

# A guide to final pay changes and protections from 2014



## About this guide

The Environment Agency Pension Fund (EAPF) is part of the Local Government Pension Scheme (LGPS), which is governed by the LGPS regulations. This guide is for members who want to know more about:

- How the move from a 'final salary' scheme to a 'career average revalued earnings' scheme changes how benefits are calculated.
- How final pay is used to calculate pension benefits under Benefit Regulation 8 (BR8) and some other protections (called Certificates of Protection (COP) and Benefit Regulation 10 (BR10) – Final Pay reductions) that may apply to final pay in certain circumstances.

Please note that this guide will not apply to everyone. However, this guide will apply to you, providing you meet any of the following criteria:

1. You have continuous membership from before 1 April 2014.
2. You have elected to transfer in another period of LGPS membership from before 1 April 2014, **and** you have elected for that membership to be treated as a final salary benefit.\*
3. You have elected to transfer in from another public sector pension scheme, **and** the transfer in payment includes service before 1 April 2015 (treated as LGPS membership before 1 April 2014, so will be calculated as a final salary benefit\*).

\*For points 2 and 3 there is an additional requirement for you to have been a contributing member of a public sector pension scheme (including the LGPS) at some point within the 5 year period prior to joining the EAPF.

The relevant LGPS regulations on final pay, and how this impacts on the calculation of your benefits, are explained below.

## What is final pay?

Before 1 April 2014, the LGPS was a 'final salary' scheme. Final pay was the pay figure used to calculate your pension benefits at the date of leaving contributing membership, and it was derived from the pensionable pay<sup>1</sup> earned during your final pay period.

With effect from 1 April 2014, the LGPS changed from a final salary scheme to a 'career average revalued earnings' (CARE) scheme. Under CARE, your pension is calculated on a yearly basis, based on the pensionable pay you receive during each Scheme year (1 April to 31 March). To ensure that the pension built up each year keeps pace with the cost of living, revaluation is applied to your pension each year.

However, providing you meet any of criteria outlined above, then your pre 1 April 2014 benefits will still be calculated using your final pay when you leave the Scheme. This means that your pension benefits based on membership up to 31 March 2014 will be based on your final pay at date of leaving contributing membership, while pension benefits built up from 1 April 2014 will be calculated on CARE basis.

For part-time employees, the final pay figure is the pensionable pay you would have earned had you worked full time during the final pay period.

If you were receiving a pensionable emolument<sup>2</sup>, the amount of this emolument earned in the final pay period must be included in the calculation of final pay.

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<sup>1</sup> The LGPS regulations define your pensionable pay as your salary and other payments paid to you for your own use in respect of your employment, and any other payment or benefit specified in your contract of employment as being a pensionable emolument. No sum may be taken into account in calculating pensionable pay unless income tax liability has been determined on it.

Executive manager performance related payments are made in arrears and cover the previous financial year (1 April to 31 March) so the calculation to determine the final pay period that produces the highest final pay will include any performance related payment earned in the final pay period and not any amounts paid during that period that were not earned in that period.

Any reduction or suspension of your pensionable pay during the final pay period due to sickness absence is disregarded for the purposes of determining final pay.

The final pay figure used to calculate your pre 1 April 2014 benefits may differ depending on whether you are eligible and have elected to apply a valid COP or BR10, at your date of leaving contributing membership.

### **How is my final pay period determined under BR8?**

Your final pay period is either your final year (365 days) up to and including the day you leave contributing membership of the LGPS either of the two immediately preceding years, if one of those years would produce a higher pensionable pay figure.

This is the calculation that will apply to you unless you are eligible to elect to use one of the protections described below.

### **How is my final pay period determined if I am eligible to elect for COP or BR10 to apply when I stop contributing to the Scheme ?**

Your final pay period may be extended to an earlier period than that described previously if you are entitled to elect for COP or BR10 to apply.

Where you are entitled to elect for a COP to apply when you stop contributing to the Scheme, you may choose for your pre 1 April 2014 benefits to be calculated using your final pay, derived from the pensionable pay earned within one of the following final pay periods:

- Any of the 5 years ending on the anniversary of your date of leaving contributing membership
- The average of any 3 consecutive years falling within the period of 13 years ending on the anniversary of your date of leaving contributing membership

Where you are entitled to elect for BR10 to apply when you stop contributing to the Scheme, you may choose for your pension benefits to be calculated using your final pay, derived from an average of the pensionable pay earned within any 3 consecutive years. These 3 years have to end on a 31 March that's within the 13 years before the day you stopped contributing to the Scheme.

