



Government Actuary's Department



Local Government Pension Scheme (Scotland)

Application of a Pension Credit to the Former Spouse or Civil Partner of the Member (post-2015 members)

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1 Introduction

- 1.1 Scottish Ministers are required to issue actuarial guidance on the calculation of the pension credit for the former spouse or civil partner (the “pension credit member”) following a divorce proceeding.
- 1.2 The remainder of this introduction contains:
- details of the implementation and future review of this guidance,
 - the relevant legislative references, and
 - statements about third party reliance and liability
- 1.3 In the remainder of this note:
- the second section describes the benefits provided to a pension credit member
 - the third section describes the calculation of the pension credit
 - the fourth and fifth sections set out the factors applicable where the former spouse is respectively below or above Normal Pension Age
 - the sixth section provides example calculations
 - Appendix A summarises the assumptions underlying the factors
 - Appendix B sets out the factors
 - Appendix C sets out some important limitations

Implementation and Review

- 1.4 Scottish Ministers are required to consult the Scheme Actuary before issuing actuarial guidance under the Local Government Pension Scheme (Scotland) Regulations 2018 (‘the 2018 Regulations’) (SSI 2018/141) [Regulation 2(3) of the 2018 Regulations].
- 1.5 As part of this consultation the Scottish Public Pensions Agency (SPPA) has asked GAD, as Scheme Actuary, to recommend actuarial guidance in respect of the regulations detailed above. This document forms GAD’s recommendation for the actuarial guidance required by these regulations.
- 1.6 This note has effect only when this guidance is issued by Scottish Ministers in accordance with Regulation 2(3) of the 2018 Regulations and is subject to the implementation instructions provided at that time.
- 1.7 This guidance supersedes the previous version of guidance “The Local Government Pension Scheme (Scotland): Application of a pension credit to the former spouse or civil partner of the member” dated 26 February 2015.



- 1.8 SPPA has informed GAD this guidance will come into force with effect from 15 April 2019, but with backdating to 26 March 2019, when the associated factors were implemented. This guidance applies where the member whose pension rights are being shared had been a member of the 2015 Scheme and the Transfer day is on or after 1 April 2015.
- 1.9 Where the member whose pension rights are being shared had not been a member of the 2015 Scheme, or where the Transfer day is before 1 April 2015, the guidance dated 20 December 2012 and subsequent addendums (or replacements) continue to apply.
- 1.10 We have written this guidance for pension administrators. It assumes some knowledge of general pension terminology, and some familiarity with retirement calculations for the Local Government Pension Scheme ("the Scheme", or LGPS). Please refer any questions concerning the application of the guidance to SPPA in the first instance.
- 1.11 GAD recommends factors should be reviewed periodically, depending 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 future valuation of the LGPS Scotland.

Relevant legislative references

- 1.12 Scottish Ministers are required under the 2018 Regulations to issue actuarial guidance on the establishment of pension credit accounts for former spouses or civil partners of members in respect of whom the Court makes a pension sharing order [regulation 28 (2)].
- 1.13 Regulation 28(4) of the 2018 Regulations recognises that a pension credit may itself be the subject of a pension sharing order. This guidance also applies for any such "second generation" pension credit.
- 1.14 Regulations 29(11), 29(12) and 29(13) from the 2018 Regulations set out how the pension credit member's benefits can be brought into payment. As set out in Regulation 20 of The Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014 ('the 2014 Scheme Transitional Regulations') (SSI 2014/233), where a member has benefits in both the 2015 scheme and earlier schemes the benefits the pension credit member will be entitled to are wholly under the 2015 Scheme.
- 1.15 This guidance is designed to be consistent with the Welfare Reform and Pensions Act 1999 ("the Act") and associated regulations (principally the Pension on Divorce etc (Pension Sharing) (Scotland) Regulations 2000.



Use of this note

- 1.16 This note has been prepared for SPPA and can be relied upon by them. We are content for this note to be released to third parties, provided that:
- it is released in full;
 - the advice is not quoted selectively or partially; and
 - GAD is identified as the source of the note.
- 1.17 Third parties may wish to seek their own actuarial advice where appropriate. GAD has no liability to any person or third party for any act or omission taken, either in whole or in part, on the basis of this note.

