

**The Local Government Pension Scheme
(England and Wales)
Flexible Retirement**

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Local Government Pension Scheme (England and Wales)
Flexible Retirement

Table of Contents

1	Legislative background	2
2	Options on benefits to draw-down	3
3	Effect of draw-down on remaining entitlements	5
4	Example – Group 1 member retiring with pre-2016 service only	10

1 Legislative background

- 1.1 Under Regulation 18 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (SI 2007/1166), a member aged 55 or over who reduces the hours he works or the grade in which he is employed may request, with his employer's consent, to receive payment of some or all of his benefits notwithstanding that he has not retired from employment. In the remainder of this note, any references to regulations are to those contained in SI 2007/1166, unless otherwise indicated.
- 1.2 Regulation 18(2) requires that where a flexible retirement option is exercised before reaching age 65, the flexible retirement benefits should be reduced in accordance with guidance issued by the Government Actuary. In such cases, the reductions should be identical to those that would apply in non-flexible retirement cases, as set out in the separate GAD Guidance on Early Payment and Flexible Retirement.
- 1.3 Regulation 18(5) requires that the value of any benefits drawn under Regulation 18 should be taken into account in the subsequent calculation of the amount of benefits due under Regulations 16 (age retirement), 17 (late retirement), 18 (flexible retirement), 19 (redundancy), 20 (ill-health retirement) or 30 or 31 (early payment) in accordance with guidance issued by the Government Actuary. The purpose of this note prepared by the Government Actuary's Department for the Department for Communities and Local Government (DCLG), and issued to them for onward transmission to administering authorities and employing authorities, is to provide the guidance required under Regulation 18(5).
- 1.4 Details of the methods which should be used to take account of flexible benefits on determining subsequent benefits under Regulations 16, 17, 18, 19, 20, 30 or 31 are not fully specified in the Regulations. They also do not specify how flexible retirement benefits should be taken into account in some other contingencies, for example on death following flexible retirement. However, DCLG have confirmed the details described in the remainder of this note in relation to all such cases.
- 1.5 The draw-down of benefits under the 1997 Scheme (i.e. service up to 31 March 2008) is covered in Regulation 3(2)(b) and Schedule 2 of the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (SI 2008/238). This follows the revocation of Regulation 35 of the Local Government Pension Scheme Regulations 1997 (SI 1997/1612). DCLG have confirmed the draw-down requirements under the 1997 Scheme.

Caveats

- 1.6 This note should not be used for any purpose other than to determine benefits on flexible retirement and final exit for a member who has opted to take up the option of flexible retirement.
- 1.7 This note should be considered in its entirety as individual sections, if considered in isolation, may be misleading, and conclusions reached by a review of some sections on their own may be incorrect.
- 1.8 This note only covers the principles around the calculation of the benefits on flexible retirement and final exit. Any legal advice in this area should be sought from an appropriately qualified person or source.

2 Options on benefits to draw-down

- 2.1 The benefits that can be taken on flexible retirement need to be divided into three sections:
- (i) the total (whole-time equivalent) period of membership up to and including 31 March 2008, excluding any relevant service arising from items listed in (iii), but including any transferred-in service and employer augmentations (“pre-2008 service”).
 - (ii) the total (whole-time equivalent) period of membership from 1 April 2008 up to the date of flexible retirement, excluding any relevant service arising from items listed in (iii), but including any transferred-in service and employer augmentations (“post-2008 service”).
 - (iii) additional benefits including:
 - (a) service under added years contracts;
 - (b) AVCs that commenced before 13 November 2001;
 - (c) AVCs that commenced on or after 13 November 2001;
 - (d) additional pension contracts.

More details on the pre-2008 and post-2008 service are provided in paragraph 3.1.

Percentage drawn-down

- 2.2 Members can elect to take all or none of their benefits relating to pre-2008 service. Partial drawdown of these benefits is not permitted. Members can, however, elect to draw-down part of, or all or none of their benefits relating to post-2008 service.

