EMPLOYER FACTSHEET

Pay

Pensionable pay is everything you pay an employee to do their job, except what's listed below.

1. A payment for 'loss of future pensionable payments or benefits' is not pensionable. For example, if you remove contractual overtime from a member's contract and pay a lump sum to compensate for that removal, it's not pensionable.
2. Payments you make during Reserve Forces Service Leave (RFSL) are not pensionable – the Ministry of Defence pays contributions based on assumed pensionable pay (APP).

Also excluded is -

From the regulations:

(a) any sum which has not had income tax liability determined on it

(b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment

(c) any payment in consideration of loss of holidays

(d) any payment in lieu of notice to terminate a contract of employment

(e) any payment as an inducement not to terminate employment before the payment is made

(f) any amount treated as the money value to the employee of the provision of a motor vehicle or any amount paid in lieu of such provision

(g) any payment in consideration of loss of future pensionable payments or benefits

(h) any award of compensation (excluding any sum representing arrears of pay) for the purpose of achieving equal pay in relation to other employees

(i) any payment made by the scheme employer to a member on reserve forces service leave

(j) returning officer, or acting returning officer fees other than fees paid in respect of

(i) local government elections

(ii) elections for the National Assembly for Wales

(iii) Parliamentary elections or

(iv) European Parliamentary elections.

1. Pensionable pay and salary sacrifice

HMRC approved salary sacrifice arrangements are pensionable if the benefit in kind is specified in the employee's employment contract as a pensionable emolument.

If holiday entitlement is sold in return for extra pay the extra pay is non-pensionable, because it's a 'payment in consideration of loss of holidays'.

If a member gives up pay for additional days of holiday, treat this as authorised unpaid leave of absence. The member can choose whether or not to cover the absence for pension purposes. If they do, they pay an age-related additional pension contribution (APC) to cover the amount of pension 'lost' during the period of authorised unpaid leave of absence.

A way around this is to change your members' employment contracts so they are only required to work (for example) 360 days a year, in the same way a term-time member is contracted to work term-time only.

2. Arrears of pay

Benefits are calculated on the pensionable pay a member actually gets in the scheme year (1 April to 31 March), not the pay *due* in that period.

If you pay arrears – or make other payments in the current pay period that relate to a previous period or scheme year – they are treated as cumulative pensionable pay in the period you pay them.

3. Cumulative pensionable pay (CPP)

This is the total of the actual pensionable pay the member paid pension contributions on and/or the assumed pensionable pay (in either section of the scheme) in the scheme year.

Provide CPP separately for each section of the scheme (main and 50/50) because different accrual rates apply to the two sections when we calculate a member's pension.

Example – moving sections within a year

A member is on a salary of £24,000 for the full scheme year and moves to the 50/50 section after three months. They will have already earned £6,000. They stay in the 50/50 section for five months and earn £10,000. They then move back to the main section and earn another £8,000. So their cumulative pay at the end of the scheme year is £14,000 in the main section and £10,000 in the 50/50 section.

4. Assumed pensionable pay (APP)

APP is used instead of actual pay for a member who

a. is on leave due to sickness or injury and is on reduced contractual pay or no pay

b. is on child-related leave, or

c. is absent on reserve forces service leave.

You need to calculate APP for pension purposes from

- the date of the reduction (for sickness or injury), **or**
- the date the relevant child-related leave began

Members pay contributions on any pensionable pay they get in these periods of absence but employers pay contributions on the APP.

Relevant period

APP is calculated as an annual rate then applied to the relevant period as a proportion of that rate. The relevant period starts on the date the member drops to reduced contractual pay or no pay due to sickness or injury – or when the relevant child-related leave or Reserve Forces Service Leave starts – and ends on the day they start a period of unpaid absence (excluding sickness), return to full pay, or leave the scheme.

Note: the relevant period does not include unpaid additional maternity, paternity or adoption leave at the end of relevant child-related leave. This is treated as an unpaid absence and no APP accrues during this period.

Calculating APP

Calculate the APP using an average of 12 weeks' or 3 months' pay (depending on the pay frequency) and uprate it to an annual figure. You can add any regular lump sums you expect them to receive over the relevant period. Then apply APP instead of actual pay for the relevant period.

You can substitute a higher figure where APP is lower than the pay the member would have received if they were at work. The higher figure is calculated using the pay the member received in the previous 12 months.

Note: if the pensionable pay the member received was reduced as a result of absence due to strike or authorised absence, the reduction is to be ignored for the purposes of calculating the member's assumed pensionable pay.

