

The figures in the table below will increase on 1st April each year by the rise in the Retail Prices Index with the first increase being in April 2009⁶.

Band	Whole-time equivalent pay	Contribution rate
1	Up to £12,000	5.5%
2	More than £12,000 and up to £14,000	5.8%
3	More than £14,000 and up to £18,000	5.9%
4	More than £18,000 and up to £30,000	6.5%
5	More than £30,000 and up to £40,000	6.8%
6	More than £40,000 and up to £75,000	7.2%
7	More than £75,000	7.5%

The LGPC Secretariat understands that the Transitional Provisions Regulations will require employers to determine the rate before April. Apparently, employers could do this by reference to, for example, the WTE rate at 31st March 2008 or, if they know what someone's pay will be from 1st April, by reference to their WTE rate from 1st April.

The band for any whole-time term-time employee is the band relevant to the pay the person receives for the weeks worked e.g. 44 weeks rather than 52 weeks. The band for any part-time term-time employee is the band relevant to the whole-time equivalent pay the person would have received in the weeks worked e.g. 44 weeks rather than 52 weeks.

The overall effect therefore is as follows:

- for someone who works, say, 37 hours per week for 52 weeks of the year, the contribution band is assessed by reference to their actual pensionable rate of pay.
- for someone who works, say, 20 hours per week for 52 weeks of the year, the contribution band would be assessed by reference to the WTE equivalent pay i.e. gross up their actual pensionable rate of pay by 37/20.
- for someone who works, say, 37 hours per week but for only 44 weeks of the year, the contribution band is assessed by reference to their actual pensionable rate of pay, not the pay grossed up by 52/44.

⁶ In practice, the new table will be applied from the beginning of the first pay period in each year (even though this pay period may not actually start on a 1st April e.g. for weekly, fortnightly or 4 weekly paid staff).

- for someone who works, say, 20 hours per week for 44 weeks of the year, the contribution band would be assessed by reference to the WTE equivalent term-time pay i.e. gross up their actual pensionable rate of pay by 37/20 (but do not gross it up further by 52/44).

It should be noted that, according to CLG, an employee whose post could be 52 weeks per year but who, for personal reasons (e.g. for work-life balance reasons or to fit in with school holidays), chooses with the agreement of the employer to work less than 52 weeks will not be treated as a term-time employee, but as a part time employee.

Employers may be asked to explain why the contribution band for a part-time employee is determined by reference to their whole-time equivalent rate of pay. Well, take two people on the same scale point, one who is half-time and earning £10,000 with the other being full-time earning £20,000. Both are receiving the same hourly pay rate.

Using the WTE pay rate for both would result in a contribution rate of 6.5% and:

- for one year in the scheme the full-timer would pay $£20,000 \times 6.5\% = £1,300$ and get a benefit of $1 \times 1/60^{\text{th}} \times £20,000 = £333.33$
- for one year in the scheme the half-timer would pay $£10,000 \times 6.5\% = £650$ and get a benefit of $0.5 \times 1/60^{\text{th}} \times £20,000 = £166.67$

So, the half-timer would pay exactly half the contributions and get exactly half the pension of a full-timer.

If, on the other hand, the contribution rate had been based on actual pay, rather than the WTE pay, the full-timer would have paid 6.5% and the half-timer would have paid 5.5%. Thus:

- for one year in the scheme the full-timer would have paid $£20,000 \times 6.5\% = £1,300$ and got a benefit of $1 \times 1/60^{\text{th}} \times £20,000 = £333.33$, and
- for one year in the scheme the half-timer would have paid $£10,000 \times 5.5\% = £550$ and got a benefit of $0.5 \times 1/60^{\text{th}} \times £20,000 = £166.67$

In this latter scenario, the half-timer would have paid much less than half the contributions of a full-timer, but would get a benefit that is exactly half that of a full-timer. This would clearly not have been equitable⁷. For this

⁷ Some may seek to argue that, nevertheless, the method of calculation disadvantages some part-time employees who pay more for a benefit than a full-time employee. Take, for example, Employee A who earns £12,000, works full time for 10 years and will get a pension equal to 10/60ths of £12,000 for a contribution rate of 5.5%. Employee B earns £24,000 full time salary but works 18.5 hours per week for 10 years and will get a pension equal to 5/60ths of £24,000 for a contribution rate of 6.5%

Both employees will receive the same pension of £2,000 per annum but:

reason, and because CLG took the view that the pro-ration principle in the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 [SI 2000/1551] applies to deductions as well as hourly pay rates, the decision was taken to base the contribution rate of a part-time employee on their WTE pay.