Additional benefits

- 2.3 A decision to draw-down pre-2008 service would require the cessation of contributions under type 2.1(iii)(a) or (b) arrangements and the resulting benefits to be taken on flexible retirement.
- 2.4 If no pre-2008 service is drawn-down then additional benefits from these arrangements cannot be taken. In this case the existing arrangements may continue.
- 2.5 The member can choose to take all or none of the benefits arising from type 2.1(iii)(c) or (d) arrangements at flexible retirement. If the member chooses to take their additional pension [type 2.1(iii)(d)] benefits, their existing contract must cease; however, a new additional pension contract could commence after flexible retirement; more AVCs could also be paid.

Other Considerations

- 2.6 Benefits taken on flexible retirement will be subject to actuarial reduction where appropriate.
- 2.7 Flexible retirement constitutes a Benefit Crystallisation Event (BCE) within the meaning of the Finance Act 2004. Therefore, the commutation options as defined in Regulation 21 and GAD guidance issued under that Regulation will apply.
- 2.8 A member will be able to take a flexible retirement option in terms of Regulation 18 on more than one occasion. Where a member elects to exercise this option more than once, the same principles apply as those outlined in this Section and in Section 3 to calculate the benefits on final exit.

3 Effect of draw-down on remaining entitlements

- 3.1 If four categories of members and four categories of service are defined as set out below, the pre-2008 service and post-2008 service can be further broken-down as shown in Table 1.
- Group 1: A member who was a member before 1 October 2006, and born on 31 March 1956 or earlier;
 - Group 2: A member who was a member before 1 October 2006, and born between 1 April 1956 and 31 March 1960 inclusive and who would reach their Critical Retirement Age by 31 March 2020;
 - Group 3: A member who was a member before 1 October 2006 who is not a Group 1 or Group 2 member;
 - Group 4: A member who was not a member before 1 October 2006
- Part A: Membership up to and including 31 March 2008
 - Part B: Membership from 1 April 2008 to 31 March 2016
 - Part C: Membership from 1 April 2016 to 31 March 2020
 - Part D: Membership from 1 April 2020

Table 1: combinations of pension age and accrual rate

Membership type	Member category			
	Group 1	Group 2	Group 3	Group 4
Part A	CRA/80ths	CRA/80ths	CRA/80ths	65/80ths
Part B	CRA/60ths	Taper/60ths	65/60ths	65/60ths
Part C	65/60ths	Taper/60ths	65/60ths	65/60ths
Part D	65/60ths	65/60ths	65/60ths	65/60ths

Note that Part A membership relates to pre-2008 service while Parts B, C and D membership is a further breakdown of the post-2008 service.

Service under added years contracts (ie additional benefits under paragraph 2.1(iii)(a)) count as pre-2008 membership.

Transferred-in service and employer service augmentations should each be allocated to the appropriate category above.

- 3.2 The expressions in Table 1 are defined in terms of Schedule 2 of the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (SI 2008/238). In particular, a “taper” pension age means that attaching to service after 31 March 2008 under the terms of paragraph 7 of Schedule 2 for a member to whom that paragraph applies, and a “CRA” pension age means the earliest age at which the condition in paragraph 1(b) of that schedule is met, in relation to service up to the relevant date.

Initial Draw-down Percentage

- 3.3 The percentages of service which a member decides to draw-down is referred to as the Initial Draw-down Percentage ("IDP%"). The member will need to decide the IDP% for each part of their membership.
- 3.4 The member must decide whether to draw-down all or none of their Part A membership (pre-2008 service). Therefore, the IDP(A)% will be 100% or 0%.
- 3.5 For their post-2008 service, a member will need to decide the respective draw-down percentages for their Part B, C and D membership. Partial drawdown is permitted and the same percentage need not apply. So, the IDP(B)%, IDP(C)% and IDP(D)% can each range from 0 to 100% and need not be the same.

Final pay on exit

- 3.6 The specific periods of membership deemed to be drawn-down will have no effect on the subsequent calculation of a member's final pay following flexible retirement under Regulation 8.

Transitional protection of retirement age

- 3.7 All service accrued following flexible retirement will be based on a pension age of 65 regardless of any transitional protection that the member had prior to flexible retirement. For service up to flexible retirement which had CRA protection, the CRA will still be determined by service before and after flexible retirement, regardless of the benefits taken on flexible retirement. However, after determining the CRA, benefits in respect of service following flexible retirement will be subject to actuarial reduction if taken before age 65. Therefore, this service following flexible retirement should be treated as Part D membership.

