Survivor benefits (version 1.1)

The final four columns in the table below represent the LGPC Secretariat's understanding of the provisions governing survivor benefits from 1 April 2015 where the member's death occurs on or after 1 April 2015. 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 2015 (i.e. the position shown in columns two, three and four of the table).

Туре	Member left pre	Member left	Member left	Member died	Member died	Member died	Member died
	1/4/98, had	1/4/98 –	1/4/09 —	post 31/3/15	post 31/3/15 but	post 31/3/15 and	post 31/3/15
	benefits paid or	31/3/09, had	31/3/15, had	but only has pre	only has pre	has pre 1/4/15	and only has
	due under the	benefits paid	benefits paid	1/4/15	1/4/15	and post 31/3/15	post 31/3/15
	1987 Regs and	or due under		membership	membership	aggregated	membership
	died pre 1/4/15 -	the 1998	the Benefits	and benefits	and benefits are	membership	(including
	benefits payable	Regs and died		are payable	payable under	(where the pre	members who
	are those under	pre 1/4/15 -		under the 1987		1/4/15	have
	the 1987 Regs	benefits			Regs – benefits	membership still	aggregated pre
	[TP reg 3(1)]	payable are	benefits	benefits	payable are	has a final	1/4/15
		those under		payable are	those under the	salary link – see	membership
		the 1998		those under the	Benefits Regs,	aggregation	which no
		Regs [TP reg		1987 or 1998	modified as	paper) –	longer has a
		3(1)]			highlighted	benefits payable	final salary link
			3(1)]	as highlighted	below. This	are aggregate of	and has been
				below. This	column also	benefits under	converted to
				column also	applies to any		post 31/3/15
				applies to any	unaggregated	(modified as	CARE pension
				unaggregated	pre 1/4/15	highlighted	– see
	· ·			pre 1/4/09	membership		aggregation
				membership	held under the	benefits under	paper) -
				held under the	Benefits Regs.	2014 Regs. [TP	benefits
				1987 or 1998	[TP reg 17(4)].	reg 17(1), and	payable are
				Regs.		(2)].	those under the
				[TP reg 17(4)].			2014 Regs.

Туре	Based on	Based on	Based on	Based on	Based on	Based on	Based on
Widow of pre-leaving opposite sex marriage	All membership [Reg E6 of 1987 Regs]	All membership [Reg 40 of 1998 Regs]	All membership [Benefits regs 24, 33 and 36]	All membership [TP reg 17(4)]	All membership [TP reg 17(4)]	All membership to 31/3/15 plus survivor benefit calculated under regs 39, 42 or 45 of 2014 Regs [TP 17(1) and (2)]	Survivor benefit calculated under regs 39, 42 or 45 of 2014 Regs
Widow of post-leaving opposite sex marriage	Post 5/4/78 contracted-out membership [Reg E6(4) of 1987 Regs]	Post 5/4/78 contracted-out membership [Reg 41(1) of 1998 Regs]	membership [Reg 7 of 2008 TP Regs and reg 41(1)	defined in reg 41(4)(a) to (d) of the 1998 Regs* where previously married to deceased at some time whilst active member after	Post 5/4/78 membership plus relevant additional membership as defined in reg 41(4)(a) to (d) of the 1998 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 – 31/3/15 membership, including relevant additional membership as	Survivor benefit calculated under regs 39, 42 or 45 of 2014 Regs

Civil partner of pre- leaving civil partnership	partnerships only n came into p existence from a 5/12/05. Thus n no-one who [I	olus relevant additional membership Reg 41(3A) and (3B) of	Post 5/4/88 membership plus relevant additional membership [Reg 7(3) of 2008 TP Regs and reg 41(3A) and (3B) of 1998 Regs]	membership for benefits awarded under the 1998 Regs plus relevant additional membership as defined in reg	plus relevant additional membership as defined in reg 41(4)(a) to (d) of the 1998 Regs* [TP reg 17(4), (10), (11) and (13)]	6/4/88 to 31/3/15 membership plus relevant additional membership as defined in reg 41(4)(a) to (d) of the 1998 Regs* plus survivor benefit calculated under regs 39, 42 or 45 of 2014 Regs[TP reg 17(1), (2), (4), (10), (11) and (13)]	Survivor benefit calculated under regs 39, 42 or 45 of 2014 Regs
Civil partner of post- leaving civil partnership	membership n excluding** p relevant a additional n		Post 5/4/88 membership plus relevant additional membership [Reg 7(3) of 2008 TP Regs and reg 41(3A) and (3B) of 1998 Regs]	Post 5/4/88 membership plus, for benefits awarded under the 1998 Regs, relevant additional membership as defined in reg	Post 5/4/88 membership plus relevant additional membership as defined in reg 41(4)(a) to (d) of the 1998 Regs* where previously in a civil partnership with the	6/4/88 to 31/3/15 membership, including relevant additional membership as defined in reg 41(4)(a) to (d) of the 1998 Regs* (other than IHE) where	Survivor benefit calculated under regs 39, 42 or 45 of 2014 Regs