Third party reliance

- 1.18 When issued by Scottish Ministers in accordance with paragraph 1.7 above, this note should be used as the actuarial guidance required under the regulations cited. Other than for this purpose, no person or third party is entitled to place any reliance on the contents of this note, except to any extent explicitly stated herein.



2 Pension Credit Benefits

- 2.1 Where a pension sharing order is issued by the Court, the former spouse or civil partner (the pension credit member) is allocated a monetary amount of the member's benefits. This can be converted into a percentage by dividing this monetary amount by the cash equivalent value of the member's total 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.
- 2.3 The benefits from the pension credit are additional to any benefits the former spouse or civil partner may be entitled to under the LGPS Regulations in his or her own right.
- 2.4 It is assumed that the cash equivalent of a member's benefit for divorce purposes has already been determined in accordance with the latest "Individual Incoming & Outgoing Transfers" or "Pensioner Cash Equivalent Factors on Divorce" guidance as appropriate.
- 2.5 The methodology and instructions described in this note can be applied in respect of the benefits for the former spouse or civil partner of a Councillor member.
- 2.6 The main benefits are as follows:
- 2.6.1 A pension payable for life from the pension credit member's Normal Pension Age (equal to the pension credit member's State Pension Age) with no dependants' pensions payable on death.
- 2.6.2 The pension can be commenced from an earlier or later age between ages 55 and 75, subject to adjustment for early or late payment in accordance with the appropriate guidance.
- 2.6.3 Part of the pension can be commuted for a cash sum at its commencement so long as the member whose pension rights are being shared had not commuted a part of his or her pension for a cash sum on retirement or on flexible retirement where the date of retirement or flexible retirement was prior to the valuation date used for implementing the pension sharing order.
- 2.6.4 A lump sum on death (whether the date of death is before or after the award of pension credit by the administering authority), payable to the pension credit member's beneficiaries, in accordance with the 2018 Regulations and based on the annual amount of the pension at the time of death.
- 2.6.5 The pension is increased in accordance with the Pensions Increase Act with effect from the day on which the pension sharing order takes effect (the Transfer day).



- 2.6.6 State Pension Age for the purpose of calculating initial pension credits should be as set out in HM Treasury Directions¹ ('HMT Directions') made in exercise of the powers conferred on them by sections 11(2) and 12(3) of the Public Service Pensions Act 2013, and not legislation in force at the transfer day.
- 2.6.7 State Pension Age for the purpose of calculating the pension credit at retirement should be as set out in legislation in force at the date of retirement. If State Pension Age is different for these two calculations, the initial pension credit should not be recalculated.

¹ A consolidated version of HM Treasury Directions dated 11 March 2014, including subsequent amendments up to and including 9 March 2015, is found in the following link; SPA assumptions are set out at direction 18.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/411287/HMT_Directions_9_Mar_2015.pdf

(As at the date of this guidance, later amending directions have not amended direction 18)



3 Calculation of the Pension Credit

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

Appropriate Percentage

- 3.2 For divorces in Scotland, the pension sharing order will usually specify a monetary amount, which can be translated into a percentage of the member's benefits that the former spouse or civil partner will be entitled to (the "appropriate percentage"). This guidance note will refer to the 'appropriate percentage' rather than a monetary amount.
- 3.3 The former spouse or civil partner's cash equivalent ("ESCE") is determined by applying the appropriate percentage to the cash equivalent of the member's benefits for divorce purposes (see paragraph 2.3). The member's cash equivalent can be expressed as an amount for pre 1 April 2009 service; an amount for service between 1 April 2009 and 31 March 2015; and an amount for post 1 April 2015 service.
- 3.4 The appropriate percentage can be applied to each of these elements separately, in order to express the ESCE as an amount in respect pre 1 April 2009 service ("ESCE₁"), an amount for service between 1 April 2009 and 31 March 2015 ("ESCE₂") and an amount for post 1 April 2015 service ("ESCE₃").

