



**The Local Government Pension Scheme  
(England and Wales)  
Application of a Pension Credit to the Former Spouse or  
Civil Partner of the Member**

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## 1 Legislative Background

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- 1.1 Regulations 147(4)(b) and 149(2) of the Local Government Pension Scheme Regulations 1997 (SI 1997/1612) (the “1997 Regulations”) require the pension credit to the former spouse or civil partner (the “pension credit member”) following a divorce proceeding to be calculated in accordance with guidance issued by the Government Actuary.
- 1.2 The purpose of this note prepared by the Government Actuary’s Department (“GAD”) for Department for Communities and Local Government (“DCLG”), and issued to them for onward transmission to administering authorities and employing authorities, is to provide the guidance under Regulations 147(4)(b) and 149(2) of the 1997 Regulations.
- 1.3 The guidance is designed to be consistent with the Welfare Reform and Pensions Act 1999 (“the Act”) and associated regulations (principally the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000).
- 1.4 Regulation 156(3) requires the commutation of small pensions for pension credit members to be calculated in accordance with guidance issued by the Government Actuary. This is contained within the GAD guidance note on trivial commutation.

### **Implementation and Review**

- 1.5 The factors and guidance contained in this note should be followed with immediate effect.
- 1.6 The factors contained in this note are taken from other guidance issued by GAD, which will be reviewed periodically. This will depend on external circumstances, for example when the LGPS cash equivalent transfer value basis is reviewed, when changes in the actuarial assumptions adopted for other scheme factors take place, or following each triennial cycle of future valuations of the LGPS.
- 1.7 Administrators need to ensure that they are using the latest factors in circulation, or that the factors used are consistent with the factors used to calculate the cash equivalent value for divorce purposes. The factors contained in this note are consistent with the factors in the GAD notes ‘Actuarial Factors for Individual Cash Equivalent and Club Transfers from 1 January 2012’ version 4.1 dated 22 February 2012; and ‘Pensioner Cash Equivalent Factors on Divorce’ version 1.0 dated 18 January 2012
- 1.8 I have followed our normal quality processes for work conducted on public service pension matters<sup>1</sup>.

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<sup>1</sup> [The GAD Statement of Understanding](#) sets out the standards which the Department currently applies for any work carried out in this area

### **Limitations**

- 1.9 This note should not be used for any purpose other than to determine the pension credit in the scheme for an ex-spouse or ex-civil partner following a divorce proceeding.
- 1.10 This note should be considered in its entirety as individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
- 1.11 Administrators should satisfy themselves that the pension credit resulting from a pension sharing on divorce complies with all legislative requirements including, but not limited to, tax and contracting out requirements. Any legal advice in this area should be sought from an appropriately qualified person or source.

## **2 Introduction**

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- 2.1 Where a pension sharing order is issued by the Court, the former spouse or civil partner is allocated a percentage (up to 100%) of the member's benefits. These rights can be discharged by the administering authority, either by making a transfer payment to another appropriate scheme (as prescribed in the relevant legislation), or by establishing a pension credit within the administering authority's fund.
- 2.2 The general principle is that the pension credited in the fund is actuarially equivalent to the proportion of the cash equivalent awarded to the former spouse or civil partner and the benefits the former spouse or civil partner would be entitled to under the LGPS Regulations. The value of the pension credit is calculated in a manner which is consistent with the methodology and assumptions for incoming transfers from Club schemes under Regulation 84 of the Local Government Pension Scheme (Administration) Regulations 2008 (SI 2008/239); the benefit design, though, should reflect paragraph 3.2.3 of this guidance (rather than 1/60ths in every case).
- 2.3 It is assumed that the cash equivalent of a member's benefit for divorce purposes has already been determined in accordance with the latest GAD note "Pension Sharing Following Divorce – Calculation of Cash Equivalents".
- 2.4 The methodology and instructions described in this note can be adopted and applied in respect of the benefits for the former spouse or civil partner of a Councillor member.