Comment [TE1]: The LGPC understands that the SPPA policy intention is that, in these cases, the survivor's pension should be based on all of the deceased's membership. An amendment to the Transitional Regs is required in order to deliver this policy intention.

				Dogo* whore	deceased at	provioualy in a	
				Regs* where		previously in a	
					some time	civil partnership	
				civil partnership		with the	
				with the	member after	deceased at	
					31/3/72	some time whilst	
				some time		active member	
					[TP reg 17(4),	after 31/3/72	
				member after	(10), (11) and	plus survivor	
				31/3/72	(13)]	benefit	
				TP reg 17(4),		calculated under	
				(10), (11) and		regs 39, 42 or	
				(13) and reg		45 of 2014 Regs	
				41(3A) and (3B)		[TP reg 17(1),	
				of the 1998 ` ´		(2), (10), (11)	
				Regs and reg		and (13)]	
				4A of the 1998		(/1	
				TP Regs]			
Survivor of same sex	N/A – same sex	N/A – same	Post 5/4/88	N/A - same	Post 5/4/88	All membership.	Survivor benefit
pre-leaving		sex marriages	membership	sex marriages	membership	Although TP	calculated
marriage*****		only came into			plus relevant	regs 17(1), (2),	under regs 39,
l		existence from	•		additional	(4), (10), (11)	42 or 45 of
		31/12/14.	membership		membership as	and (13) would	2014 Regs.
	no-one who	Thus no-one	[Reg 7(3) of	no-one who	defined in reg	appear to	[Same
		who ceased	2008 TP		41(4)(a) to (d) of		outcome as for
	membership prior		Regs] [The	membership	the 1998 Regs*	survivor benefit	pre-leaving civil
		membership	LGPC	prior to 1/4/09	[TP reg 17(4),	would be based	partnership
	have entered into		Secretariat	could have	(10), (11) and	on 6/4/88 to	p sp
		could have	understands	entered into a	(13)]	31/3/15	
	, ·	entered into a	from SPPA	pre-leaving	Same outcome	membership	
		pre-leaving	that this is the	same sex	as for pre-	plus relevant	
	•	same sex	intended	marriage.	leaving civil	additional	
		marriage.		Differs from	partnership	membership as	
<u> </u>	Logino odicome	mamage.	policy position		partificiallip	membership as	

	as for pre-leaving			pre-leaving civil		defined in reg	
	civil partnership]		draft	partnership but		41(4)(a) to (d) of	
		<mark>civil</mark>	regulations	<mark>only because</mark>		the 1998 Regs*	
		<mark>partnership</mark>	will be	<mark>civil</mark>		plus the survivor	
		but only	consulted	<mark>partnerships</mark>		benefit	
		<mark>because civil</mark>	upon) and	<mark>could be</mark>		calculated under	
		partnerships	produces the	entered into pre		regs 39, 42 or	
		<mark>could be</mark>	<mark>same</mark>	<mark>1/4/09</mark>]		45 of 2014	
		entered into	outcome as			Regs, section 4	
		pre 1/4/09]	for pre-leaving	· ·		of the Marriage	
			<mark>civil</mark>			and Civil	
			partnership]			Partnership	
						(Scotland) Act	
						2014 has the	
						effect of	
						providing that	
						the survivor is	
						treated in the	
						same way as	
						the widow or	
						widower of a	
						pre-leaving	
						opposite sex	
						marriage.	
						[Same outcome	
						as SPPA policy	
						intention for pre-	
						<mark>leaving civil</mark>	
			7			partnership partnership	
Survivor of same sex	Post 5/4/88	Post 5/4/88	Post 5/4/88	Post 5/4/88	Post 5/4/88	6/4/88 to	Survivor benefit
post-leaving	membership	membership	membership	membership	membership	31/3/15	calculated
marriage*****	excluding*****	excluding*****	plus relevant	excluding*****	plus relevant	membership	under regs 39,