Pay periods other than monthly

Calculate the annual rate as follows for a member paid other than monthly.

- Calculate the average of the pensionable pay for the 12 complete weeks before the start of the relevant period, after removing any lump sums but including any APP already credited in those 12 weeks.
- Gross up to an annual figure.
- If 12 complete pay periods don't exist, use the complete periods that are available.

Monthly paid

For a monthly-paid member, use 3 complete pay periods instead of 12 but calculate it the same way.

Example – calculating APP for a monthly-paid member

A monthly-paid member has received the following pensionable pay in the three complete months before the start of the relevant period, and you expect that APP will apply for the next six months.

- Month 1 – £1,400
- Month 2 – £2,500 including a £1,000 regular bonus and £100 overtime
- Month 3 – £1,400

The annual rate of APP is (£1,400 + £1,500 + £1,400 ÷ 3) x 12 = £17,200

Remove the bonus before averaging and grossing up the calculation or it will artificially inflate the APP figure.

If (when the APP starts) you think it's likely the member will again receive (during the relevant period when APP will apply) the regular lump sum payment they received in the previous 12 months, add it back into the annual rate of APP after you uprate it to an annual figure.

When you decide whether the lump sum should be added back into the APP annual rate, consider if the member will be still be on APP when they next get the lump sum.

In the example above, if you decide the period of APP will extend to 11 months or more and the £1,000 bonus would have been paid again within the period of APP, the amount could be added back into the assumed annual pensionable pay rate.

The calculation is (£1,400 + £1,500 + £1,400 / 3) x 12 = £17,200 + £1,000 = £18,200

Proportioning

Decide what proportion of the annual APP that you calculated needs to be added in to CPP, this will be the length of the relevant period. If the relevant period is not in complete months or weeks, proportion it for the part pay period.

Calculate this just as you would to pay somebody for a part month.

Example – proportioning three days' pay

If APP applies for the period 1 May 2019 to 3 August 2019 use three complete months and three days from August.

For three days in August this could be:

- Annual rate/365 x 3
- Annual rate/365 x 3/31
- Annual rate/12 x 3/22

Keep in Touch (KIT) days

When a member is on relevant child-related leave and returns for a KIT day, add their pensionable pay for that day to the cumulative pensionable pay rather than the APP if the actual pay is higher than the assumed pay. The APP before and after the KIT day will be the same, so you don't need to recalculate it.

Adjusting the assumed pensionable pay figure

Once set, assumed pensionable pay is not subsequently adjusted unless it continues for a period that goes over two 31 March dates. Where a member is on long term sick leave, assumed pensionable pay needs to be adjusted because of inflation. It is adjusted at midnight on the second 31 March following the date the relevant period commenced.

The adjustment is the percentage specified in the Treasury Revaluation order for that (second) scheme year ending on that 31 March.

If the relevant period continues for a further year it will be revalued again at midnight on the next 31 March and so on.

General

APP **doesn't** apply during any period of unpaid additional maternity, paternity or adoption leave at the end of relevant child-related leave. Treat this as unpaid leave of absence.

If the member has a period of authorised unpaid leave of absence, don't add APP to the pensionable pay cumulative for that period of absence. But if the member decides to buy the pension 'lost' during the absence through an APC contract, you'll need the APP, but only to calculate the amount of 'lost' pension. Don't add it into the pensionable pay cumulative.

50/50 rule

If the member was in the 50/50 section before dropping to nil contractual pay because of sickness, injury or child related leave, move them back into to the main section from the beginning of the next pay period (as long as they're still on no pay then).

Example – 50/50 no pay

A monthly-paid member goes from half pay to no pay in the middle of August. The APP for August would be the cumulative pensionable pay in the 50/50 section whereas the APP in September would be the main section cumulative pensionable pay.

5. Reserve Forces Service Leave (RFSL) and APP

If a member is on RFSL calculate APP while the reservist is on leave and add it into the member's pensionable pay in either the main or 50/50 section so the member continues to build up a pension as if they were still at work.

Employers don't pay employer contributions on the APP, instead, you should notify the reservist and the Ministry of Defence (MoD) of

- the APP figure, and
- member and employer contribution rate

The MoD deducts the member contribution from the reservist and pays that, together with the employer contribution, directly to us.

If the employer continues to pay the reservist some pay when they are on RFSL, neither member or employer contributions are payable on that pay (because it's non-pensionable and contributions are paid on the APP figure instead). What you pay the reservist isn't added into the member's pensionable pay figure (into the main or 50/50 section pensionable pay) because the APP has already been added into the pensionable pay.

