Protection following a reduction in pay

This leaflet sets out the protections available to members of the Local Government Pension Scheme who have had a reduction in pay but continue in local government employment.

CARE benefits

Where you pay into the Scheme after 31 March 2014, from that date, you build up pension benefits on a career average basis. What this means is that you build up pension benefits on a continual basis based on the pensionable pay you receive. So, assuming you are not in the 50/50 section, if you receive £1,000 pensionable pay in a month, we will add £20.41 annual pension (£1,000/49) to your pension account for that month.

If the amount of pensionable pay that you receive goes down, the amount we will add to your pension account each time you receive pay from that point on will be less. The reduction in pay will not impact on the amounts we previously added to your CARE account.

Final salary benefits

You may have pre 1 April 2014 membership. Unlike for CARE benefits, we do not calculate the benefits for that membership on a continual basis. We calculate them when you leave the scheme using the amount of that membership (which built up at a slower rate for periods of part-time service) and your 'final pay'. Your 'final pay' is normally the pensionable pay you earned in the year up to leaving. If you worked part time, we use the full-time equivalent.

Where you have a reduction in your pay (or the full-time equivalent of your pay if you work part-time), the 'final pay' we use will be less. This is because we will be looking at the pay you earned in your last year. This factsheet sets out how you can protect your pre 1 April 2014 benefits from reductions in pay.

The best of the last three years' rule

Your 'final pay' is normally the pensionable pay you earned in your last year of membership. However, where the pay you earned in either of the two immediately preceding years was higher, we would instead use that earlier year's pay when we work out your final salary benefits. This is known as 'the best of the last three years' rule'.

Where you work part-time, we will look at the amount you would have earned had you worked full time.

For example, if you were to leave the scheme on 31 July 2017, the 'final pay' that we would normally use would be the pensionable pay you earned in the following period:

1 August 2016 to 31 July 2017

However, we will also look at the pensionable pay you earned in the following periods and use one of the earlier years' pay if it is higher than the pay for the last year:

1 August 2015 to 31 July 2016

1 August 2014 to 31 July 2015

This rule will protect you if leave the scheme within two years of a reduction in pay. However, after this two-year period, it begins to lose its effect, and after three years it has no advantage. We illustrate this in the example overleaf.

The best of the last three years' rule continued…

Date of reduction of salary	1 August 2015
Pensionable pay earned 1 August 2016 to 31 July 2017	£21,500
Pensionable pay earned 1 August 2015 to 31 July 2016	£21,000
Pensionable pay earned 1 August 2014 to 31 July 2015	£26,000

If, in the above example, the member leaves the scheme on 31 July 2017 (within two years of the reduction), the best of the last three years' rule would have full effect, and we would use £26,000 to work out the member's final salary benefits.

However, if the member was to leave the scheme on 31 January 2018 (2 ½ years after the reduction), we would look at the pensionable pay earned in the following years:

1 February 2017 to 31 January 2018
1 February 2016 to 31 January 2017
1 February 2015 to 31 January 2016

In this case, only 6 months of the period during which the member earned the higher pay would fall within the final 3 years (1 February 2015 to 31 July 2015).

If the member was to leave the scheme on or after 31 July 2018, i.e. 3 years after the reduction, the 'best of the last 3 year' rule would not offer any protection.

Pay earned with a previous employer will be used when determining the 'best of the last three years' final pay, if the previous membership has been combined with the latest employment.

Please note that we automatically apply the 'best of last three years' protection for all leavers.

The 3 in 13 rule

The scheme also offers further protection if your pay is reduced or restricted during a continuous period of employment for one of the following reasons:

- you choose to continue in the employment with the same employer at a lower grade or with less responsibility;
- for the purposes of achieving equal pay in relation to other employees of your employer;
- as a result of a job evaluation exercise;
- because of a change in your contract of employment which means payments or benefits specified as being pensionable emoluments in your contract either cease, reduce or are restricted; or
- the rate at which your rate of pay may be increased is restricted in a way that is likely to adversely affect your retirement pension.

This **does not** apply where the reduction or restriction -

- **starts more than 10 years before your last day as an active member;**
- immediately follows the cessation of a temporary post on a higher rate of pay;
- is a choice made for the purpose of taking flexible retirement; or
- occurred before 1 April 2008 (though see section on certificates of protection below).

If the terms of this protection apply to you, you may choose to have your final pay based on the yearly average from any 3 consecutive years running from 1 April to the 31 March, within the last 13 years ending with the last day as an active member (see the example overleaf).

When considering the best figure to use, we will add inflation to earlier year figures to bring them to a current rate. We do not do this when considering the best of the last 3 years' rule. We simply pick whichever figure is highest before any inflation is added.

To take advantage of this protection you must give notice in writing to us no later than 1 month before you cease active membership of the scheme.

Example of the 3 in 13 rule

The member left on 31 July 2017.

The member is entitled to protection under the 3 in 13 rule and has made the relevant election.

Best of the last 3 years' rule

01/08/2016 to 31/07/2017 = £22,000
01/08/2015 to 31/07/2016 = £22,000
01/08/2014 to 31/07/2015 = £21,333

Under the best of the last 3 years, the highest pay figure is £22,000.