Calculation

- 3.5 There are two dates which are of relevance when determining the pension credits; the "Transfer day" and the "Valuation day".
- 3.6 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.)
- 3.7 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.
- 3.8 Section 29(7) of the Act defines the Valuation day as a day within the implementation period specified by the administering authority by notice in writing to the pension debit member and pension credit member. (The Valuation day is sometimes referred to as the Implementation date or the Calculation date.)
- 3.9 The former spouse or civil partner's Normal Pension Age (NPA) will be the higher of age 65 and their State Pension Age. The calculation of the pension credit should be based on their NPA and age at the Transfer day. **Do not use the NPA and age of the member.**



Pension credit calculation for former spouse or civil partner

3.10 The pension credit as at the Transfer day will be:

Pension credit in respect of pre 1 April 2009 service:

$$PC_1 = ESCE_1 \div F_P$$

Pension credit in respect of service between 1 April 2009 and 31 March 2015:

$$PC_2 = ESCE_2 \div F_P$$

Pension credit in respect of post 1 April 2015 service:

$$PC_3 = ESCE_3 \div F_P$$

$$\text{Total pension credit} = PC_1 + PC_2 + PC_3$$

Where:

$ESCE_1$ the former spouse or civil partner's cash equivalent in respect of service pre 1 April 2009

$ESCE_2$ the former spouse or civil partner's cash equivalent in respect of service between April 2009 and 31 March 2015

$ESCE_3$ the former spouse or civil partner's cash equivalent in respect of service post 1 April 2015

F_P factor for pension for former spouse or civil partner from Table 4.1 (Where the former spouse or civil partner's NPA is not on their birthday, the factor should be obtained by interpolation using the method set out in either paragraph 3.12 or 3.13 below).

3.11 Former spouse or civil partner with a NPA of years and whole months

Where a pension credit member has a non-integer normal pension age that is a whole number of years and months, the factors should be determined using the appropriate factors in the tables in Appendix B using straight line interpolation based on months. For example, to determine the factors applicable to a member with a normal pension age of 66 years and 2 months, the formula below should be used:

$$F_P(\text{NPA 66 years, 2 months}) = F_P(\text{NPA66}) + [2/12 \times [F_P(\text{NPA67}) - F_P(\text{NPA66})]]$$

Where:

$F_P(\text{NPAxx})$ is the factor applying for a Normal Pension Age of xx



3.12 Former spouse or civil partner with a NPA of years and part months

Some pension credit members may have a State Pension Age that falls on a specified date. This may mean that their NPA is based on years and days rather than years and whole months. In this case, the factors should be determined using the appropriate factors in the tables in Appendix B using straight line interpolation based on days. For example, to determine the factors applicable to a member with a normal pension age of 67 years and 249 days, the formula below should be used:

$$F_P(\text{NPA } 67 \text{ years, } 249 \text{ days}) = F_P(\text{NPA}67) + \{249/365 \times [F_P(\text{NPA}68) - F_P(\text{NPA}67)]\}$$

Where:

F_P(NPA_{xx}) is the factor applying for a Normal Pension Age of xx



4 Examples

Both the examples in this section assume that the member whose pension rights are being shared had been a member of the 2015 Scheme.

Example 1: Pension credit calculation for a former spouse under Normal Pension Age

Former spouse data:

Date of birth: 1 March 1977
 Transfer day: 1 December 2021
 Age last birthday at transfer day: 44
 Normal Pension Age: 67
 Amount awarded to spouse: £175,000 (equal to 50% of the cash equivalent)

Cash Equivalent in respect of Pre 1 April 2009 service: £195,000
 Cash Equivalent in respect of service between 1 April 2009 and 31 March 2015: £ 96,000
 Cash Equivalent in respect of Post 1 April 2015 service: £ 59,000
Total Cash Equivalent as at transfer day: £350,000

Factor (F_P)