_		1		T.			
	relevant	relevant	additional	relevant	additional	including	42 or 45 of
	additional	additional	membership	additional	membership as	relevant	2014 Regs
	membership	membership	[Reg 7(3) of	membership as	defined in reg	additional	[<mark>Same</mark>
	[Regs regs E6(3)	[The LGPC	2008 TP	defined in reg	41(4)(a) to (d) of	membership as	outcome as for
	and (3A) of 1987	Secretariat	Regs] [The	41(4)(a) to (d)	the 1998 Regs*	defined in reg	post-leaving
	Regs; and reg 4A	understands	LGPC	of the 1998	where	41(4)(a) to (d) of	<mark>civil</mark>
	of 1998 TP Regs]	from SPPA	Secretariat	Regs*	previously in a	the 1998 Regs*	partnership]
	[The LGPC	that this is the	understands	TP reg 17(4),	same sex	(other than IHE)	
	Secretariat	intended	from SPPA	(10), (11) and	marriage with	where	
	understands from	policy position	that this is the	(13)]	the deceased at	previously in a	
	SPPA that this is	(upon which	intended	[Same	some time	same sex	
	the intended	draft	policy position	outcome as for	whilst active	marriage with	
	policy position	regulations will	(upon which	post-leaving	member after	the deceased at	
	(upon which draft	be consulted	draft	civil partnership	31/3/72	some time whilst	
	regulations will	upon) and	regulations	except that	[TP reg 17(4),	active member	
	be consulted	produces the	will be	relevant	(10), (11) and	after 31/3/72	
	upon) and	same outcome	consulted	additional	(13)] <mark>[Same</mark>	plus survivor	
	produces the	as for post-	upon) and	membership is	outcome as for	benefit	
	same outcome	leaving civil	produces the	not counted	post-leaving civil	calculated under	
	as for post-	partnership	same	<mark>****</mark>	partnership]	regs 39, 42 or	
	leaving civil	except that	outcome as	_	· -	45 of 2014 Regs	
	partnership *****]	relevant	for post-			[TP reg 17(1)	
		additional	leaving civil			and (2), (10),	
		membership is	partnership]			(11) and (13)]	
		not counted				Same outcome	
		*****]				as for post-	
						leaving civil	
						partnership]	
Cohabiting partner*** –	N/A - benefits for	N/A - benefits	Post 5/4/88	N/A - benefits	Post 5/4/88	6/4/88 to	Survivor benefit
where cohabitation		for cohabiting	membership	for cohabiting	membership	31/3/15	calculated
commenced pre-leaving	partners were	partners were	(plus any pre	partners were	plus relevant	membership	under regs 39,
	only introduced	only	6/4/88	only introduced	additional	plus relevant	42 or 45 of

from 1/4/09 and	introduced	membership	from 1/4/09 and	membership as	additional	2014 Regs
so do not apply	from 1/4/09	bought by	so do not apply	defined in reg	membership as	
to pre 1/4/09	and so do not	ASBCs) –	to pre 1/4/09	41(4)(a) to (d) of		
leavers.	apply to pre	surviving	leavers.	the 1998 Regs*	41(4)(a) to (d) of	
	1/4/09 leavers.	cohabiting	[TP reg 17(4)]	if had been	the 1998 Regs*	
		partner must		cohabiting with	(other than IHE)	
		have been		the deceased at	if had been	
		nominated by		some time	cohabiting with	
		deceased		whilst active	the deceased at	
		member	· ·	member after	some time whilst	
		[Benefits reg		31/3/09	active member	
		14A(5) and		(plus any pre	after 31/3/09	
		reg 3(4) of		6/4/88	(plus any pre	
		2008 TP		membership	6/4/88	
		Regs]		bought by	membership	
				ASBCs)- no	bought by	
				requirement for	ASBCs) plus	
				surviving	survivor benefit	
				cohabiting	calculated under	
				partner to have	regs 39, 42 or	
				been nominated	45 of 2014 Regs	
				by deceased	– no	
				member	requirement for	
				[TP reg 17(4),	surviving	
				(9)(b), (10), (11)	cohabiting	
				and (13)]	partner to have	
					been nominated	
					by deceased	
		7			member	
					[TP reg 17(1),	
					(2), (9)(b), (10),	
					(11) and (13)]	

Comment [TE2]: The LGPC understands that the SPPA policy intention is that, in these cases, the survivor's pension should be based on all of the deceased's membership. An amendment to the Transitional Regs is required in order to deliver this policy intention.

