 sections:

1. Pay figures for post 31 March 2014 benefits
2. Pay figures for pre 1 April 2014 benefits

Pay figures for post 31 March 2014 benefits

You will need to provide, on an on-going basis, the 'pensionable pay' received for your employees who are paying into the LGPS.

Calculating CARE benefits

At the end of each Scheme Year (i.e. each 31 March), 1/49th of the pensionable pay received in the year period ending on that 31 March date will be added to the relevant member's pension account.

However, if the member was in the 50/50 Section for any part of that year period, 1/98th of the pensionable pay received while in that Section will instead be added relating to that part of the year.

The accrued CARE pensions will be revalued in line with inflation.

Examples

Example 1

Member A joined the LGPS on 1 April 2015. In the member's first Scheme Year (i.e. 1 April 2015 to 31 March 2016), they paid into the main section of the Scheme throughout and received £19,600 of pensionable pay. At the end of that Scheme Year (i.e. 31 March 2016), a pension of £400 (i.e. 1/49th of £19,600)) is added to their pension account.

Example 2

Member B joined the LGPS on 1 April 2016.

On 1 October 2016, Member B moved from the main section to the 50/50 section of the Scheme.

In the member's first Scheme Year (i.e. 1 April 2016 to 31 March 2017), they received

£8,000 of pensionable pay regarding the period in which they were in the main section (i.e. 1

April 2016 to 30 September 2016) and they also received £9,000 of pensionable pay regarding the period in which they were in the 50/50 section (i.e. 1 October 2016 to 31 March 2017).

At the end of the first Scheme Year (31 March 2017), £255.10 pension is added to their account. This was calculated as follows: 1/49th of £8,000 + 1/98th of £9,000 = £255.10.

Pensionable pay received

As you can see from the previous sub-section, we need you to provide "the pensionable pay received" monthly so that we are able to calculate the amount of pension to add at the end of each Scheme Year (i.e. each 31 March) and at the date active membership ceases.

Definition of pensionable pay

The definition of pensionable pay from 1 April 2014 is, basically, the same as it was prior to that date – i.e. all payments in respect of the job apart from those listed in regulations (see next sub-section) as exclusions, but there are three main changes.

First change

The first significant change is that non-contractual overtime has been removed from the exclusions list and so, from 1st April 2014, non-contractual overtime becomes pensionable.

Second change

The second change is that a payment in consideration of loss of future pensionable payments or benefits is, from 1st April 2014, not pensionable. So, for example, where an employer changes an employee's contract to remove contractual overtime and gives a lump sum payment in consideration for the loss of future pensionable payments (because the number of voluntary hours of overtime are expected to be less than the former number of contractual hours of overtime), that lump sum would be non-pensionable. Similarly, where an employer reduces the pay of an employee but offers a 'marked time' payment (e.g. to bring the employee's pay up to the former rate of pay for a limited period of time) the employer could, by defining that that 'top-up' sum in the 'marked-time' agreement as a sum to be paid each pay period for a period of X months in consideration of the loss of future pensionable payments make the 'top-up' payment non-pensionable. The important point to note on this is that as an employer you must define that the payment is "in consideration of loss of future pensionable payments" for the payment to be non-pensionable. For example payments made to protect salary losses may not specifically cover a "pensionable loss" as these would apply to all employees, whether members of the scheme or not.

Third change

The third change is that, from 1st April 2014, any actual pay paid by you, the employer, to a reservist during Reserve Forces Service Leave is not pensionable. Note that whilst on reserve forces service leave the employee and the Ministry of Defence pay contributions on the amount of Assumed Pensionable Pay.

<u>If a member was away from work due to certain reasons, the member is treated as if they had received Assumed Pensionable Pay (rather than the pay they actually received) for that leave period when calculating any post 31 March 2014 benefits (see the relevant subsection).</u>

Regulation 20

Regulation 20 of the Local Government Pension Scheme Regulations 2013 defines "pensionable pay" as:

20 - Meaning of pensionable pay

1. Subject to regulation 21 (assumed pensionable pay), an employee's pensionable pay is the total of:
    a. all the salary, wages, fees and other payments paid to the employee, and
    b. any benefit specified in the employee's contract of employment as being a pensionable emolument.
2. But an employee's pensionable pay does not include—
    a. any sum which has not had income tax liability determined on it;
    b. any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
    c. any payment in consideration of loss of holidays;
    d. any payment in lieu of notice to terminate a contract of employment;
    e. any payment as an inducement not to terminate employment before the payment is made;
    f. any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision;
    g. any payment in consideration of loss of future pensionable payments or benefits;
    h. any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees;
    i. any payment made by the Scheme employer to a member on reserve forces service leave;
    j. returning officer, or acting returning officer fees other than fees paid in respect of—
        i. local government elections,
        ii. elections for the National Assembly for Wales,
        iii. Parliamentary elections, or
        iv. European Parliamentary elections.

