DERBYSHIRE COUNTY COUNCIL
LOCAL GOVERNMENT PENSION SCHEME

REDUCTIONS IN PENSIONABLE PAY

FACTSHEET

This factsheet is intended for Scheme members whose pensionable pay is reduced or restricted under any of the following circumstances:

1. **because the Scheme member chooses to be employed by the same employer at a lower grade or responsibility.**
2. **for the purpose of achieving equal pay in relation to other employees at the same employer.**
3. **as a result of a job evaluation exercise.**
4. **because of a contractual change affecting pensionable emoluments.**
5. **because of a restriction to future pay increases that may adversely affect final pay.**

These reductions and restrictions in “final pay” relate to changes from 1 April 2008.

From 1 April 2014, the Local Government Pension Scheme (LGPS) is a career average revalued earnings (CARE) scheme. However it is important to note that benefits accrued to 31 March 2014 are still calculated on the final pay at leaving.

The factsheet sets out “what is final pay” and shows how it may be calculated where a member receives a reduction or restriction to pensionable pay in any of the five circumstances listed above.

The examples show what period of final pay can be used in the calculation of pension benefits. Example 3 shows where a member of the Scheme has received a reduction in pay resulting from one of the reasons detailed above, and how pay is protected for pension purposes.

<u>What is final pay?</u>

The LGPS is a final salary pension scheme with pension benefits based on the period of membership and “**final pay”**.

Final pay is normally the pay received in your last year of employment that you pay pension contributions on. If you are a part time worker it is the full time equivalent pay that is used. Normally final pay is the highest during your last year.

The Scheme rules also allow pension benefits to be calculated on the best year’s pay in the last three years up to the date of retirement or leaving the Pension Scheme.

The Scheme provides; in the event of a reduction in pensionable pay from one of the above reasons, within 10 years of the date of retirement or leaving the Scheme, for pension benefits to be calculated using final pay, which is: the annual average of the best three consecutive years ending with 31 March, within a period of 13 years ending with the last day of Scheme membership.

It is very important to note; the 10 year protection period only applies if you have "chosen" this protection.

If you wish to have the protection, you can complete the form "Reductions in Pensionable Pay Option Form" no later than one month prior to the date you leave active membership of the pension scheme, and return this to your employer. Please do not send this form to the Pension Fund.

It is also important to note that even if the reduction in pensionable pay takes place after 31 March 2014 you can still complete the "Reductions in Pensionable Pay Option Form" to allow the Pension Section to look back at the previous 13 years pensionable pay used in the calculation of benefits prior to 1 April 2014.

For example, if you have chosen protection, and suffer a reduction in basic pay on 1 April 2013 and leave the Scheme on or before 31 March 2023 (within 10 years), the calculation of the final pay for pensionable service up to 31 March 2014, would be based on the "average of the highest consecutive 3 years within the last 13 years of Scheme membership (ending 31 March)". Full protection would last for 10 years from the date of the reduction in pay and end on 31 March 2023.

To see how these Scheme rules are used in the calculation of benefits, please refer to the following examples.

Example 1,

Emma leaves the Scheme on 30 November 2013 and her last year's final pay is the highest so the final pay used is that for the period 1 December 2012 to 30 November 2013.

However, there may be circumstances when the last year's final pay is not the highest.

Example 2,

Joe leaves the Scheme on 30 November 2013. His pensionable pay was lower in his last year so the Scheme rules allow for either of the previous 2 years to be used. This is known as the "best of the last 3 years provision".

Joe's last three years' pensionable pay were,

1 December 2012 to 30 November 2013 = £15,950
1 December 2011 to 30 November 2012 = £15,880
1 December 2010 to 30 November 2011 = £16,130

In Joe's case the final pay used in the calculation of his benefits is £16,130 and this is increased with cost of living increases from 1 December 2011 to date of payment.

However, in certain circumstances when the "best of the last 3 years provision" will not provide the highest final pay, a longer period may be used.

Example 3

Trevor suffers a reduction to his pensionable pay due to one of the five circumstances listed at the start of the factsheet **and has chosen protection**.

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 (ending 31 March) within the last 13 years of Scheme membership, and dividing this by three.

1 April 2022 to 31 March 2023 = £17,540
1April 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:

$$\frac{18{,}860 + 19{,}320 + 19{,}870}{3} = \mathbf{£19{,}350}$$

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 for pensionable service up to 31 March 2014. Pensionable service from 1 April 2014 will be based on LGPS Regulations on career average pay.

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 pensionable service 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 a decision about opting out until March 2023.

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 potential disadvantages that you need to consider when thinking about opting out of the Pension Scheme and having preserved benefits.

- If you were made redundant at age 55 or later, only the pension calculated from the period of membership from the point of rejoining (if rejoined) might be payable immediately. Whilst the preserved benefits could be paid at age 55 or later if you opted out after 31/03/2014 (age 60 if you opt out before 31/03/2014), they may be reduced to reflect early payment, or paid unreduced at the later of 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 and if the preserved benefits are payable on ill health grounds, they would not include any Ill Health enhancement.

- Even if you could have retired at 60 with unreduced benefits, by opting out and then rejoining, the benefits for the future period of membership would only be payable in full at age your State Pension Age. Whilst the preserved benefits could be paid at age 55 or later if you opted out after 31/03/2014 (age 60 if you opt out before 31/03/2014), they may be reduced to reflect early payment, or paid unreduced at the later of 65 or your State Pension Age.

- If you died and had not rejoined the Scheme at that point, the lump sum death in service death grant (3 x annual final pay) would not 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.

For a reduction in basic pay you do not need to make a decision about opting out until nearing the end of the protection period.

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

Example 4,

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 for pensionable service to 31 March 2014, The highest final pay in the last 5 years.

or

The highest consecutive three years pensionable pay in the last 13 years increased by cost of living increases and divided by 3 to give her final pay.

<u>What happens if Ruth now suffers a further reduction to her final pay due to one of the reasons shown?</u>

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.

<u>Can a Certificate of Protection of pension benefits be issued if pay reduces in future?</u>

No. Only members who suffered a permanent reduction in pensionable pay <u>before</u> 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.

IMPORTANT NOTE: The factsheet has been written using our current understanding of the 2014 scheme changes and cannot supersede any future changes to the Regulations. The Pensions Section 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.

March 2014

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