Former spouse aged 44 at last birthday with NPA 67: 9.50

Calculations

	Calculation	Result
ESCE Pre 2009	50% x £195,000	£97,500
ESCE 2009 – 2015	50% x £96,000	£48,000
ESCE Post 2015	50% x £59,000	£29,500

Pre 2009 pension credit from NPA: $£97,500 \div 9.50 = £10,263.16$ per annum (1)
 2009 to 2014 pension credit from NPA: $£48,000 \div 9.50 = £5,052.63$ per annum (2)
 Post 2014 pension credit from NPA: $£29,500 \div 9.50 = £3,105.26$ per annum (3)

Total pension credit from NPA (1) + (2) + (3) = £18,421.05 per annum



Example 2: Post 2015 member - spouse with a non-integer NPA.

Former spouse data:

Date of birth: 6 May 1977
 State pension date: 6 July 2044
 Transfer day: 1 December 2019
 Age last birthday at transfer day: 42
 Normal Pension Age: 67 years 2 months
 % awarded to spouse: £55,500 (equal to 50% of the cash equivalent)

Cash Equivalent in respect of Pre 1 April 2009 service: £ 0
 Cash Equivalent in respect of service between 1 April 2009 and 31 March 2015: £ 45,000
 Cash Equivalent in respect of Post 1 April 2015 service: £ 66,000
Total Cash Equivalent as at transfer day: £111,000

Factor (F_P)

Former spouse aged 42 at last birthday with NPA 67: 9.11
 Former spouse aged 42 at last birthday with NPA 68: 8.60

Former spouse aged 42 at last birthday with NPA 67 years 2 months
 = $9.11 + [2 \div 12 \times (8.60 - 9.11)] = \mathbf{9.03}$

Calculations

	Calculation	Result
ESCE Pre 2009	50% x £0	£0
ESCE 2009 – 2014	50% x £45,000	£22,500
ESCE Post 2014	50% x £66,000	£33,000

Pre 2009 pension credit from NPA: £0.00 ÷ 9.03 = £0.00 per annum (1)
 2009 to 2014 pension credit from NPA: £22,500 ÷ 9.03 = £2,491.69 per annum (2)
 Post 2014 pension credit from NPA: £33,000 ÷ 9.03 = £3,654.49 per annum (3)

Total pension credit from NPA (1) + (2) + (3) = £6,146.18 per annum



Appendix A: Assumptions underlying factors

Financial assumptions

Nominal discount rate	4.448% pa
Real discount rate (in excess of CPI)	2.40% pa

Mortality assumptions

	Males	Females
Retirements in normal health	122% of S2NMA	117% of S2NFA
Retirements in ill-health	137% of S2IMA	131% of S2IFA
Dependants	159% of S2NMA	131% of S2DFA

Future mortality improvement	Based on ONS principal UK population projections 2016
Year of Use	2020

Other assumptions

Proportion of female pension credit members for unisex factors	40%
Allowance for commutation	Nil



Appendix B: Factors applicable to the former spouse or civil partner

Table 4.1: Factors applicable to former spouse or civil partner (0-310)

Age last birthday at relevant date	Normal Pension Age of 65	Normal Pension Age of 66	Normal Pension Age of 67	Normal Pension Age of 68
16	5.89	5.60	5.31	5.04
17	6.01	5.71	5.42	5.14
18	6.14	5.83	5.54	5.25
19	6.27	5.96	5.65	5.36
20	6.40	6.08	5.77	5.47
21	6.54	6.21	5.89	5.58
22	6.67	6.34	6.01	5.69
23	6.81	6.47	6.14	5.81
24	6.96	6.60	6.26	5.93
25	7.10	6.74	6.39	6.05
26	7.25	6.88	6.53	6.18
27	7.41	7.03	6.66	6.31
28	7.56	7.18	6.80	6.44
29	7.72	7.33	6.94	6.57
30	7.88	7.48	7.09	6.71
31	8.05	7.64	7.23	6.85
32	8.22	7.80	7.39	6.99
33	8.40	7.96	7.54	7.13
34	8.57	8.13	7.70	7.28
35	8.76	8.30	7.86	7.43
36	8.94	8.48	8.03	7.59
37	9.13	8.66	8.20	7.75
38	9.33	8.84	8.37	7.91
39	9.53	9.03	8.55	8.08
40	9.74	9.22	8.73	8.25
41	9.95	9.42	8.91	8.42
42	10.16	9.63	9.11	8.60
43	10.38	9.83	9.30	8.79
44	10.61	10.05	9.50	8.97
45	10.84	10.27	9.71	9.17
46	11.08	10.49	9.92	9.37
47	11.33	10.72	10.13	9.57
48	11.58	10.96	10.36	9.78
49	11.83	11.20	10.58	9.99
50	12.10	11.45	10.82	10.21
51	12.37	11.70	11.06	10.43
52	12.65	11.97	11.31	10.67
53	12.94	12.24	11.56	10.91
54	13.24	12.52	11.83	11.15