Based on when received rather than when earned

The pensionable pay that is used to calculate the pension to add at the end of each Scheme Year (i.e. each 31 March) is the pensionable pay received in that Scheme Year (i.e. 1 April to 31 March) irrespective of whether it relates to work carried out in that year. There are two exceptions to this point –

1. Any pensionable pay received after a member has left the LGPS, will be treated as if it was received on the day before the membership ceased; and

2. Any pensionable pay received on or after 1 April 2014 which relates to work carried out before that date will not be included when calculating any post 31 March 2014 benefits and will instead be considered when calculating any pre 1 April 2014 benefits.

Part-timers, term-timers, etc

When calculating any post 31 March 2014 benefits, the actual pensionable pay received is used. The pay is not adjusted if the member worked part-time or term-time or was not a member for the entire Scheme Year in question.

Furlough due to Covid-19

Furlough pay received by members is pensionable. Employee and employer contributions should be deducted as normal, based on the actual pay the furloughed employee receives. Assumed Pensionable Pay does not apply to furloughed employees. Members will continue to build up CARE pension based on the actual pay they receive. If the furlough pay is less than their normal pay (because the employer chooses not to top up pay to 100 %), the pension they build up will also be less. They can choose to buy additional 'extra' pension to make up for the pension lost during this period. The employer is not obliged to split the cost with the member but can choose to.

Assumed Pensionable Pay (APP)

As mentioned previously, the pensionable pay that is used to calculate any post 31 March 2014 benefits is the actual pay received that is pensionable under Regulation 20 of the Regulations.

However, where a member is away from work for certain reasons (see below), the member is treated as receiving Assumed Pensionable Pay (APP), instead of any actual pay received, for that period when it comes to calculating post 31 March 2014 benefits. This is to protect members from losing out by being on such leave.

Members on the following types of leave will be protected by Assumed Pensionable Pay:

1. Leave due to sickness or injury and is on reduced contractual pay or no pay;
2. Leave due to being on Reserve Forces Service Leave;
3. Ordinary adoption leave*;
4. Neonatal care leave*;
5. Ordinary maternity leave*;
6. Paternity leave*;
7. Parental Bereavement leave* - applicable from 06/04/2020;
8. Additional adoption leave during which the member receives some pensionable pay*
9. Additional maternity leave during which the member receives some pensionable pay*
10. Shared parental leave during which the member receives some pensionable pay*

* other than any part of that leave period where the pensionable pay received is greater than the assumed pensionable pay that the member would otherwise have been treated as receiving for that part of the leave period.

Other types of leave (e.g. strike, unpaid additional maternity leave, unpaid neonatal care leave, unpaid parental bereavement leave or other authorised leave of absence) will not be protected by APP. Instead, the member will have the option to buy back the lost pension by entering into an Additional Pension Contributions (APCs) Contract.

For more information on APP, please see the separate employer guide "Absence and Assumed Pensionable Pay".

Other pay figures needed regarding post 31 March 2014 benefits

In addition to providing the pay figures outlined above, there are two further pay figures which you will need to provide if applicable so that we are able to calculate post 31 March 2014 benefits.

Ill health retirement

Where a member leaves employment on ill health retirement and receives either Tier 1 or Tier 2 benefits (or Tier 3 benefits which are subsequently uplifted to Tier 2 benefits), an enhancement is added to the member's pension benefits.

To be able to calculate any such enhancement, we need you to provide us with the Assumed Pensionable Pay (APP) figure. The calculation will be the same (as outlined in employer guide section "Absence and Assumed Pensionable Pay".) replacing the date the leave began with the date the retirement occurred.

It is possible that, prior to leaving, a member may have reduced their contractual hours wholly or partly because of the condition that caused or contributed to the ill health retirement, and that reduction will have the effect of reducing the APP figure when compared to what it otherwise would have been. If an Independent Registered Medical Practitioner certifies to that effect, the consequent pay reduction received will be disregarded when calculating APP.

Death in service

Where an active member dies in service, an enhancement is added to any survivor pension benefits payable.

To be able to calculate any such enhancement, we need you to provide us with the Assumed Pensionable Pay (APP) figure. The calculation will be the same (as outlined in employer guide section "Absence and Assumed Pensionable Pay".) replacing the date the leave began with the date on which the member died.

It is possible that, prior to leaving, a member may have reduced their contractual hours wholly or partly because of the condition that caused or contributed to their death, and that reduction will have the effect of reducing the APP figure when compared to what it otherwise would have been. If an Independent Registered Medical Practitioner certifies to that effect, the consequent pay reduction received will be disregarded when calculating APP.

In addition, APP is also used to determine any death grant payable.