### **3 Pension Credit Benefits**

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- 3.1 Chapters I and II of Part VI of the 1997 Regulations together with Regulation 14 of the Local Government (Transitional Provisions) Regulations 2008 (SI 2008/238) set out the benefits the pension credit member will be entitled to in the scheme.
- 3.2 The main benefits are as follows:
- 3.2.1 A pension payable for life from age 65.
- 3.2.2 A retirement lump sum of three times the annual rate of the pension is payable in respect of the member's service before 1 April 2008 (but no lump sum is payable if the member has already claimed this by the Transfer day).
- 3.2.3 In the light of advice and following discussions with GAD, DCLG have set the benefit design of pension credits for the former spouse or civil partner, which depend on the member's period of service, as follows:

	<b>Pension Credit Design</b>
Member left before 1 April 2008	Pension and lump sum (but pension only if member has taken their lump sum)
Member joined on or after 1 April 2008	Pension only
Member with service before and after 1 April 2008	Pension and lump sum in respect of the member's CETV for service before 1 April 2008 (but pension only if the member has taken their lump sum); and Pension in respect of the member's CETV for service from 1 April 2008

- 3.2.1 This guidance is written on the basis that pension credit benefits for are in line with DCLG's intentions, as described above.
- 3.2.2 Pension credit benefits can be taken on an actuarially reduced basis at or after age 60; further guidance is contained in GAD's Early Retirement Guidance.
- 3.2.3 Pension and lump sum benefits are increased in accordance with the Pensions Increase Act with effect from the Transfer day.

## **4 Calculation of the Pension Credit**

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- 4.1 This section sets out the methodology for calculating the pension credit following the issue of a pension sharing order by the Court.

### **Appropriate Percentage**

- 4.2 For divorces in England and Wales, the pension sharing order will specify the percentage of the member's benefits that the former spouse or civil partner will be entitled to (the "appropriate percentage").
- 4.3 The former spouse or civil partner's cash equivalent ("ESCE") is determined by applying the appropriate percentage to the cash equivalent of a member's benefit for divorce purposes (see paragraph 2.3).

### **Calculation**

- 4.4 There are two dates which are of relevance when determining the pension credits; the "Transfer day" and the "Valuation date".
- 4.5 Section 29(8) of the Act defines the Transfer day as the day on which the pension sharing order takes effect. (The Transfer day is sometimes also referred to as the Effective date.)
- 4.6 Regulation 151 of the 1997 Regulations defines the Valuation date as the first day of the Implementation Period. Section 34(1) of the Act defines the Implementation Period as the four month period that starts on the Transfer day, or if later, on the date the pension scheme has the prescribed information needed to implement the pension sharing order. (The Valuation date is sometimes referred to as the Implementation date or the Calculation date.)
- 4.7 The calculation of the pension credit should be based on the age and gender of the former spouse or civil partner at the Transfer day. Do not use the age and gender of the member.
- 4.8 The calculation of the pension credit will depend on:
- gender of the former spouse or civil partner;
  - whether the former spouse or civil partner is above or below age 65 at the Transfer day;.
  - whether the member has any service before 1 April 2008 and is therefore entitled to an automatic lump sum, and
  - whether the member had received their automatic lump sum prior to the Transfer day.

**Pension credit calculation for former spouse or civil partner below age 65**

- 4.9 If the member has **not** received their lump sum prior to the Transfer day but is entitled to an automatic lump sum in respect of service before 1 April 2008, the pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2008 service:

$$PC_1 = ESCE_1 \div (F_P + 3 \times F_L)$$

Pension credit in respect of post 1 April 2008 service:

$$PC_2 = ESCE_2 \div F_P$$

Total pension credit =  $PC_1 + PC_2$

A lump sum of three times the annual pension credit in respect of pre 1 April 2008 service (ie  $3 \times PC_1$ ) will also be due to the former spouse or civil partner at age 65 (or earlier if benefits are taken on an actuarially reduced basis).