### **How does the final pay period interact with cost of living rises?**

Cost of living rises are applied to your pension benefits from the day after your date of leaving contributing membership, or the day after the last day of the final pay period if this is earlier.



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<sup>2</sup> A pensionable emolument refers to a payment or benefit which is not classified as salary, wages or fees, but is specified in your contract of employment as being pensionable (e.g. uniform allowance). Any pensionable emoluments you receive or expect to receive must be considered when calculating your pensionable pay.

## What is the statutory underpin?

As part of the public sector pension reforms brought about by the Public Service Pension Schemes Act 2013, you may qualify for additional protection, to ensure you don't lose out through the changes to the LGPS.

This will apply if you:

- Were a contributing member on 31 March 2012
- Were aged 55 or over on 1 April 2012
- Have an entitlement to receive immediate payment of your benefits on stopping contributing
- Would have been better off if the final salary scheme had continued from 1 April 2014 until the date you stopped contributing

If all of the above apply to you, then your benefits in the CARE scheme will be increased to the level of the final salary pension.

## What are final pay protections?

### Certificates of protection (COP)

If, through no fault of your own, your pensionable pay prior to 1 April 2008 was:

- reduced, or
- restricted so that the rate at which it may be increased is likely to adversely affect your retirement pension

Then you may have been issued a COP by your Fund employer. You may choose, up to 1 month after leaving contributing membership, for your certificate to be applied, provided the date you stop being a contributing member is within 10 years from the date of reduction or restriction. The final pay period that produces the highest pension benefits, after taking into account cost of living rises that would be applied to your pension benefits after you stop contributing to the Scheme, may be used to calculate your pre 1 April 2014 pension benefits.

### Benefit regulation 10 – final pay reductions (BR10)

If your pensionable pay has been reduced or restricted on or after 1 April 2008 for any of the following reasons:

- you chose to be employed by your Fund employer at a lower grade or with less responsibility
- to achieve equal pay in relation to other employees of your Fund employer
- as a result of a job evaluation exercise
- because of a change in your contract of employment reducing payments or benefits specified as being pensionable emoluments
- because the rate at which your pay may be increased is restricted is to adversely affect your retirement pension

Then, you may choose, up to one month prior to leaving contributing membership, for BR10 to be applied, providing the date you stop being a contributing member is within 10 years from the date of the reduction or restriction. The final pay period that produces the highest pension benefits, after taking into account cost of living rises that would be applied to your pension benefits after you stop contributing to the Scheme, may be used to calculate your pre 1 April 2014 pension benefits.

BR10 does not apply if your employment on reduced or restricted pensionable pay:

- Ceased more than 10 years after the restriction or reduction was applied

- Immediately follows a period in which you occupy a post on a temporary basis at a higher rate of pay
- Is because you chose to be employed at a lower grade, in order to take flexible retirement.

## How do I elect to apply my final pay protections when I leave?

The process for electing to apply COP/BR10 final pay protection on leaving contributing membership is very similar and, in both instances the calculation process is automatic after you make your election.

The final pay period that produces the highest pension benefits, after taking into account cost of living rises that would be applied to your pension, is used to calculate your pre 1 April 2014 pension benefits. Within your leaving documentation, you will be informed and we will ask you to sign a form to confirm your agreement to the COP/BR10 being used.



### Contact details

Capita look after the day to day administration the Scheme and will be your main point of contact for any questions you have about your benefits. You can contact them by:

-  Using the '**contact us**' button on the website at **[www.eapf.org.uk](http://www.eapf.org.uk)**
-  Emailing **[info@eapf.org.uk](mailto:info@eapf.org.uk)**
-  Calling **0800 1216593**
-  Sending your query to: **Capita,  
Hartshead House, 2 Cutlers Gate,  
Sheffield, S4 7TL**

**Disclaimer** - This guide is not intended to cover every personal circumstance, nor does it confer any contractual or statutory rights and is provided for information purposes only. In the event of any dispute over your pension benefits the appropriate legislation will prevail.

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