Pay figures for pre 1 April 2014 benefits

Certain members will have 'split-pension benefits'. This means that they have both post 31 March 2014 benefits and pre 1 April 2014 benefits.

The previous section ("Pay figures for post 31 March 2014 benefits") outlines what pay figures we require regarding such benefits. This section looks at what pay figures we need you to provide so that we can calculate the value of any pre 1 April 2014 benefits.

Pre 1 April 2014 benefits are based upon membership prior to that date and the pay earned, normally, in the final year (of which will fall after 31 March 2014). For this purpose, the final pay figures we require are to be calculated in exactly the same way as per final pay calculations undertaken prior to 1 April 2014.

For example, using earnings from 1 April 2014 and, where applicable, earnings prior to that date:

1. Use the old definition of pensionable pay (See relevant sub-section) when considering whether to include it in the final pay figure (for example, non-contractual overtime would be considered when calculating post 31 March 2014 benefits but would not be considered when calculating final pay figures for pre 1 April 2014 benefits).
2. Consider when pay was earned rather than received (3) Adjust to full time if working part-time.

Consequently, the majority of the information that follows hereafter is merely reproduced from the Final Pay section of the Employer Guide that was in force prior to 1 April 2014.

Members requiring a final pay calculation

Upon ceasing membership, you will need to provide us with final pay figures so that we may determine the value of any pre 1 April 2014 benefits for the following members:

1. Members who were active on 31 March 2014 and who automatically joined the new CARE scheme on 1 April 2014;
2. Members who joined the new CARE scheme from 1 April 2014 who elected to aggregate deferred benefits regarding membership which ceased prior to that date and who had not had a continuous break exceeding 5 years from active membership of any public sector pension scheme in the period between leaving and re-joining.
3. A member who originally fell under either (1) or (2) above who subsequently re-joined the CARE scheme and who had not had a continuous break exceeding 5 years from active membership of any public sector pension scheme within the period between leaving the CARE scheme and re-joining it.
4. A member who joined the new CARE scheme from 1 April 2014 and who transferred in benefits from another public service pension scheme to which are eligible to be calculated upon the member's eventual final pay.

In addition, we also need the final pay figures at leaving (or at age 65 if earlier) for members who meet the below conditions so that we may ensure that such members do not lose out by the 1 April 2014 changes:

- Were active members on 31st March 2012;
- Were aged 55 plus on 1st April 2012;
- Have not (after 31st March 2012) had a continuous break of more than 5 years in active membership of any public service pension scheme; and
- Have not already drawn any benefits from the CARE scheme in relation to the employment (e.g. upon flexible retirement).

We appreciate that you may not know regarding a particular case if we require a final pay figure. Therefore, you may wish to contact us to confirm.

What should be included when calculating a final pay figure?

Definition

When considering what pay is pensionable for the purposes of determining final pay figures, the definition provided under Regulation 4 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, as extracted below, is applicable.

This means that it is possible that an element of pay received after 1 April 2014 may be pensionable when determining the value of post 31 March 2014 benefits but yet not pensionable when determining any final pay figure regarding pre 1 April 2014 benefits (for example – non-contractual overtime).

4 - Meaning of "pensionable pay"

1. An employee's pensionable pay is the total of:
    a. all the salary, wages, fees and other payments paid to him for his own use in respect of his employment; and
    b. any other payment or benefit specified in his contract of employment as being a pensionable emolument.
2. But an employee's pensionable pay does not include—
    a. payments for non-contractual overtime;
    b. any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;
    c. any payment in consideration of loss of holidays;
    d. any payment in lieu of notice to terminate his contract of employment;
    e. any payment as an inducement not to terminate his employment before the payment is made.
    f. the amount of any supplement paid— (i) by the Environment Agency; or (ii) to an employee whose employment is transferred on 1st April 2010, under a staff transfer scheme, from the Learning and Skills Council for England to a local authority or to London Councils Limited, in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme; or
    g. any award of compensation (excluding any sum representing arrears of pay) for the purposes of achieving equal pay in relation to other employees.
3. No sum may be taken into account in calculating pensionable pay unless income tax liability has been determined on it.

Therefore, under Regulation 4, when considering the final pay figure, you should include the employee's normal basic pay (salary, wages, fees) and any other payments which fall within the above definition (such as allowances, bonuses, contractual overtime, and the monetary value of any benefits specified in their contract of employment as a being a pensionable emolument) which are not, by virtue of Paragraph (2), precluded from being pensionable.

When calculating final pay figures, only the elements of pay earned in the final pay period in question (e.g. in most cases, the 1 year period ceasing on the date leaving) should be included and not necessarily the elements paid in that period. Honorariums and arrears of pay are good examples of payments that may be paid within a final pay period but may partly or wholly relate to a different period. In these cases, you would need to assess which part of the honorarium or arrears, as the case may be, was actually earned within the final pay period (this can be included in the final pay calculation) and disregard the rest of the payment.