3 in 13 rule

01/04/2016 to 31/03/2017 = £22,000
01/04/2015 to 31/03/2016 = £22,000
01/04/2014 to 31/03/2015 = £21,000
01/04/2013 to 31/03/2014 = £21,000
01/04/2012 to 31/03/2013 = £20,000
01/04/2011 to 31/03/2012 = £19,000
01/04/2010 to 31/03/2011 = £19,000
01/04/2009 to 31/03/2010 = £23,000
01/04/2008 to 31/03/2009 = £21,000
01/04/2007 to 31/03/2008 = £19,500
01/04/2006 to 31/03/2007 = £18,750
01/04/2005 to 31/03/2006 = £18,500

Which gives the following 3 year averages:

01/04/2014 to 31/03/2017	£21,666.67	plus inflation of 0%	=	£21,666.67
01/04/2013 to 31/03/2016	£21,333.33	plus inflation of 1%	=	£21,546.67
01/04/2012 to 31/03/2015	£20,666.67	plus inflation of 1%	=	£20,873.33
01/04/2011 to 31/03/2014	£20,000.00	plus inflation of 2.21%	=	£20,442.00
01/04/2010 to 31/03/2013	£19,333.33	plus inflation of 4.97%	=	£20,294.20
01/04/2009 to 31/03/2012	£20,333.33	plus inflation of 7.28%	=	£21,813.60
01/04/2008 to 31/03/2011	£21,000.00	plus inflation of 12.86%	=	£23,700.60
01/04/2007 to 31/03/2010	£21,166.67	plus inflation of 16.36%	=	**£24,629.54**
01/04/2006 to 31/03/2009	£19,750.00	plus inflation of 16.36%	=	£22,981.10
01/04/2005 to 31/03/2008	£18,916.67	plus inflation of 22.18%	=	£23,112.38

In this example, when calculating the member's final salary benefits, we would use the yearly average pensionable pay earned in the period from 1 April 2007 to 31 March 2010 as this produces the highest pay figure.

Certificate of protection (reductions in pay pre 1 April 2008)

Before 1 April 2008, protection for certain reductions/restrictions in pay was provided in the form of a certificate of protection. Here your employer could issue a certificate if a decision was taken by them to **compulsorily** reduce your pay, or your employer had taken a decision which meant that the way in which the future rate at which your pay may be increased was restricted and was likely to affect your retirement pension.

No new certificates can be issued for reductions/restrictions in pay that occur on or after 1 April 2008. However, if you have previously been issued with a certificate of protection, it may still be valid even after this date.

Your employer would not have been able to provide a certificate of protection if:

- you chose to take the reduced pay;
- the reduction in pay was temporary; or
- the reduction was a result of a temporary increase in pay being reduced or coming to an end.

The certificate of protection will only be valid where you leave the Scheme within 10 years of the date of the reduction/restriction. Your employer will have specified the date of the reduction/restriction in the certificate.

Where you were issued with a certificate and it is valid when you leave, we will use the best of the following when working out your final salary benefits:

(1) The pensionable pay you earned in the final year of membership
(2) The pensionable pay you earned in any of the immediately preceding 4 years
(3) The annual average pensionable pay you earned in any 3 consecutive years ending on an anniversary of your leaving date, falling within the final 13 years of membership

When considering the best figure to use, we will add inflation to earlier year figures to bring them to a current rate.

Split Retirement Benefits

The protections we have outlined overleaf are only of benefit if you leave the scheme within a certain period after the reduction/restriction in pay. In your case, you may not be anticipating leaving the scheme before then.

If you do not ordinarily leave the scheme before the relevant protection runs out, you may still benefit from the protection by leaving the scheme before it expires by opting out. If you elect to opt out, you leave the scheme from the start of the next pay period after your employer received the opt out form (or from a later date as you may specify on form). You could then elect to opt back in.

At the point of opting out, we would calculate the benefits you had built up to that point and award you deferred benefits. You would need to consider when the best time is to opt out taking into account the protections previously mentioned. Please see our Deferred leaflet for more information on when and how you can draw deferred benefits. Note that you cannot draw the deferred benefits while you are in the employment you were in when you opted out.

Upon opting back in, you would start building up a new set of pension benefits. The new pension benefits will remain separate from the benefits you built up before opting out.

If you do not choose to opt back in without a break, there will be an impact on the benefits available should certain events occur between leaving and re-joining (redundancy, death, ill health retirement, etc). Additionally, if you have a break, you will not build up benefits for that period.

Things to consider before opting out of the LGPS

Before making a decision to opt out of the Scheme and rejoin, there are a number of factors that you must give full consideration to.

- Deferred benefits will increase in line with inflation (currently measured by the rise in the Consumer Prices Index), but salaries, especially when the effects of promotions and career progression are considered, often exceed inflation. You should, therefore, consider the likelihood of your current pay overtaking your previous pay (increased by inflation) prior to leaving the scheme.
- You will not be able to combine the deferred benefits with any future active pension account.
- If you are made redundant and you have then attained 55, we will put your current active pension at that time into payment. We will not apply a reduction to take account of its early payment. This will not apply to any separate deferred benefits. Those benefits will become payable under the normal rules as set out in the deferred leaflet and could be subject to reductions for early payment.
- You also need to consider how any 85 year rule protections that you may have will be affected. If you have this protection, then by opting out, the protection will only apply to the deferred benefit and not the ongoing continuing membership. The 'rule of 85' allows an eligible member to retire early and to receive their benefits with no early payment reductions or with lesser reductions than would otherwise apply. Please refer to the "Protections" leaflet for more information on this rule.
- When would be the best time to opt out taking into account the protections mentioned earlier in this leaflet.
- If you currently pay into the 50/50 section, you will automatically join the main section upon opting back in. You would need to make a further election to return to the 50/50 section.
- If you are currently purchasing additional benefits or buying back 'lost pension', you will need to contact us so to understand how opting out and back in again will impact on the relevant contract.
- Please see our Protection leaflet which covers the Underpin protection. Where you opt out, you will not be entitled to benefit from the underpin.

You can find further details on the points to consider when making a decision to elect for separate benefits in the 'Combining' section of our website. If you would like more information, please contact us.

Your Pension Service

E-mail: AskPensions@localpensionspartnership.org.uk

Or visit our website: www.yourpensionservice.org.uk

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