If a member has pre 1 April 2008 service only then  $PC_2$  is zero.

- 4.10 If the member **has** received their lump sum prior to the Transfer day or has no service before 1 April 2008, the former spouse or civil partner is not entitled to a lump sum, and the pension credit as at the Transfer day will be:

Pension credit =  $ESCE \div F_P$

Where:

ESCE	the former spouse or civil partner's cash equivalent (see paragraph 4.3 of this note)
ESCE <sub>1</sub>	the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2008
ESCE <sub>2</sub>	the former spouse or civil partner's cash equivalent in respect of service post 1 April 2008
F <sub>P</sub>	factor for pension for former spouse or civil partner from Table 6.1 or 6.2. The factors in this table are copies of the 'Club and outward CETV factors' in tables 1.1 and 1.2 of version 4.1 of the transfer suite dated 22 February 2012. If the transfer suite has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.
F <sub>L</sub>	factor for lump sum for former spouse or civil partner from Table 6.1 or 6.2. The factors in this table are copies of the 'Club and outward CETV factors' in tables 1.1 and 1.2 of version 4.1 of the transfer suite dated 22 February 2012. If the transfer suite has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.



**Pension credit calculation for former spouse or civil partner age 65 or above**

- 4.11 If the member has *not* received their automatic lump sum prior to the Transfer day but is entitled to an automatic lump sum in respect of service before 1 April 2008, the pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2008 service:

$$PC_1 = ESCE_1 \div (F_P + 3 \times F_L)$$

Pension credit in respect of post 1 April 2008 service:

$$PC_2 = ESCE_2 \div F_P$$

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

A lump sum of three times the annual pension credit in respect of pre 1 April 2008 service (ie  $3 \times PC_1$ ) will be also due to the former spouse or civil partner in addition to the credit so determined.

- 4.12 If the member *has* received their automatic lump sum prior to the Transfer day or has no service before 1 April 2008, the former spouse or civil partner is not entitled to a lump sum, and the pension credit as at the Transfer day will be:

$$\text{Pension credit} = ESCE \div F_P$$

Where:

ESCE the former spouse or civil partner's cash equivalent (see paragraph 4.3 of this note)

ESCE<sub>1</sub> the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2008

ESCE<sub>2</sub> the former spouse or civil partner's cash equivalent in respect of service post 1 April 2008

F<sub>P</sub> factor for pension for former spouse or civil partner from Table 7.1 or 7.2. The factors in this table are copies of the 'Pensioner Cash Equivalent Factors on Divorce' contained in tables 1.1 and 1.2 of version 1.0 of the GADs 'Pensioner Cash Equivalent Factors on Divorce' dated 18 January 2012. If that guidance has been updated in the meantime then the most recent factors from that guidance should be used in these calculations.

## 5 Examples

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**EXAMPLE 1: Pension credit calculation for a former spouse aged under 65 where the member has service before and after 1 April 2008 but has not received their lump sum**

### Former spouse data:

Date of birth: 1 March 1972  
Sex: Female  
Transfer day: 1 December 2012  
Age at Transfer day: 40

### Factors (Female former spouse aged 40 last birthday at Transfer day)

Gross pension factor (NRA 65) – Table 6.2	$F_P$	8.79
Lump sum factor (NRA 65) – Table 6.2	$F_L$	0.49

### Calculations

CETV in respect of service before 1 April 2008 = **£60,643.90**

**CETV in respect of service from 1 April 2008 = £15,160.98**

Total CETV **£75,804.88**

Appropriate percentage = 50%

$ESCE_1 = 50\% \times £60,643.90 = £30,321.95$

$ESCE_2 = 50\% \times £15,160.98 = £7,580.49$

Pension credit from age 65 in respect of service pre 1 April 2008:  
 $PC_1 = ESCE_1 \div (F_P + 3 \times F_L) = £2,955.36pa$