Example

Take a member who joined the LGPS on 1 April 2013 and left on 31 March 2015.

The member has split-pension benefits – i.e. he has pre 1 April 2014 benefits and Post 31 March 2014 benefits.

From 1 April 2013 to 31 March 2014, the member earned and received £10,000 (all basic pay). From 1 April 2014 to 31 March 2015, the member earned and received £12,000 (£10,500 basic pay and £1,500 non-contractual overtime).

The member did not move to the 50/50 Section of the Scheme and worked 18.50/37.00 hours per week throughout his employment.

Pre 1 April 2014 benefits

Pre 1 April 2014 Membership: 183 days (i.e. 365/37 x 18.50)

Final Pay period: 1 April 2014 to 31 March 2015 (this period produces the highest figure).

FTE pay earned in the Final Pay period: £10,500 x 37.00/18.50 = £21,000 (note that noncontractual overtime is not pensionable for this purpose).

Accrual rate: 60th

Pre 1 April 2014 benefits: 183/365 x 1/60 x £21,000 = £175.48 annual pension

Post 31 March 2014 benefits

Scheme year: 1 April 2014 to 31 March 2015

Pensionable pay received in that year: £12,000 (non-contractual overtime is pensionable for this purpose and the pay is not adjusted because the member worked part-time).

Accrual rate: 49th

Post 31 March 2014 benefits: £12,000/49 = £244.90 annual pension

Arrears of pay/backdated pay awards

When calculating final pay figures, only the elements of pay earned in the final pay period in question (e.g. in most cases, the 1 year period ceasing on the date leaving) should be included and not necessarily the elements paid in that period.

For example, if an employee's final pay period is from 1 April 2016 to 31 March 2017 and they have been paid arrears of pay (regarding 1 January 2016 to 30 June 2016) amounting to £600 in June 2016 (6 months at £100.00 per month), only £300 of the £600 payment should be included in the final pay calculation (i.e. the part that relates to the period 1 April 2016 to 30 June 2016).

To reiterate, arrears paid within the final pay period but which were earned in an earlier period must not be included in the final pay figure for that final pay period, even though they have been paid during the final pay period.

Honorariums

Honorariums can either be paid along with normal salary/pay or as one-off lump sums at the end of periods of acting up duties or upon completion of tasks. If the honorarium is pensionable and paid as a one off lump sum during the final pay period, you will need to treat the payment in the same way as outlined in the previous sub-section (Arrears of pay/backdated pay awards) in that you will need to determine which part of the lump sum was earned in the relevant final pay period.

Term-timers

Final pay should be adjusted for employees who work term time. Please refer to the appropriate guide accompanying the relevant form for calculation examples and further information.

Part-time employees and final pay

When calculating final pay figures for the purposes of determining pre 1 April 2014 benefits for part-time employees, the full-time equivalent (FTE) pay is used.

Therefore, when considering whether the pay earned in an earlier year than the final year of membership was higher, unless the grade has changed, it is not necessary to calculate the pay earned in any earlier years on the back of changes in hours.

Elements (extras) should be scaled up where appropriate for this purpose and this will depend upon whether the element (extra) is paid pro rata to the hours worked.

For example, if a responsibility allowance is £150.00 per month (full rate) and a person working 25/37 hours a week only receives a portion of this based on their reduced hours i.e. £101.35 per month (£150.00 x 25/37), the allowance should be scaled up along with basic pay.

Take another example of an employee who works part-time and receives sleeping in allowance which is paid at a set rate, whether they are part-time or full-time. In this case, the employee's basic pay would be scaled up to a full-time equivalent salary (FTE) but the allowance would not be scaled up.

Example 1

Final pay period: 1 April 14 to 31 March 15

Hours worked: 18.5/37per week

Actual pay earned in the final pay period: £7,500.00

FTE Pensionable pay: £15,000 (i.e. £7,500 x 37/18.50)

Example 2

Final pay period: 1 September 2014 to 31 August 2015

Hours worked: 18.50/37

Actual pay earned: £8,400 (basic pay of £7,500 and £900 of allowances which were prorated based upon hours worked).

FTE Pensionable pay: £16,800 (i.e. £7,500 x 37/18.50 + £900 x 37/18.50)

Example 3

Final pay period: 1 January 2015 to 31 December 2015

Hours worked: 18.50/37

Actual pay earned: £8,400 (basic pay of £7,500 and £900 of allowances which were paid at a set rate irrespective of hours worked).

FTE Pensionable pay: £15,900 (i.e. £7,500 x 37/18.50 + £900)

Fee paid employees

Fee paid employees, such as returning officers, have their final pay calculated as the average of all fees for the 3 consecutive years ending with the final pay period. If the employee was employed for less than 3 years, the final pay is the average of all fees paid.

