

Local Government Pension Scheme - Reductions in pensionable pay

From 1 April 2014, the Local Government Pension Scheme (LGPS) has been a career average revalued earnings (CARE) scheme. However, it is important to note that final salary benefits built up before 1 April 2014 are still calculated on the 'final pay' at leaving.

The final pay used to calculate benefits built up before 1 April 2014 is normally the pensionable pay received in your last year of employment (excluding non-contractual overtime). If you are a part time worker, it is the full time equivalent pay that is used. It is usually the case that a member's pay is highest during their final year of employment.

If the final year's pay is not the highest, LGPS regulations allow for one of the previous two years' pay to be used instead. This is known as the 'best of the last three'. There is also additional protection for members who have had a reduction in pay before the final 3 years of employment. If your pay is reduced or increases to your pay are restricted in your last 10 years of continuous employment with your employer

- because you downgrade or move to a job with less responsibility, or
- as a result of a job evaluation / equal pay exercise, or
- because of a change to what is specified as pensionable pay in your contract (using the definition of pensionable pay before 1 April 2014), or
- is restricted for some other reason

you may have the option to have your final pay calculated as the average of any 3 consecutive years' pay in the last 13 years. These years will always be ending 31 March. To take advantage of this protection, the reduction must have occurred within the 10 years prior to you leaving the scheme and you must have been continuously employed by the same employer who employed you at the date the reduction occurred. You must tell your pension fund that you wish to take up this option no later than one month before leaving.

You cannot make use of this option to use earlier years' pay in working out your benefits if the reduction or restriction to your pay was as a result of the loss of a temporary increase in pay, or resulted from a reduction in your grade in order to take retirement benefits on flexible retirement.

If your pay was reduced or restricted for reasons beyond your control before 1 April 2008 and you were issued with a certificate of protection from your employer and you left the LGPS within 10 years of the reduction or restriction in your pay, then your final pay will be worked out as the best year's pay in the last 5 years, or the average of the best consecutive 3 years in the last 13 years after allowing for inflation.

Bedfordshire Pension Fund may need to contact your employer to confirm request why your pay was reduced or restricted.

Example 1

Trevor suffers a reduction to his pensionable pay as a result of a job evaluation. In this example Trevor's pensionable pay reduces from 1 April 2013. The 10 year protection starts on 1 April 2013 and ends on 31 March 2023. The calculation is made by taking three consecutive years' pensionable pay (the years end on 31 March) within the last 13 years of Scheme membership, and dividing this by three.

1 April 2022 to 31 March 2023 = £17,540
1 April 2021 to 31 March 2022 = £17,230
1 April 2020 to 31 March 2021 = £16,990
1 April 2019 to 31 March 2020 = £16,680
1 April 2018 to 31 March 2019 = £16,220
1 April 2017 to 31 March 2018 = £15,990
1 April 2016 to 31 March 2017 = £15,640
1 April 2015 to 31 March 2016 = £15,230
1 April 2014 to 31 March 2015 = £14,750
1 April 2013 to 31 March 2014 = £14,440
1 April 2012 to 31 March 2013 = £19,870
1 April 2011 to 31 March 2012 = £19,320
1 April 2010 to 31 March 2011 = £18,860

In this case the three years before the pay reduction are used to give a final pay figure calculated as: **(18,860 + 19,320 + 19,870) divided by 3 = £19,350**

In Trevor's case his final pay is £19,350 and this is increased with cost of living increases from 1 April 2013.

This final pay is used to calculate benefits built up before 1 April 2014 only. Benefits built up after 31 March 2014 are calculated under the career average revaluated earnings (CARE) regulations.

How long is Trevor's final pay protected?

In this example, Trevor's final pay is fully protected if he retires or leaves the Scheme on or before 31 March 2023. If Trevor continues to work after 31 March 2023, he may decide to opt out of the Pension Scheme in March 2023 to protect his final pay on benefits built up to 31 March 2014.

However, opting out of the Pension Scheme has other important implications that he would need to consider (see below).

Trevor need not make an immediate decision about opting out but would have to opt out before 1 April 2023 in order to have his benefits calculated using the protected salary.

What would happen if Trevor continued in the pension scheme after 31 March 2023?

Trevor's final pay would not be protected because he is outside of the 10 year protection period.

What are the implications of opting out?

There are several points that you need to consider when thinking about opting out of the Pension Scheme and having preserved benefits.

- If you were to be made redundant with immediate entitlement to benefits, only the pension calculated from the period of membership from the point of re-joining (if you re-joined) might be payable immediately. Whilst the preserved benefits could be paid at age 55 or later they may be reduced to reflect early payment, or paid unreduced at the later of age 65 or your State Pension Age.
- If you had to retire on ill health grounds from the same job, preserved benefits might not be payable. This would depend on the level of incapacity as certified by the Occupational Health doctor. If the preserved benefits are payable on ill health grounds, they would not include any Ill Health enhancement.
- If you have continued in the same employment then you will not be able to access your deferred benefits until such a time as that employment ends.
- By opting out and then re-joining, the benefits for the future period of membership would only be payable without an early payment reduction at your State Pension Age, regardless of any protections that may apply to your earlier membership.
- If you die in service as an active member of the scheme a lump sum of three times your annual pensionable pay would normally be payable. If you have a deferred pension and die before it is paid, a lump sum equal to 5 times the deferred pension is paid. However, only one amount for lump sum life cover is payable from the LGPS so, even if you have a deferred benefits separate from your active pension account, only the greater of the lump sum life cover for your deferred benefit or for your active pension account would be payable.
- Any future pay increases you receive from pay awards and promotion will not be used in the calculation of final pay for your preserved benefits. You will not have the option to combine your preserved benefits with your later membership even if your future pensionable pay exceeds the protected pensionable pay.

If you have a reduction in pay you do not need to make a decision about opting out until nearing the end of the protection period. Any decision on opting out, including the timing, is solely for the member. Bedfordshire Pension Fund cannot provide financial advice. If you need advice before making a decision regarding your pension benefits, you may wish to contact an Independent Financial Adviser. However, any costs you incur will be at your own expense.

What if final pay is already protected following a drop in pensionable pay that happened before 1 April 2008?

Example 2

Ruth had a permanent drop in her pensionable pay before April 2008 and was issued with a Certificate of Protection of pension benefits. Ruth's final pay is already protected by this certificate and either of the following can be used in the calculation of her final pay:

- the highest final pay in the last 5 years or
- the highest consecutive three years pensionable pay in the last 13 years increased by CPI and divided by 3 to give her final pay.

What happens if Ruth now suffers a further reduction to her final pay?

Ruth will now have 2 types of protection. Ruth will still retain protection from her Certificate of Protection of pension benefits and now has further protection under the Scheme rules following her reduction in pensionable pay.

Can a Certificate of Protection of pension benefits be issued if pay reduces in future?

No. Only members who suffered a permanent reduction in pensionable pay before April 2008 and who were issued with a Certificate of Protection of pension benefits before that date are protected under the previous Scheme rules. No further certificates may be issued.

If you have any questions or need more information please contact Bedfordshire Pension Fund:

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These notes cannot cover every circumstance and in the event of any dispute, the appropriate legislation will apply. They do not give any contractual or statutory rights.