Calculation at final exit

- 3.8 Following a flexible retirement, a subsequent award of benefits under the terms of Regulations 16 (age retirement), 17 (late retirement), 19 (redundancy), 20 (ill-health retirement) 30 or 31 (early payment) will be calculated based on the sum of:
- (i) $[100 - \text{IDP(A)}]\%$ of whole-time equivalent pre-2008 service (or Part A membership)
 - (ii) $[100 - \text{IDP(B)}]\%$ of whole-time equivalent Part B membership up to the date of flexible retirement,
 - (iii) $[100 - \text{IDP(C)}]\%$ of whole-time equivalent Part C membership up to the date of flexible retirement
 - (iv) $[100 - \text{IDP(D)}]\%$ of whole-time equivalent Part D membership up to the date of flexible retirement
 - (v) 100% of whole-time equivalent service since the date of flexible retirement,
 - (vi) any additional benefits of type 2.1(iii) which were not taken at the point of flexible retirement and
 - (vii) any additional benefits of type 2.1(iii)(c) and (d) built up since the point of flexible retirement.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

3.9 There will be no effect on the flexible retirement benefits already in payment.

Ill-health retirement

3.10 Following a flexible retirement, if a member leaves under the terms of Regulation 20 (ill-health retirement), the benefits calculated under paragraph 3.8 should be increased as described under parts 20(2), 20(3) or 20(4) of that Regulation, as appropriate. This means that the same enhancement to service would apply on ill-health retirement irrespective of whether the member has drawn-down any service previously.

3.11 However, any protection under Regulation 20(13) that the member had prior to flexible retirement is lost.

Death benefits

3.12 If a member dies after taking flexible retirement, but before taking the remainder of his benefits, the lump sum death benefit will be:

- (i) a death grant under Regulation 23 plus
- (ii) a death grant under Regulation 35 based on the flexible retirement benefits in payment.

If the member is survived by an eligible partner or spouse, they will be entitled to:

- (iii) a survivor's pension calculated under Regulation 24 excluding the service underlying the flexible retirement benefits but including any enhancements under Regulation 20(2) plus
- (iv) a survivor's pension under Regulation 36 in relation to the service underlying the flexible retirement benefits in payment.
- (v) Children's pensions under Regulations 28 and 37 are similarly calculated to avoid the double counting of service.

Withdrawal

3.13 If a member withdraws from the scheme following flexible retirement, their deferred benefits are calculated as in paragraph 3.8.

3.14 If a member retires through ill-health under Regulation 31 after withdrawing from the scheme following flexible retirement, the benefits calculated under paragraph 3.8 should be paid immediately without actuarial reduction for early payment.

3.15 If a member dies after withdrawing from the scheme following flexible retirement, the lump sum death benefit will be:

- (i) a death grant under Regulation 32 (relating to a deferred member) excluding the service underlying the flexible retirement benefits plus
- (ii) a death grant under Regulation 35 based on the flexible retirement benefits in payment.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

If the member is survived by an eligible partner or spouse, they will be entitled to:

- (iii) a survivor's pension calculated under Regulation 33 excluding the service underlying the flexible retirement benefits plus
- (iv) a survivor's pension under Regulation 36 in relation to the service underlying the flexible benefits in payment.
- (v) Children's pensions under Regulations 34 and 37 are similarly calculated to avoid the double counting of service.