You, as the employer, can give consent to the final pay being the average fees for any consecutive 3 year period ending on 31 March falling within the 10 year period ending on the last day of service.

Example

The member left on 30 June 2016 with 3 years membership.

Fees received: £5,100 (1 July 2015 to 30 June 2016); £4,800 (01 July 2014 to 30 June 2015); and £3,600 (1 July 2013 to 30 June 2014).

Final pay to determine pre 1 April 2014 benefits: £4,500 (i.e. £5,100 + £4,800 + £3,600/3).

Furlough due to Covid-19

Final salary benefits are usually calculated using the pensionable pay earned in the year before leaving the scheme; however, one of the two previous years' pay is used, if higher. This should prevent final salary benefits from being detrimentally affected if the member's pay is reduced due to being on furlough.

Final pay periods

Normal final pay period

A scheme member's final pay period is generally the year ending with the day on which active membership of the Scheme ceased (though see Protections from reductions in pay).

For example, if an employee ceased active membership on 15 March 2017, generally the final pay period would be 16 March 2016 to 15 March 2017.

If a scheme member has less than one years' membership, the final pay period would be from the first day the member joined the scheme to the last day of membership.

Less than 365 days of membership

If an employee had only been in the scheme for less than a year, you would need to provide details of the pensionable pay for that part year.

LPPA would convert the pay up to a full year equivalent prior to calculating any pre 1 April 2014 benefits.

Employees who leave mid-month

If an employee leaves the Scheme mid-month, the final pay period should cover a calendar year ending on the date of termination - not month end.

Example

Date of leaving: 15 March 2017

Pay details: £15,000 per year from 16 March 2016 to 31 December 2016 and then £16,000 per year from 1 January 2017 to 15 March 2017.

The calculation would be as follows:

16 March 2016 to 31 March 2016: 16/31 x £15,000/12 = £645.16

1 April 2016 to 31 December 2016: 9 months x £15,000/12 = £11,250

1 January 2017 to 28 February 2017: 2 months x £16,000/12 = £2,666.67

1 March 2017 to 15 March 2017: 15/31 x £16,000/12 = £645.16

Final pay to determine pre 1 April 2014 benefits: £15,206.99

Leap years

The rules to follow when calculating final pay including a leap year are as follows:

- February should always be treated as having 28 days;
- The final pay period should always equal 12 calendar months, which could either be 365 or 366 days;
- Part year pay is always multiplied by 365 days.

Please see Appendix 1 (Leap Year Examples).

TUPE and final pay

If a member leaves employment and a TUPE transfer has occurred in the last year, the final pay period would still generally be the entire last year; but you would only need to provide us with the pay earned within the part of the year within which you employed the member. LPPA would then need to collect the pay earned for the remainder of the final pay period from the previous employer and add the figures together.

Changes of job with the same employer

Where an employee changes job within the same employer they are not deemed to have changed employment. So if an employee leaves a job in one directorate, moves to another directorate within the same employer and chooses to combine the two periods of pensionable service, they could have a final pay based on pay received in both jobs.

Members absent within final pay period

Sickness

Any reductions or suspensions in pensionable pay during the final pay period as a result of illness or injury are disregarded, and the final pay, to be used to determine pre 1 April 2014 benefits, is calculated as if the employee had not been off sick or injured. *All pensionable allowances and additions normally paid to the member should be included (i.e. Sleep ins, emoluments etc).*

Maternity, Neonatal Care, Paternity or A doption leave

Where an employee was on the following types of leave during the final pay period, any reduction or suspension in pensionable pay pursuant to that leave is disregarded when calculating pre 1 April 2014 benefits:

1. Ordinary adoption leave;
2. Ordinary maternity leave;
3. Neonatal care le ave;
4. Paternity leave;
5. Additional adoption leave during which the member <u>receives some pensionable pay</u>
6. Additional maternity leave during which the member <u>receives some pensionable pay</u>
7. Shared parental leave during which the member <u>receives some pensionable pay</u>

Where an employee was on the following types of leave during the final pay period, any reduction or suspension in pensionable pay pursuant to that leave is disregarded (i.e. use the pay which they would have earned but for the leave) when determining final pay for the purpose of pre 1 April 2014 **benefits provided the member took out an APC contract to cover the entire lost pension where the leave occurred on or after 1 April 2014; or the member paid the required contributions where the leave occurred before that date:**

1. Unpaid additional adoption leave
2. Unpaid additional maternity leave
3. Unpaid neonatal care leave
4. Unpaid shared parental leave

However, the following applies to a member who –

1. took out such an APC contract;
2. paid the extra by regular payments (rather than by a lump sum); and
3. ceased the APC contract early for reasons other than Tier 1 or 2 ill health retirement.

For the “proportion” of the leave period for which they have paid APCs, the member will be treated as having earned the pay that they would have earned but for the absence.

