

Survivor benefits (version 1.4)

The final four columns in the table below represent the LGPC Secretariat’s understanding of the provisions governing survivor benefits from 1 April 2014 **where the scheme member’s death occurs on or after 1 April 2014**. The matters highlighted in grey within the final four columns highlight differences compared to the position that applied where death occurred prior to 1 April 2014 (i.e. the position shown in columns two, three and four of the table). **Note: this table does not apply in respect of deceased councillor members as they are still subject to the LGPS Regulations 1997 (regardless of whether they die before, on or after 1 April 2014).**

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<p>Type</p>	<p>Member left pre 1/4/98, had benefits paid or due under the 1995 Regs and died pre 1/4/14 - benefits payable are those under the 1995 Regs [TP reg 3(1)]</p>	<p>Member left 1/4/98 – 31/3/08, had benefits paid or due under the 1997 Regs and died pre 1/4/14 - benefits payable are those under the 1997 Regs [TP reg 3(1)]</p>	<p>Member left 1/4/08 – 31/3/14, had benefits paid or due under the Benefits Regs and died pre 1/4/14 - benefits payable are those under the Benefits Regs [TP reg 3(1)]</p>	<p>Member died post 31/3/14 but only has pre 1/4/14 membership and benefits are payable under the 1995 or 1997 Regs – benefits payable are those under the 1995 or 1997 Regs, modified as highlighted below. This column also applies to any unaggregated pre 1/4/08 membership held under the 1995 or 1997 Regs. [TP reg 17(4)].</p>	<p>Member died post 31/3/14 but only has pre 1/4/14 membership and benefits are payable under the Benefits Regs – benefits payable are those under the Benefits Regs, modified as highlighted below. This column also applies to any unaggregated pre 1/4/14 membership held under the Benefits Regs. [TP reg 17(4)].</p>	<p>Member died post 31/3/14 and has pre 1/4/14 and post 31/3/14 aggregated membership (where the pre 1/4/14 membership still has a final salary link – see aggregation paper) – benefits payable are aggregate of benefits under Benefits Regs (modified as highlighted below) and benefits under 2013 Regs. [TP reg 17(1), and (2)].</p>	<p>Member died post 31/3/14 and only has post 31/3/14 membership (including members who have aggregated pre 1/4/14 membership which no longer has a final salary link and has been converted to post 31/3/14 CARE pension – see aggregation paper) - benefits payable are those under the 2013 Regs.</p>
<p>Type</p>	<p>Based on</p>	<p>Based on</p>	<p>Based on</p>	<p>Based on</p>	<p>Based on</p>	<p>Based on</p>	<p>Based on</p>

Widow of pre-leaving opposite sex marriage	All membership [Reg F2 of 1995 Regs]	All membership [Reg 41 of 1997 Regs]	All membership [Benefits regs 24, 33 and 36]	All membership [TP reg 17(4)]	All membership [TP reg 17(4)]	All membership to 31/3/14 plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [TP 17(1) and (2)]	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs
Widow of post-leaving opposite sex marriage	Post 5/4/78 contracted-out membership [Reg F6 of 1995 Regs]	Post 5/4/78 contracted-out membership [Reg 42(1) of 1997 Regs]	Post 5/4/78 contracted-out membership [Reg 6 of 2008 TP Regs and reg 42(1) of 1997 Regs]	Post 5/4/78 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs where previously married to deceased at some time whilst active member after 31/3/72 [TP reg 17(4), (12) and (13)]	Post 5/4/78 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs where previously married to deceased at some time whilst active member after 31/3/72 [TP reg 17(4), (12) and (13)]	6/4/78 – 31/3/14 membership, including relevant additional membership as defined in reg 42(4) of the 1997 Regs (other than IHE) where previously married to deceased at some time whilst active member after 31/3/72, plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [TP reg 17(1), (2), (12) and	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs

						(13)]	
Widower of pre-leaving opposite sex marriage	Post 5/4/88 membership plus relevant additional membership plus 1/4/72-5/4/88 membership if bought by member and any pre 1/4/72 membership if bought by member [Regs F8(1) and (3) of 1995 Regs]	Post 5/4/88 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs plus 1/4/72-5/4/88 membership if bought by member who was married before 1/4/98 or granted by employer to such a member and any pre 1/4/72 membership if bought by such a member or all pre 6/4/88 membership if single at 31/3/98 and married after then [Regs 42(2) –	All membership [Benefits regs 24, 33 and 36]	As per 1995 or 1997 Regs column entry, as appropriate [TP reg 17(4)]	All membership [TP reg 17(4)]	All membership to 31/3/14 plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [TP reg 17(1) and (2)]	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs

		(4) of 1997 Regs and reg 9 of 1997 TP Regs and FAQ document issued by DETR to accompany the 1997 Regs]					
Widower of post-leaving opposite sex marriage	Post 5/4/88 membership plus relevant additional membership where previously married to deceased at some time whilst active member after 31/3/72 [Regs F8(1) and (3) of 1995 Regs]	Post 5/4/88 membership plus relevant additional membership where previously married to deceased at some time whilst active member after 31/3/72 [Regs 42(2) – (4) of 1997 Regs]	Post 5/4/88 membership plus relevant additional membership where previously married to deceased at some time whilst active member after 31/3/72 [Reg 6 of 2008 TP Regs and regs 42(2) – (4) of 1997 Regs]	Post 5/4/88 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs where previously married to deceased at some time whilst active member after 31/3/72 [TP reg 17(4), (10), (11) and (13)]	Post 5/4/88 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs where previously married to deceased at some time whilst active member after 31/3/72 [TP reg 17(4), (10), (11) and (13)]	6/4/88 to 31/3/14 membership, including relevant additional membership as defined in reg 42(4) of the 1997 Regs (other than IHE) where previously married to deceased at some time whilst active member after 31/3/72 plus survivor benefit calculated under	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs

						regs 41, 44 or 47 of 2013 Regs [TP reg 17(1), (2), (10), (11) and (13)]	
Civil partner of pre-leaving civil partnership	N/A – civil partnerships only came into existence from 5/12/05. Thus no-one who ceased active membership prior to 1/4/98 could have entered into a pre-leaving civil partnership.	Post 5/4/88 membership plus relevant additional membership [Reg 42A of 1997 Regs]	All membership [Reg 3(4) of 2008 TP Regs NB: reg 42A of 1997 Regs was not a saved provision]	Post 5/4/88 membership for benefits awarded under the 1997 Regs plus relevant additional membership as defined in reg 42(4) of the 1997 Regs* [TP reg 17(4), (10), (11) and (13) and reg 42A of the 1997 Regs and reg 4A of the 1997 TP Regs]	All membership [TP reg 17(4)]	All membership to 31/3/14 plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [TP reg 17(1) and (2)]	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs
Civil partner of post-leaving civil partnership	Post 5/4/88 membership excluding***** relevant additional membership [Regs regs F8(1) and (3) of 1995 Regs; and reg 4A	Post 5/4/88 membership plus relevant additional membership [Reg 42A of 1997 Regs]	All membership [Reg 3(4) of 2008 TP Regs NB: reg 42A of 1997 Regs was not a saved provision]	Post 5/4/88 membership plus, for benefits awarded under the 1997 Regs, relevant additional membership as	Post 5/4/88 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs where	6/4/88 to 31/3/14 membership, including relevant additional membership as defined in reg 42(4) of the	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs

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	of 1997 TP Regs]			defined in reg 42(4) of the 1997 Regs where previously in a civil partnership with the deceased at some time whilst active member after 31/3/72* [TP reg 17(4), (10), (11) and (13) <u>and reg 42A of the 1997 Regs and reg 4A of the 1997 TP Regs]</u>	previously in a civil partnership with the deceased at some time whilst active member after 31/3/72* [TP reg 17(4), (10), (11) and (13)]	1997 Regs (other than IHE) where previously in a civil partnership with the deceased at some time whilst active member after 31/3/72 plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs* [TP reg 17(1), (2), (10), (11) and (13)]	
Survivor of same sex pre-leaving marriage*****	<u>N/A – same sex marriages only came into existence from 29/3/14. Thus no-one who ceased active membership prior to 1/4/98 could have entered into a pre-leaving same sex marriage.</u>	<u>N/A – same sex marriages only came into existence from 29/3/14. Thus no-one who ceased active membership prior to 1/4/08 could have entered into a pre-leaving same sex</u>	<u>↓All membership [Reg 3(4) of 2008 TP Regs NB: benefits for a widow / widower in the Benefits Regs include a survivor of a same sex marriage by virtue of s11</u>	<u>N/A – same sex marriages only came into existence from 29/3/14. Thus no-one who ceased active membership prior to 1/4/08 could have entered into a pre-leaving same sex</u>	<u>All membership. [TP reg 17(4)] NB: benefits for a widow / widower in the Benefits Regs include a survivor of a same sex marriage by virtue of s11 and Schedule 3 of the Marriage</u>	<u>All membership to 31/3/14 plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [TP reg 17(1) and (2)] NB: benefits for a widow / widower in the Benefits Regs include a</u>	<u>Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs. [Same outcome as for pre-leaving civil partnership]</u>