Other considerations

- 3.16 Early retirement - where a member's final retirement is before critical retirement age (or normal retirement age, as relevant) then the benefits which are not yet in payment should be reduced for early retirement in line with the GAD Guidance. There will be no effect on the benefits already in payment.
- 3.17 Late retirement - where a member's final retirement is after age 65 then the benefits which are not yet in payment should be increased for late retirement in line with the GAD Guidance. There will be no effect on the benefits already in payment.
- 3.18 Pensions increases - note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.
- 3.19 GMP test - where the flexible retirement requires the application of early retirement reduction factors, authorities may wish to consider the issues in relation to GMPs described in paragraph 8.1 of the GAD Guidance on Early Payment and Flexible Retirement dated 11 April 2008.
- 3.20 Transfer values - where a member who has taken flexible retirement benefits subsequently wishes to take a Cash Equivalent Transfer Value to another scheme under the terms of Regulation 79 of the Local Government Pension Scheme (Administration) Regulations 2008 (SI 2008/239) before finally leaving the scheme, this will only be based on the benefits in paragraph 3.8. The flexible benefits in payment cannot be transferred-out.
- 3.21 CETV on divorce - where a Cash Equivalent Transfer Value calculation is required for divorce purposes in respect of a member who has taken flexible retirement but not yet finally left the scheme, this will be made up of two elements. The first element will be calculated as in paragraph 3.8; the second element will be a "pensioner cash equivalent" and will relate to the flexible retirement benefits in payment.
- 3.22 Pension debits - where a member wishing to take flexible retirement benefits is subject to a pension debit under the terms of Regulation 41, the debit relating to that part of the membership which is being drawn-down should be applied at the point of flexible retirement. Where the member elects to only draw-down a proportion of the membership, the debit should be pro-rated (in proportion to the membership being drawn-down) and applied to the relevant benefit being drawn-down. The remaining debit should be applied when the member eventually retires (or part of it may be applied earlier if the member exercises a further flexible retirement option). For further information please refer to the GAD Guidance on Application of a Pension Debit for Divorced Members.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

- 3.23 Aggregation - any aggregation option exercised under Regulation 16 of the Local Government Pension Scheme (Administration) Regulations 2008 following a flexible retirement will not affect the flexible retirement benefits already in payment. The aggregation option will exclude any service drawn-down as part of that flexible retirement.
- 3.24 Abatement - Regulation 71(5) of the Administration Regulations provides that benefits payable following flexible retirement are not subject to abatement in respect of any future employment with the same employer.
- 3.25 Where a member elects to take flexible retirement more than once, similar considerations as those set out in this guidance apply to determine the benefits at each point of draw-down and to subsequently calculate the benefits on final exit.



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Example – Group 1 member retiring with pre-2016 service only

In this example an employer gives consent for a member to take flexible retirement at age 55 as a result of grade reduction. His salary falls by 20%. He decides to draw-down his entire Part A membership (ie pre-2008 service) and 50% of Part B membership (ie post-2008 service) accrued so far.

The example gives an illustration of the benefits at flexible retirement and subsequently on:

1. age retirement
2. ill-health retirement
3. death
4. withdrawal from service

Note – This example has been simplified for ease of understanding and figures have been rounded. Any pensions increases are applied in an approximate manner and ignore the requirement under Paragraph 2 of Section 8 of the Pensions (Increase) Act 1971. Salary increases are also applied in an approximate manner.

Basic information

Gender	Male
Date of birth	31 March 1956
Date of commencement of service	1 April 1986
Date of flexible retirement	31 March 2011
Critical retirement date	31 March 2016
Critical retirement age (CRA)	60 (exact) ¹
Marital status	Married

At flexible retirement:

Age (last birthday)	55
Pre-2008 Service	22 years
Post-2008 Service	3 years
Pensionable pay (<i>before salary falls by 20%</i>)	£25,000.00 pa
Final pensionable pay (<i>before salary falls by 20%</i>)	£25,000.00 pa
IDP(A)%	100%
IDP(B)%	50%

Assume no further commutation of pension for lump sum.
Assume that the member has no other additional benefits.

Pension drawn-down

Part A membership for flexible retirement = 22 years
 Part A pension (before actuarial reduction) = $22 / 80 \times £25,000.00 =$ £6,875.00 pa
 (*Part A retirement grant of $3 \times £6,875.00 = £20,625.00$*)

Part B membership for flexible retirement = $0.5 \times 3 \text{ years} = 1.5 \text{ years}$
 Part B pension (before actuarial reduction) = $1.5 / 60 \times £25,000.00 =$ £625.00 pa

¹ Note that the member meets the Rule of 85 at age 58.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

The appropriate Early Retirement factors from the GAD guidance dated 11 April 2008 are:

$$P_{CRA} = 16\%$$

$$RG_{CRA} = 7\%$$

(In accordance with Paragraph 1 of Schedule 2 of the 2008 Transitional Regulations, a 3 year deduction applies for the period between age 55 and Rule of 85 age of 58)