The “proportion” is calculated as follows:

Number of days of absence x amount of APCs paid / total amount of APCs due to be paid.

Where the above calculation results in a part day being purchased, the part day will always be rounded up. The period purchased will always count from the beginning of the period of absence.

Example

A member had a period of absence of 15 days (29 June 2015 to 13 July 2015 inclusive). The member took out an APC contract to buy back the entire lost pension for that period.

The contract finished early because the member left employment on 31 December 2015 and the member was only given part of the lost CARE pension. Upon cessation of the APCs, they had paid £101.45 out of a total of £243.48 APCs that were due to be paid.

15 Days x 101.45 / 243.48 = 6.25 days (so rounded up to 7 days).

When calculating the final pay, the member is, for the period from 29 June to 5 July 2015 inclusive, treated as having earned the pay that they would have earned but for the absence.

If, however, the employee did not make such an APC election to cover the 15 day leave period (29 June 2015 to 13 July 2015 inclusive) , the final pay will be the pay earned during that final pay period divided by the number of paid days in that period multiplied by 365.

Absences (Strike or leave of absence)

If an employee elects to cover the whole of the amount of any pension 'lost' during a period of absence due to a trade dispute or authorised unpaid leave by the payment of contributions under an Additional Pension Contribution (APC) contract, in calculating the final pay for the employee, he / she must be treated as having earned the pay they would otherwise have earned but for the absence.

The information, under the section 'Maternity, Neonatal Care, Paternity or Adoption leave' which covers the following members appl ies equally here:

A member who:

1. took out an APC contract to buy back the entire lost pension;
2. paid the extra by regular payments (rather than by a lump sum); and
3. ceased the APC contract early for reasons other than Tier 1 or 2 ill health retirement.

If, however, the employee does not make such an election, or has a period of unauthorised unpaid leave of absence, the final pay will be the pay received during that final pay period divided by the number of paid days in that period multiplied by 365.

Reserve forces leave

If a member's final pay period includes reserve forces leave, to calculate his final pay you would use:

a. his reserve forces pay where this is the same or higher than the pay he would have received but for the absence; or
b. the pay he would have received but for the absence if (a) does not apply.

Protections from reductions in pay

Normally, the pay earned in the final year of membership is the highest. However, there are various protections in place for members where this is not the case as follows:

1. The best of the last 3 years rule
2. The best 3 year average within the 13 years rule
3. Certificates of protection.

Best of the last 3 years

Although the final pay is usually the pay earned in the last year of active membership, employees can have their pre 1 April 2014 benefits based on the pay earned in either of the two immediately preceding years if that would produce a higher figure. This is commonly referred to as the 'best of the last 3 years' rule. So, if you are aware that the pay was higher in either of the preceding two years prior to the last year, this must be used to calculate the employee's final pay.

For example, if an employee leaves the Scheme on 31 March 2018, the pay to be used to calculate their pre 1 April 2014 benefits will normally be the pay earned within the final year of membership, i.e. 1 April 2017 to 31 March 2018. However, if the pay earned in either of the preceding years (i.e. 1 April 2016 to 31 March 2017 or 1 April 2015 to 31 March 2016) produced a higher figure, that higher figure would be used instead to calculate the pre 1 April 2014 benefits.

Please note the following points:

- When using pay earned in an earlier year, the relevant final pay period would always end with the anniversary of leaving (i.e. 31 August 2019 to 30 August 2020, 31 August 2018 to 30 August 2019, 31 August 2017 to 30 August 2018).
- If an employee only changed their hours and did not receive a reduction in their full time equivalent salary during their last three years of membership, the best of the last three years rule does not apply as full-time equivalent (FTE) pay is used to calculate their benefits.

See example below.

Best 3 year average within last 13 years

Employees may choose to have the final pay calculated as set out in the next paragraph provided, they are eligible to do so.

The final pay to be used to determine pre 1 April 2014 benefits may be determined by dividing by three the member's total annual pensionable pay in any three consecutive years of the member's choice, ending with 31st March, within the period of thirteen years ending with the member's last day as an active member.

Employees who have had a reduction or restriction in their pay and who continued in employment (irrespective of whether the reduction or restriction took place on, before or after 1 April 2014) for any of the following reasons may be eligible for this protection:

- the member chose to be employed by the same employer at a lower grade or with less responsibility;
- for the purposes of achieving equal pay in relation to other employees of that employer;
- as a result of a job evaluation exercise;
- because of a change in the member's contract of employment resulting in the cessation or restriction of, or reduction in, payments or benefits specified in the member's contract of employment as being pensionable emoluments; or
- because the rate at which the member's rate of pay may be increased is restricted in such a way that it is likely that the rate of the member's retirement pension will be adversely affected.