Pension credit from age 65 in respect of service post 1 April 2008:  
 $PC_2 = ESCE_2 \div F_P = £862.40pa$

Total pension credit =  $PC_1 + PC_2 = £3,817.76pa$

Lump sum at age 65 in respect of pre 1 April 2008 service =  $3 \times PC_1 = £8,866.08$

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

**EXAMPLE 2: Pension credit calculation for a former spouse aged under 65 where the member has no service after 1 April 2008 and has not received their lump sum**

**Former spouse data:**

Date of birth: 1 March 1967  
Sex: Male  
Transfer day: 1 December 2012  
Age at Transfer day: 45

**Factors (Male former spouse aged 45 last birthday at Transfer day)**

Gross pension factor (NRA 65) – Table 6.1	<b>F<sub>P</sub></b>	9.45
Lump sum factor (NRA 65) – Table 6.1	<b>F<sub>L</sub></b>	0.57

**Calculations**

CETV (all pre 1 April 2008) 50,000.00  
Appropriate percentage = 40%  
ESCE<sub>1</sub> = 40% x £50,000.00 = £20,000.00  
Pension credit from age 65 in respect of service pre 1 April 2008:  
PC<sub>1</sub> = ESCE<sub>1</sub> ÷ (F<sub>P</sub> + 3 x F<sub>L</sub>) == **£1,792.11pa**  
Lump sum at age 65 in respect of pre 1 April 2008 service = 3 x PC<sub>1</sub> = **£5,376.33**

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

**EXAMPLE 3: Pension credit calculation for a former spouse aged under 65 where the member has no service before 1 April 2008**

**Former spouse data:**

Date of birth: 1 April 1967  
Sex: Female  
Transfer day: 1 December 2012  
Age at Transfer day: 45

**Factors (Female former spouse aged 45 last birthday at Transfer day)**

Gross pension factor – Table 6.2	<b>F<sub>P</sub></b>	10.09
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**Calculations**

CETV (all post 1 April 2008) = **£13,895.43**  
Appropriate percentage = 50%  
ESCE = 50% x £13,895.43 = £6,947.72  
Pension credit from age 65= ESCE ÷ F<sub>P</sub> = **£688.57 pa**

*In this example the member is not entitled to an automatic lump and therefore the former spouse is not entitled to a lump sum either.*

**EXAMPLE 4: Pension credit calculation for a former spouse aged over 65 and here the member has received their lump sum (or had no automatic entitlement to a lump sum in respect of service before 1 April 2008)**

**Former spouse data:**

Date of birth: 1 January 1937  
Sex: Female  
Transfer day: 1 December 2012  
Age at Transfer day: 75

**Factors (Female former spouse aged 75 last birthday at Transfer day)**

Gross pension factor – Table 7.2	$F_P$	12.67
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**Calculations**

CETV = **£105,602.35**  
Appropriate percentage = 50%  
ESCE = 50% x £105,602.35 = £52,801.18  
Pension credit payable immediately =  $ESCE \div F_P =$  **£4,167.42 pa**

*In this example the member had already received their lump sum by the Transfer day (or was not entitled to one because of no service before 1 April 2008) so therefore the former spouse is not entitled to a lump sum.*

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## 6 Factors applicable to former spouse or civil partner below age 65

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**Table 6.1 – Males**

Age last birthday at relevant date	Gross Pension of £1 per annum	Lump Sum of £1
16	4.32	0.25
17	4.44	0.25
18	4.56	0.26
19	4.69	0.27
20	4.81	0.28
21	4.94	0.28
22	5.08	0.29
23	5.22	0.30
24	5.36	0.31
25	5.50	0.32
26	5.65	0.33
27	5.80	0.34
28	5.96	0.35
29	6.12	0.36
30	6.29	0.37
31	6.46	0.38
32	6.64	0.39
33	6.82	0.40
34	7.00	0.41
35	7.19	0.43
36	7.39	0.44
37	7.59	0.45
38	7.80	0.47
39	8.02	0.48
40	8.24	0.49
41	8.47	0.51
42	8.70	0.52
43	8.94	0.54
44	9.19	0.55
45	9.45	0.57
46	9.71	0.59
47	9.98	0.60
48	10.26	0.62
49	10.55	0.64
50	10.84	0.66
51	11.15	0.68
52	11.46	0.70
53	11.79	0.72
54	12.13	0.74
55	12.48	0.76
56	12.84	0.78
57	13.22	0.80
58	13.62	0.83
59	14.03	0.85