The benefits paid to the member at flexible retirement will be:

$$\text{Part A pension} = \text{£}6,875.00 \times (1 - 0.16) = \text{£}5,775.00 \text{ pa}$$

(Retirement grant of £20,625.00 x (1 - 0.07) = £19,181.25 will also be paid to the member.)

$$\text{Part B pension} = \text{£}625.00 \times (1 - 0.16) = \text{£}525.00 \text{ pa}$$

$$\text{Total drawn-down pension at flexible retirement} = \text{£}5,775.00 + \text{£}525.00 = \text{£}6,300.00 \text{ pa}$$

Scenario 1 – Age retirement

In accordance with paragraph 3.7 normal retirement age for this residual pension will be age 65. His benefits will be as follows:

$$\begin{aligned} \text{Residual Part B membership up to the date of flexible retirement} \\ = 0.5 \times 3 \text{ years} = 1.5 \text{ years (see paragraph 3.8)} \end{aligned}$$

$$\begin{aligned} \text{Residual Part B membership at age 65 after the date of flexible retirement} \\ = 10 \text{ years (see paragraph 3.8)} \end{aligned}$$

Final pay at age 65 = £24,000.00 pa *(ie reduction in pensionable pay after flexible retirement to £20,000 pa with approximately ten years of salary increases)*

$$\begin{aligned} \text{Residual Part B pension at age 65} &= (1.5 \text{ years} + 10 \text{ years}) / 60 \times \text{£}24,000.00 \\ &= \text{£}4,600.00 \text{ pa} \end{aligned}$$

This residual pension will be paid alongside the drawn-down pension already in payment².

Scenario 2 – Ill-health retirement

If the member subsequently retires on tier 1 ill-health at age 57 exactly, his benefits will be as follows:

$$\begin{aligned} \text{Residual Part B membership up to the date of flexible retirement} \\ = 1.5 \text{ years (see paragraph 3.8)} \end{aligned}$$

$$\begin{aligned} \text{Residual Part B membership at age 57 after the date of flexible retirement} \\ = 2 \text{ years (see paragraph 3.8)} \end{aligned}$$

Tier 1 enhancement to age 65 = 8 years

Final pay at age 57 = £25,000.00 pa *(ie due to final pay definition of best pay in last 3 years)*

² Note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

Residual pension at age 57 = (1.5 years + 2 years + 8 years) / 60 x £25,000.00
= £4,791.67 pa

This pension will be paid alongside the drawn-down pension already in payment³.

[Paragraphs 3.10-3.11 set out the benefits on ill-health retirement.](#)

Scenario 3 – Death

If the member dies at age 56 exactly, the following benefits will be payable:

Lump sum death benefit

(1) Active death grant:

Final pay at age 56 = £25,000.00 pa (*ie due to final pay definition of best pay in last 3 years*)

Active death grant = 3 x £25,000.00 = £75,000.00

(2) Pensioner death grant:

Drawn-down pension in payment at age 56⁴ = £6,300.00 pa

Pensioner death grant = £6,300.00 x 10 - £6,300.00 = £56,700.00

Total death grant = £75,000.00 + £56,700.00 = £131,700.00

[Paragraphs 3.12\(i\) and 3.12\(ii\) set out these benefits.](#)

Pension paid to surviving spouse

(1) Benefits relating to Active service:

Residual Part B membership up to the date of flexible retirement
= 1.5 years (*see paragraph 3.8*)

Residual Part B membership at age 56 after the date of flexible retirement
= 1 year (*see paragraph 3.8*)

Enhancement to age 65 = 9 years

Spouse's pension = (1.5 years + 1 year + 9 years) / 160 x £25,000.00
= £1,796.88 pa

(2) Benefits relating to drawn-down pension:

³ Note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.

⁴ No pensions increase as death occurs just before the relevant Pensions Increase date.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

Spouse's pension at flexible retirement = (22 years + 1.5 years) / 160 x £25,000.00 =	£3,671.88 pa
Spouse's pension at member's death ⁵ =	£3,671.88 pa
Total spouse's pension = £1,796.88 + £3,671.88 =	£5,468.76 pa

Paragraphs 3.12(iii) and 3.12(iv) set out these benefits. In addition, if the member dies leaving one or more eligible children then benefits as set out in paragraph 3.12(v) are also payable.