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	[Same outcome as for pre-leaving civil partnership]	marriage. [Differs from pre-leaving civil partnership but only because civil partnerships could be entered into pre 1/4/08]	and Schedule 3 of the Marriage (Same Sex Couples) Act 2013. NB: regs 42A to 42D of 1997 Regs were not a saved provision] [Same outcome as for pre-leaving civil partnership]	marriage. [Differs from pre-leaving civil partnership but only because civil partnerships could be entered into pre 1/4/08]	(Same Sex Couples) Act 2013. [Same outcome as for pre-leaving civil partnership]	survivor of a same sex marriage by virtue of s11 and Schedule 3 of the Marriage (Same Sex Couples) Act 2013. [Same outcome as for pre-leaving civil partnership]	
Survivor of same sex post-leaving marriage*****	Post 5/4/88 membership excluding**** relevant additional membership [Regs regs F8(1) and (3) of 1995 Regs; and reg 4A of 1997 TP Regs] NB: benefits for a widow / widower in the 1995 Regs include a survivor of a same sex	Post 5/4/88 membership excluding**** relevant additional membership [Regs 42B and 42C of 1997 Regs] [Same outcome as for post-leaving civil partnership except that	All membership [Reg 3(4) of 2008 TP Regs NB: benefits for a widow / widower in the Benefits Regs include a survivor of a same sex marriage by virtue of s11 and Schedule 3 of the	Post 5/4/88 membership excluding**** relevant additional membership as defined in reg 42(4) of the 1997 Regs [TP reg 17(4), (10), (11) and (13)] NB: although benefits for a widow /	Post 5/4/88 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs where previously in a same sex marriage with the deceased at some time whilst active	6/4/88 to 31/3/14 membership including relevant additional membership as defined in reg 42(4) of the 1997 Regs (other than IHE) where previously in a same sex marriage with	Survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [Same outcome as for post-leaving civil partnership]

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	marriage by virtue of s11 and Schedule 3 of the Marriage (Same Sex Couples) Act 2013 but intention is that equivalent of regs 42C and 42D of the 1997 Regs should apply. [Same outcome as for post-leaving civil partnership *****]	relevant additional membership is not counted *****	Marriage (Same Sex Couples) Act 2013. NB: regs 42A to 42D of 1997 Regs were not a saved provision] [Same outcome as for post-leaving civil partnership]	widower in the 1995 and 1997 Regs would include a survivor of same sex marriage by virtue of s11 and Schedule 3 of the Marriage (Same Sex Couples) Act 2013, the TP Regs switch those provisions off and place the survivor in the same position as a surviving civil partner. [Same outcome as for post-leaving civil partnership except that relevant additional membership is not counted *****]	member after 31/3/72 [TP reg 17(4), (10), (11) and (13)] NB: benefits for widow / widower in the Benefits Regs include a survivor of a same sex marriage by virtue of s11 and Schedule 3 of the Marriage (Same Sex Couples) Act 2013. [Same outcome as for post-leaving civil partnership]	the deceased at some time whilst active member after 31/3/72 plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs [TP reg 17(1) and (2), (10), (11) and (13)] NB: benefits for a widow / widower in the Benefits Regs include a survivor of a same sex marriage by virtue of s11 and Schedule 3 of the Marriage (Same Sex Couples) Act 2013. [Same outcome as for post-leaving civil partnership]	
Cohabiting partner*** –	N/A - benefits for	N/A - benefits	Post 5/4/88	NA - benefits	Post 5/4/88	6/4/88 to	Survivor benefit