Cohabiting partner*** –	N/A - benefits fo	r N/A - benefits	Post 5/4/88	N/A - benefits	Post 5/4/88	6/4/88 to	Survivor benefit
where cohabitation	cohabiting	for cohabiting	membership	for cohabiting	membership	31/3/15	calculated
commenced post-	partners were	partners were	(plus any pre	partners were	plus relevant	membership	under regs 39,
leaving	only introduced	only	6/4/88	only introduced			42 or 45 of
	from 1/4/09 and	introduced	membership	from 1/4/09 and	membership as	additional	2014 Regs
	so do not apply	from 1/4/09	bought by	so do not apply	defined in reg	membership as	
	to pre 1/4/09	and so do not	ASBCs) -	to pre 1/4/09	41(4)(a) to (d) of	defined in reg	
	leavers.	apply to pre	surviving	leavers.	the 1998 Regs*	41(4)(a) to (d) of	
		1/4/09 leavers.	cohabiting	[TP reg 17(4)]	if had been	the 1998 Regs*	
			partner must	,	cohabiting with	(other than IHE)	
			have been		the deceased at	if had been	
			nominated by		some time	cohabiting with	
			deceased		whilst active	the deceased at	
			member		member after	some time whilst	
			[Benefits reg		31/3/09	active member	
			14A(5) and		(plus any pre	after 31/3/09	
			reg 3(4) of		6/4/88	(plus any pre	
			2008 TP		membership	6/4/88	
			Regs]		bought by	membership	
					ASBCs)– no	bought by	
					requirement for	ASBCs) plus	
					surviving	survivor benefit	
					cohabiting	calculated under	
					partner to have	regs 39, 42 or	
					been nominated	45 of 2014 Regs	
					by deceased	– no	
					member	requirement for	
					[TP reg 17(4),	surviving	
			7		(9)(b), (10), (11)		
					and (13)]	partner to have	
						been nominated	
						by deceased	

						member [TP reg 17(1), (2), (9)(b), (10), (11) and (13)]	
Eligible child	1987 Regs	membership –	membership – definition of eligible child in reg 26 of the	– definition of eligible child in 2014 Regs [TP reg 17(4)	All membership – definition of eligible child in 2014 Regs [TP reg 17(4) and (9)(a)]	regs 40, 43 or	Survivor benefit calculated under regs 40, 43 or 46 of 2014 Regs – definition of child in 2013 Regs
	17(13)(a) of the was deliberate to 5th April 1978 me scheme member with regulations ** Relevant addit December 2005. partnership at ar *** For deaths be requirement for to pension. However	TP Regs. The lab make it clear to make it can be and it can be a survivor to hear, for deaths or requirement for make it can be a survivor to hear, for deaths or requirement for make it can be a survivor to hear, for deaths or requirement for make it can be a survivor to hear, for deaths or requirement for make it can be a survivor to hear.	ack of a cross-re hat transferred in the transfer will 1988 members of the 1998 Regs hip is excluded by whose benefits an active member of the 1998 members are been nominal or after 1st April	ference in that re in membership co as received after ship (where the to ship (where the to ecause civil part re payable under under those Re who ceased activated by the dece	egulation to regulation to regulation to respect of that date) and corresponding the transfer was received and the transfer was received and the transfer was received and the transfer was responding to the transfer was as a constant of the transfer was a constant of the transfer was as a constant of the transfer was a constant of the trans	the wording of regation 41(4)(e) of the famale scheme mounts in respect of ved after that date) come into being unations can have be fer 31 st March 200 r a surviving cohabative membership assed member for a	e 1998 Regs nember as post a female in accordance til 5 th en in a civil

****** Relevant additional membership is excluded because same sex marriages did not come into being until 16th December 2014 with the first same-sex marriages not occurring until 31st December 2014. Thus, no-one whose benefits are payable under the 1987 or 1998 Regulations can have been in a same sex marriage at any point whilst an active member under those Regulations.

***** If

- a) the survivor of a same sex marriage is a woman, and
- 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
- c) the survivor was married to the deceased and that marriage had subsisted before the full gender recognition certificate had been issued

the survivor is to be treated as the widow of a pre-leaving marriage

Key:

1987 Regs = Local Government Superannuation (Scotland) Regulations 1987

1998 Regs = Local Government Pension Scheme (Scotland) Regulations 1998

1998 TP Regs = Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998

Benefits Regs = Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008

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

2014 Regs = Local Government Pension Scheme (Scotland) Regulations 2014

TP reg = Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) 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.

Terry Edwards Senior Pensions Adviser 10th April 2015