**Note**

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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**Table 6.1 – Males (continued)**

<b>Age last birthday at relevant date</b>	<b>Gross Pension of £1 per annum</b>	<b>Lump Sum of £1</b>
60	14.46	0.88
61	14.92	0.90
62	15.39	0.93
63	15.89	0.96
64	16.42	0.99

**Note**

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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

**Table 6.2 – Females**

Age last birthday at relevant date	Gross Pension of £1 per annum	Lump Sum of £1
16	4.59	0.24
17	4.72	0.25
18	4.84	0.26
19	4.98	0.27
20	5.11	0.27
21	5.25	0.28
22	5.40	0.29
23	5.54	0.30
24	5.70	0.31
25	5.85	0.32
26	6.01	0.33
27	6.18	0.34
28	6.35	0.35
29	6.52	0.36
30	6.70	0.37
31	6.88	0.38
32	7.07	0.39
33	7.26	0.40
34	7.46	0.41
35	7.67	0.43
36	7.88	0.44
37	8.10	0.45
38	8.32	0.46
39	8.55	0.48
40	8.79	0.49
41	9.03	0.51
42	9.29	0.52
43	9.54	0.54
44	9.81	0.55
45	10.09	0.57
46	10.37	0.59
47	10.66	0.60
48	10.96	0.62
49	11.27	0.64
50	11.59	0.66
51	11.92	0.68
52	12.27	0.70
53	12.62	0.72
54	12.99	0.74
55	13.37	0.76
56	13.77	0.78
57	14.18	0.80
58	14.61	0.83
59	15.05	0.85

**Note**

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).



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**Table 6.2 – Females (continued)**

<b>Age last birthday at relevant date</b>	<b>Gross Pension of £1 per annum</b>	<b>Lump Sum of £1</b>
60	15.52	0.88
61	16.00	0.90
62	16.49	0.93
63	17.01	0.96
64	17.55	0.99

**Note**

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

## 7 Factors applicable to former spouse or civil partner age 65 or above

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**Table 7.1 – Males**

<b>Age last birthday at relevant date</b>	<b>Member's Pension of £1 per annum</b>
65	16.37
66	15.90
67	15.43
68	14.94
69	14.44
70	13.94
71	13.45
72	12.95
73	12.45
74	11.95
75	11.45
76	10.95
77	10.44
78	9.93
79	9.42
80	8.90
81	8.39
82	7.89
83	7.40
84	6.93
85	6.49
86	6.07
87	5.67
88	5.30
89	4.96
90	4.64
91	4.35
92	4.08
93	3.82
94	3.58
95	3.35

**Note**

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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**Table 7.2 – Females**

<b>Age last birthday at relevant date</b>	<b>Member's Pension of £1 per annum</b>
65	17.54
66	17.09
67	16.63
68	16.16
69	15.68
70	15.19
71	14.70
72	14.20
73	13.69
74	13.18
75	12.67
76	12.15
77	11.62
78	11.09
79	10.55
80	10.00
81	9.46
82	8.92
83	8.39
84	7.89
85	7.40
86	6.94
87	6.50
88	6.09
89	5.69
90	5.32
91	4.97
92	4.63
93	4.31
94	4.01
95	3.72

**Note**

The factor should reflect the age and gender of the former spouse or civil partner at the transfer date (not the age and gender of the member).

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