Age last birthday at relevant date	Normal Pension Age of 65	Normal Pension Age of 66	Normal Pension Age of 67	Normal Pension Age of 68
55	13.55	12.81	12.10	11.41
56	13.87	13.11	12.38	11.67
57	14.20	13.42	12.67	11.94
58	14.55	13.75	12.98	12.23
59	14.90	14.08	13.29	12.52
60	15.28	14.43	13.62	12.83
61	15.67	14.80	13.96	13.15
62	16.07	15.18	14.32	13.49
63	16.50	15.58	14.69	13.83
64	16.94	16.00	15.08	14.20
65	16.87	16.44	15.49	14.59
66	16.27	16.36	15.93	14.99
67	15.67	15.75	15.85	15.42
68	15.06	15.14	15.23	15.34
69	14.44	14.52	14.60	14.71
70	13.83	13.89	13.98	14.07
71	13.21	13.27	13.34	13.44
72	12.59	12.64	12.71	12.79
73	11.99	12.02	12.08	12.15
74	11.39	11.41	11.45	11.52
75	10.82	10.82	10.84	10.89
76	10.25	10.25	10.26	10.28
77	9.69	9.69	9.69	9.70
78	9.14	9.14	9.14	9.14
79	8.59	8.59	8.59	8.59
80	8.06	8.06	8.06	8.06
81	7.53	7.53	7.53	7.53
82	7.02	7.02	7.02	7.02
83	6.52	6.52	6.52	6.52
84	6.04	6.04	6.04	6.04
85	5.58	5.58	5.58	5.58
86	5.14	5.14	5.14	5.14
87	4.73	4.73	4.73	4.73
88	4.35	4.35	4.35	4.35
89	3.99	3.99	3.99	3.99
90	3.67	3.67	3.67	3.67
91	3.36	3.36	3.36	3.36
92	3.08	3.08	3.08	3.08
93	2.82	2.82	2.82	2.82
94	2.59	2.59	2.59	2.59
95	2.38	2.38	2.38	2.38

Notes The factor should reflect the age of the former spouse or civil partner on the Transfer day (not the age of the member).



Appendix C: Limitations

- C.1 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 divorce proceedings, in accordance with the regulations cited above.
- C.2 The factors in this note are subject to regular review. Administrators need to ensure that they are using the latest factors, as relevant, when processing cases.
- C.3 This note should be considered in its entirety. Individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
- C.4 This note only covers the actuarial principles around the calculation and application of pension credit benefits. Any legal advice in this area should be sought from an appropriately qualified person or source.
- C.5 Administrators should satisfy themselves that the pension credit resulting from a pension sharing order on divorce complies with all legislative requirements including, but not limited to, tax and contracting-out requirements.
- C.6 This guidance is based on the Regulations in force at the time of writing. It is possible that future changes to the Regulations might create inconsistencies between this guidance and the Regulations. If users of this guidance believe there to be any such inconsistencies, they should bring this to the attention of the SPPA. In no circumstances should this guidance take precedence over the Regulations. Administrators should ensure that they comply with all relevant Regulations.