6. Tier 1 and 2 ill-health pensions & death in service APP

Calculate APP when

- you terminate a member's employment because of permanent ill health with a tier 1 or tier 2 ill-health pension, or
- an active member dies in service, or
- a tier 3 ill-health pension is awarded which is then uplifted to a tier 2 ill-health pension.

Calculate APP in the normal way using either 3 (monthly paid) or 12 (weekly paid) pay periods before the member left employment or died. Add in any regular lump sum payments if it's likely you would have paid them to the member.

Note: if the pensionable pay the member received was reduced as a result of absence due to strike or authorised absence, the reduction is to be ignored for the purposes of calculating the member's assumed pensionable pay.

We use this APP figure to calculate how much enhancement the member gets for ill health retirement and for death in service it is used to calculate the amount of enhancement added to the pension for a surviving spouse, civil partner, eligible cohabiting partner or eligible child.

When an Independent Registered Medical Practitioner certifies that the member was working reduced contractual hours during the relevant 12 (weekly) or 3 (monthly) pay periods because of ill health, calculate the APP figure on the pay the member would have received during the relevant pay periods if they hadn't been working reduced contractual hours.

7. Final pay

You still need to provide final pay for members with membership before 1 April 2014.

The Local Government Pension Scheme (Benefits, Membership & Contributions) Regulations 2007 set out the definition of pensionable pay in Regulation 4.

Meaning of "pensionable pay"

(1) An employee's pensionable pay is the total of

(a) all the salary, wages, fees and other payments paid to him for his own use in respect of his employment; and

(b) any other payment or benefit specified in his contract of employment as being a pensionable emolument.

(2) But an employee's pensionable pay does not include

(a) payments for non-contractual overtime;

(b) any travelling, subsistence or other allowance paid in respect of expenses incurred in relation to the employment;

(c) any payment in consideration of loss of holidays;

(d) any payment in lieu of notice to terminate his contract of employment;

(e) any payment as an inducement not to terminate his employment before the payment is made.

(f) the amount of any supplement paid

(i) by the Environment Agency; or

(ii) to an employee whose employment is transferred on 1st April 2010, under a staff transfer scheme, from the Learning and Skills Council for England to a local authority or to London Councils Limited, in recognition of the difference in contribution rates between members of the principal civil service pension scheme and the Scheme; or (SI 2010/528)

(g) any payment by way of compensation for the purposes of achieving equal pay in relation to other employees. (SI 2009/3150)

(3) No sum may be taken into account in calculating pensionable pay unless income tax liability has been determined on it.

(4) In this regulation "local authority" has the same meaning as in regulation 16A. (SI 2010/528)

We need final pay when a member leaves, and for active members at every 31 March for their pension statement and the annual allowance calculation.

Final pay is usually the total pay contributions were paid on (or deemed to be paid on) in the last 365 days of employment. For part-time members, it's the full-time equivalent.

Note: if a member had different rates of pay during the last 365 days of employment we need the final pay based on the different rates for each period and not the rate of pay at the date of leaving.

Term time (Not Hounslow or Barnet)

If a member is contracted to work less than 52 weeks per year, the final pay should be adjusted by the term time formula.

Example – term time adjustment

Full time equivalent is £18,000 per year but the member is only contracted to work 48.5 weeks per year.

£18,000 / 52.143 weeks x 48.5 weeks = £16742.42

If either of the preceding two years would give a higher figure, we use that figure instead.

Example – a previous year's pay is higher

A member leaving on 13 August 2020 needs final pay calculating for these periods:

1. 14 August 2019 to 13 August 2020
2. 14 August 2018 to 13 August 2019
3. 14 August 2017 to 13 August 2018

If a member has a period of unpaid leave in the last 365 days tell us the pay for the number of days they actually paid contributions. We'll gross the figure up to 365 days so we can calculate pension benefits.

If a member was absent because of illness or injury in the last 365 days, disregard any period of reduced or unpaid sickness and calculate the final pay for the last 365 days on the pay they would have received if they hadn't been away from work on sickness/injury.

If you pay arrears in the final pay period that relate to a different period, don't include them in the final pay.

8. Pay protection

If a **reduction in pay notification** was issued for any member with a reduction or restriction in pay after 1 April 2008, they have the right for 10 years to choose the best average of any consecutive three years in the last 13 years of membership. That 13 years ends on 31 March rather than the anniversary of the date of leaving.

This right continues to apply even where a pay cut or restriction occurs after 31 March 2014.