Scenario 4 – Withdrawal from service

If the member withdraws from service at age 57 exact, his benefits will be as follows:

Residual Part B membership up to the date of flexible retirement	= 1.5 years (see paragraph 3.8)
Residual Part B membership at age 57 from the date of flexible retirement	= 2 years (see paragraph 3.8)

Final pay at age 57 = £25,000 pa (ie due to final pay definition of best pay in last 3 years)

Pension at age 57 = (1.5 years + 2 years) / 60 x £25,000.00 =	£1,458.33 pa
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In accordance with paragraph 3.7, normal retirement age for residual Part B membership from the date of flexible retirement will be age 65. CRA protection still applies to the residual Part B membership up to the date of flexible retirement. If the member opts to take their residual pension earlier than their CRA or age 65, then all or part of it will be actuarially reduced for early payment in accordance with the GAD guidance.

The pension drawn-down at age 55 is unaffected and continues to be paid to the member.

Member finally retires at age 65

Residual pension at age 57 increased by appropriate pensions increases to age 65 = £1,650.00 pa

This pension will be paid alongside the drawn-down pension already in payment⁶.

Paragraph 3.13 sets out this benefit.

Ill-health retirement after withdrawing from service

If after withdrawing from service the member retires on ill-health (tier 1) at age 58 exact, his benefits will be as follows:

Residual pension increased by appropriate pensions increases to age 58⁷ = £1,458.33 pa

⁵ No pensions increase as death occurs just before the relevant Pensions Increase date.

⁶ Note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.

⁷ No pensions increase as ill-health occurs just before the relevant Pensions Increase date.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

This pension will be paid alongside the drawn-down pension already in payment⁸.

[Paragraph 3.14 sets out this benefit.](#)

Death after withdrawing from service

If after withdrawing from service the member dies at age 58 exact, the following benefits will be payable:

Lump sum death benefit

(1) Deferred death grant:

Deferred pension at age 58⁹ = £1,458.33 pa

Deferred death grant = £1,458.33 x 5 = £7,291.65

(2) Pensioner death grant:

Drawn-down pension in payment at age 58 = £6,500.00 pa

Pension death grant¹⁰ = £6,500.00 x 10 - £6,300.00 - £6,400.00 - £6,500.00 = £45,800.00

Total death grant = £7,291.65 + £45,800.00 = £53,091.65

[Paragraphs 3.15\(i\) and 3.15\(ii\) set out these benefits.](#)

Pension paid to surviving spouse

(1) Benefits relating to Deferred service:

Residual Part B membership up to the date of flexible retirement
= 1.5 years (see paragraph 3.8)

Residual Part B membership at withdrawal from the date of flexible retirement
= 2 years (see paragraph 3.8)

Spouse's pension at withdrawal = (1.5 years + 2 years) / 160 x £25,000.00 = £546.88 pa

Spouse's pension at member's death⁹ = £546.88 pa

⁸ Note that the increase applicable to the drawn-down pension in payment at the first Pensions Increase date following final exit may differ from that applicable to the residual pension at final exit.

⁹ No pensions increase as death occurs just before the relevant Pensions Increase date.

¹⁰ £6,300 pa paid in the first year following flexible retirement, £6,400 pa paid in the second year and £6,500 pa paid in the third year.

Local Government Pension Scheme (England and Wales)
Flexible Retirement

(2) Benefits relating to drawn-down pension:

Spouse's pension at flexible retirement = $(22 \text{ years} + 1.5 \text{ years}) / 160 \times \text{£}25,000.00 = \text{£}3,671.88 \text{ pa}$

Spouse's pension at member's death allowing for pensions increases = $\text{£}3,800.00 \text{ pa}$

Total spouse's pension = $\text{£}546.88 + \text{£}3,800.00 = \text{£}4,346.88 \text{ pa}$

Paragraphs 3.15(iii) and 3.15(iv) set out these benefits. In addition, if the member dies leaving one or more eligible children then benefits as set out in paragraph 3.15(v) are also payable.