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<p>regardless of whether cohabitation commenced pre-or post-leaving</p>	<p>cohabiting partners were only introduced from 1/4/08 and so do not apply to pre 1/4/08 leavers.</p>	<p>for cohabiting partners were only introduced from 1/4/08 and so do not apply to pre 1/4/08 leavers.</p>	<p>membership (plus any pre 6/4/88 membership bought by ASBCs) – surviving cohabiting partner must have been nominated by deceased member [Benefits reg 14A(5) and reg 3(4) of 2008 TP Regs]</p>	<p>for cohabiting partners were only introduced from 1/4/08 and so do not apply to pre 1/4/08 leavers. [TP reg 17(4)]</p>	<p>membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs if had been cohabiting with the deceased at some time whilst active member after 31/3/08 (plus any pre 6/4/88 membership bought by ASBCs) **** – no requirement for surviving cohabiting partner to have been nominated by deceased member [TP reg 17(4), (9)(b), (10), (11) and (13)]</p>	<p>31/3/14 membership plus relevant additional membership as defined in reg 42(4) of the 1997 Regs (other than IHE) if had been cohabiting with the deceased at some time whilst active member after 31/3/08 (plus any pre 6/4/88 membership bought by ASBCs) **** plus survivor benefit calculated under regs 41, 44 or 47 of 2013 Regs – no requirement for surviving cohabiting partner to have been nominated by deceased</p>	<p>calculated under regs 41, 44 or 47 of 2013 Regs</p>
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						member [TP reg 17(1), (2), (9)(b), (10), (11) and (13)]	
Eligible child	All membership – definition of child and eligible child in regs G1 and G2 of 1995 Regs	All membership – definition of eligible child in reg 44 of 1997 Regs (as amended by SI 2008/2425)	All membership – definition of eligible child in reg 26 of the Benefits Regs	All membership – definition of eligible child in 2013 Regs [TP reg 17(4) and (9)(a)]	All membership – definition of eligible child in 2013 Regs [TP reg 17(4) and (9)(a)]	All membership to 31/3/14 plus survivor benefit calculated under regs 42, 45 or 48 of 2013 Regs – definition of eligible child in 2013 Regs [TP reg 17(1), (2) and (9)(a)]	Survivor benefit calculated under regs 42, 45 or 48 of 2013 Regs – definition of child in 2013 Regs
	<p>* There is an option for pre 1/4/14 leavers or their civil partner to elect before 1/4/15 for the survivor pension to continue to be based on</p> <p>a) all membership, for leavers between 1/4/08 and 31/3/14, and</p> <p>b) post 5/4/88 membership PLUS relevant additional membership (as per reg 42A of the 1997 Regs and reg 4A of the 1997 TP Regs) for pre 1/4/08 leavers.</p> <p>*** For deaths before 1 April 2014 of members who ceased active membership after 31 March 2008 there is a requirement for the survivor to have been nominated by the deceased member for a surviving cohabiting partner's pension. However, for deaths on or after 1 April 2014 of members who ceased active membership after 31 March 2008 there is no requirement for the survivor to have been nominated by the deceased member for a surviving cohabiting partner's pension.</p> <p>**** Regulation 17(13) of the TP Regs requires an amendment so that benefits for a post leaving cohabiting partner only include relevant additional membership if the cohabiting partner had previously been cohabiting with the deceased at any time whilst the deceased was an active member after 31/3/08 and to make it clear that pre 6/4/88 membership purchased by ASBCs under Benefits reg 14A counts towards the survivor's benefit.</p>						

Deleted: ** The Government announced that, subject to Parliament's approval of various statutory instruments to be laid in early 2014, the first same sex weddings in England and Wales would be able to take place from Saturday 29 March 2014 – see <https://www.gov.uk/government/news/first-same-sex-weddings-to-happen-from-29-march-2014> . Thus any survivor benefit payable under the LGPS Regulations 1995 or 1997 must relate to a post retirement same sex marriage.†

		<p>***** Relevant additional membership is excluded because same sex marriages did not come into being until 29th March 2014. Thus, no-one whose benefits are payable under the 1995 or 1997 Regulations can have been in a same sex marriage at any point whilst an active member under those Regulations.</p> <p>***** <u>If</u></p> <p><u>a) the survivor of a same sex marriage is a woman, and</u> <u>b) the deceased was formerly a man but was a woman by virtue of a full gender recognition certificate issued under the Gender Recognition Act 2004, and</u> <u>c) the survivor was married to the deceased and that marriage had subsisted before the full gender recognition certificate had been issued</u> <u>the survivor is to be treated as the widow of a pre-leaving marriage [Reg 42D of 1997 Regs]</u></p> <p>***** <u>Relevant additional membership is excluded because civil partnerships did not come into being until 5th December 2005. Thus, no-one whose benefits are payable under the 1995 Regulations can have been in a civil partnership at any point whilst an active member under those Regulations.</u></p>
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Key:

1995 Regs = Local Government Pension Scheme Regulations 1995

1997 Regs = Local Government Pension Scheme Regulations 1997

1997 TP Regs = Local Government Pension Scheme (Transitional Provisions) Regulations 1997

Benefits Regs = Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

2008 TP Regs = Local Government Pension Scheme (Transitional Provisions) Regulations 2008

2013 Regs = Local Government Pension Scheme Regulations 2013

TP reg = Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

Disclaimer

This document has been prepared based on the LGPC Secretariat's understanding of the information presently available including the relevant Statutory Instruments governing the Local Government Pension Scheme, associated overriding legislation and relevant draft legislation. It represents the views of the Secretariat 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 particular piece of legislation. No responsibility whatsoever will be assumed by the Local Government Association 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 herein.

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~~7th January 2015,~~

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