The protection highlighted above will not apply if the member's employment on reduced pensionable pay:

- commences before the beginning of the period of ten years ending with the member's last day as an active member;
- immediately follows a period in which the member occupies a post on a temporary basis at a higher rate of pay; or
- is because the member chooses to reduce his or her hours of work or to be employed at a lower grade as a result of a decision to take flexible retirement,

Eligible employees may exercise this option by giving notice in writing to us no later than 1 month before he/she ceases active membership.

Once the 3 year average has been calculated it is increased in line with inflation.

See example below.

Certificates of protection

Prior to 1 April 2008, protection for certain reductions in salary was provided in the form of certificates of protection. Here a certificate could be issued if a decision was taken to compulsorily reduce a member's pay, or a decision was made which means that the way in which the future rate at which a member's pay may be increased was restricted which was likely to affect their retirement pension.

No new certificates can be issued for reductions/restrictions in pay that occur from 1 April 2008. However, if a member has previously been issued with a certificate of protection it will remain valid even after that date. It should be noted that certificates of protection can still be issued where the reduction or restriction of pay occurred before 1 April 2008.

A certificate of protection should not be provided if:

- it has been more than 12 months since the pay was reduced or restricted (although as an employer you may at your discretion extend this period);
- the member had chosen to take reduced pay; or
- the reduction is the result of a temporary increase in salary coming to an end.

For a certificate of protection to apply, the reduction/restriction must have taken effect within 10 years prior to the member leaving the scheme.

With a certificate of protection, the normal three-year rule is extended. This means that the period used to work out pre 1 April 2014 benefits can be:

- the best of any of the five years before leaving; or
- the yearly average of any consecutive three-year period in the 13 years before leaving.

Whichever period is chosen it must end on the anniversary of the date of leaving the Scheme.

Pensions Increases

As shown in the example below, when using the average of the best consecutive 3 years in the last 13, the averages are adjusted to give them a current value.

This means that the pay is being calculated on a realistic and fair basis. The increases are added before making the comparisons and equal those added to actual pensions being paid.

The same increases are also relevant in applying the 'best of the last three years' rule. However, in these cases, comparison of each of the relevant years is made before pension increases are added. However, once the highest final pay figure has been identified, pension increases are then added to the benefits from the end of the final pay period.

Example

Take an employee who received a reduction in pay on 1 April 2015, who is retiring on 31 August 2020 and who has both post 31 March 2014 benefits and pre 1 April 2014 benefits. The reduction was for a reason which entitled the employee to be able to elect for the best 3 year average in the last 13 years. It should be noted that the best of the last 3 years' rule would also be considered.

The following illustrates how the final pay which will be used to determine the employee's pre 1 April 2014 benefits will be calculated.

Best of the last 3 years

1 September 2019 to 31 August 2020 = £22,708.00

1 September 2018 to 31 August 2019 = £22,416.00

1 September 2017 to 31 August 2018 = £21,416,00

Under the best of the last 3 years the highest final pay figure is £22,708.00

Best consecutive 3 year average in the last 13 years

The employee's pay history for the last 13 years is as follows;

1 April 2019 to 31 March 2020	=	£22,500.00
1 April 2018 to 31 March 2019	=	£22,000.00
1 April 2017 to 31 March 2018	=	£21,000.00
1 April 2016 to 31 March 2017	=	£20,000.00
1 April 2015 to 31 March 2016	=	£19,500.00
1 April 2014 to 31 March 2015	=	£18,000.00
1 April 2013 to 31 March 2014	=	£20,500.00
1 April 2012 to 31 March 2013	=	£20,000.00
1 April 2011 to 31 March 2012	=	£19,500.00
1 April 2010 to 31 March 2011	=	£19,000.00
1 April 2009 to 31 March 2010	=	£18,500.00
1 April 2008 to 31 March 2009	=	£18,000.00

Which gives the following 3 year averages (Inflation figures are assumed):

1 April 2017 to 31 March 2020 = £21,833.33	= £21,833.33
1 April 2016 to 31 March 2019 = £21,000.00 plus inflation of 1.6 %	= £21,336.00
1 April 2015 to 31 March 2018 = £20,166.67 plus inflation of 4.75 %	= £21,124.59
1 April 2014 to 31 March 2017 = £19,166.67 plus inflation of 5.55 %	= £20,230.42
11 April 2013 to 31 March 2016 = £19,333.33 plus inflation of 8.6 %	= £20,996.00
1 April 2012 to 31 March 2015 = £19,500.00 plus inflation of 11.87 %	= £21,814.65
11 April 2011 to 31 March 2014 = £20,000.00 plus inflation of 13.96 %	= £22,792.00
1 April 2010 to 31 March 2013 = £19,500.00 plus inflation of 14.20 %	= £22,269.00
1 April 2009 to 31 March 2012 = £19,000.00 plus inflation of 15.35 %	= £21,916.50
1 April 2008 to 31 March 2011 = £18,500.00 plus inflation of 16.50 %	= £21,552.50

It can be seen that the 3 year average running from 1 April 2011 – 31 March 2014 provides the highest pay figure.

Checklist of things to think about when calculating the final pay that will be used to determine pre 1 April 2014 benefits

- ✓ What is the date of leaving?
- ✓ What is the reason for leaving?
- ✓ What is the final pay period (i.e. last year of membership, either of the immediately preceding two years, or an earlier year within the 13 last years)?
- ✓ What pensionable pay was earned in that final pay period?
- ✓ Has the employee had any payments/arrears in the final pay period that relate to a period outside that period that needs to be disregarded?
- ✓ What hours/weeks were worked during the final pay period?
- ✓ Has the employee had any unpaid/reduced pay leave during the final pay period?
- ✓ If so, is the leave such leave that reductions or suspensions in pay should be ignored either automatically in some cases or provided the member covered the entire lost pension by taking out an APC contract (note the special provision where the member was not credited with the entire lost pension)?
- ✓ Has the employee earned any extra pensionable allowances in the final pay period that need to be included in the calculation?
- ✓ Do such extras need to be scaled up to a full time equivalent (FTE)?
- ✓ Has the employee previously been on a higher salary during their last three/ten years?
- ✓ Has the employee been issued with a certificate of protection?
- ✓ Has the employee previously taken flexible retirement?

Appendix 1 (Leap Year Examples)

In the examples below, the rate of pay is £1,000 per calendar month.

Rules to apply

- February should always be treated as 28 days.
- The final pay period should always equal 12 calendar months, which could be either 365 or 366 days.
- Part year pay is always multiplied by 365 days

Employee leaves in February leap year month – Leaving date 01 Feb 16

01/02/2016	01/02/2016	£12,000	12,000/12/28*1	£35.71
01/03/2015	31/01/2015	£12,000	12,000/12*11	£11,000.00
02/02/2015	28/02/2015	£12,000	12,000/12/28*27	£964.29
				£12,000.00

Employee leaves in February leap year month – Leaving date 15 Feb 16

01/02/2016	15/02/2016	£12,000	12,000/12/28*15	£535.71
01/03/2015	31/01/2016	£12,000	12,000/12*11	£11,000.00
16/02/2015	28/02/2015	£12,000	12,000/12/28*13	£464.29
				£12,000.00

Employee leaves in February leap year month – Leaving date 28 Feb 16

01/02/2016	28/02/2016	£12,000	12,000/12/28*28	£1,000.00
01/03/2015	31/01/2016	£12,000	12,000/12*11	£11,000.00
				£12,000.00

Employee leaves in February leap year month – Leaving 29 Feb 16

01/02/2016	29/02/2016	£12,000	12,000/12/28*28 ****	£1,000.00
01/04/2015	31/01/2016	£12,000	12,000/12*10	£10,000.00
01/03/2015	31/03/2015	£12,000	12,000/12	£1,000.00
			**** **subtract 1 day to give 28**	£12,000.00

Employee leaves in April in a leap year – Leaving date 15 April 16

01/04/2016	15/04/2016	£12,000	12,000/12/30*15	£500.00
01/05/2015	31/03/2016	£12,000	12,000/12*11	£11,000.00
16/04/2015	30/04/2015	£12,000	12,000/12/30*15	£500.00
				£12,000.00

Employee leaves in February after the leap year – 01 Feb 17

01/02/2017	01/02/2017	£12,000	12,000/12/28*1	£35.71
01/03/2016	31/01/2017	£12,000	12,000/12*11	£11,000.00
02/02/2016	29/02/2016	£12,000	12,000/12/28*27 ***	£464.29
			***** subtract 1 day to give 27**	£12,000.00

Employee leaves in February after the leap year – 15 Feb 17

01/02/2017	15/02/2017	£12,000	12,000/12/28*15	£535.71
01/03/2016	31/01/2017	£12,000	12,000/12*11	£11,000.00
16/02/2016	29/02/2016	£12,000	12,000/12/28*13 ***	£464.29
			***** subtract 1 day to give 13**	£12,000.00

Employee leaves in February after the leap year – 27 Feb 17

01/02/2017	27/02/2017	£12,000	12,000/12/28*27	£964.29
01/03/2016	31/01/2017	£12,000	12,000/12*11	£11,000.00
28/02/2016	29/02/2016	£12,000	12,000/12/28*1 ***	£35.71
			***** subtract 1 day to give 1**	£12,000.00

Employee leaves in February after the leap year – 28 Feb 17

01/02/2017	28/02/2017	£12,000	12,000/12/28*28	£1,000.00
01/03/2016	31/01/2017	£12,000	12,000/12*11	£11,000.00
				£12,000.00