In order to ensure that the payroll system is updated to cater for tiered employee contributions, employers will need to speak to their IT section (if the payroll programmes are maintained “in-house”) or to their payroll software supplier or, if payroll has been outsourced, to their payroll provider. Payroll programmes will need to be amended and tested to ensure the programme can effectively implement the employer’s policy i.e.

- it can allocate staff to the correct band (or bands if, for example, an employee has two jobs, each one of which falls into a different band),
- it can update the bands each April in line with Pensions Increase (i.e. in line with the published RPI figure), and
- it can reallocate employees to the correct band at any time during the year (if the employer’s policy is to do so – see below regarding reallocation).

Authorities responsible for education should ensure that schools with delegated budgets who run their own payroll or who have outsourced their payroll are aware of and comply with the Council’s policy.

It will be necessary to ensure that payroll and personnel officers understand the policy in order to ensure its effective implementation and to deal with queries from employees.

The initial attribution to a contribution band must be carried out on a reasonable basis. Employees must be notified of the employer’s decision on the contribution rate they will pay (determined by the pay band they are being placed in) and of their right of appeal against that decision under the scheme’s Internal Dispute Resolution Procedure (IDRP). Employers should, if they have not already been contacted by the Pensions Section, check with their Pension Fund administering authority to confirm the procedure the administering authority wishes them to follow i.e. whether the employer should notify the employee of their contribution rate and right of appeal or whether the employer should notify the Pensions Section who will, in turn, notify the employee via a statutory notification. The LGPC

Employee A will have paid in 5.5% of £12,000 for 10 years = £6,600 of contributions
whereas
Employee B will have paid in 6.5% of £12,000 for 10 years = £7,800 of contributions

However, the argument that the part-timer, Employee B, has paid more for the same benefit is not valid as the basis of all part-time equality legislation is the need to judge a case against an equivalent full-time **comparator** employee, not against someone doing a completely different job.

Secretariat suspects, however, that the latter option will not be feasible in relation to existing staff due to the short time left between now and April 2008. If the former option is followed (i.e. the employer notifies the employee direct), employers should already have IDRP letters, leaflets, forms etc in place (as these already form part of the current scheme's procedures). In the absence of any standard letters or leaflets, employers may wish to use the draft letter and explanatory leaflet⁸ attached to this Circular (at Annex 3) but employers should check with their Pension Fund administering authority first as the administering authority may have other letters, leaflets or forms that they would prefer the employer to use.

Any appeal by an employee against the band they had been allocated to would be made under the LGPS Internal Dispute Resolution Procedure (IDRP). At stage 1 of the IDRP the scheme member would appeal to the person appointed by the employer to hear stage 1 appeals. The employer should already have someone appointed to hear appeals under IDRP (as the employer is already required to tell employees about the right of appeal and who to appeal to when notifying employees of any pension decision under the current scheme). If the appointed person does not agree with the appellant and turns down the appeal, the appellant has the right to refer the complaint to Stage 2 i.e. to the administering authority. If the appeal fails at Stage 2, the person then has the right of appeal to the Pensions Ombudsman.

Employers will have to notify the Pensions Section of the contribution rate each employee has been allocated to (and of any subsequent change in the rate and the date of the change). Unless the Pensions Section has already been in contact to confirm procedures, employers will need to liaise with the Pensions Section to confirm the processes the administering authority wishes employers to follow i.e. how and when to notify the Pensions Section of employee contribution rates. As now, employers will be required to send a statement to the Pensions Section of the contributions deducted from employees (perhaps monthly or annually, depending on the procedures of the administering authority). However, that statement must now show:

- the name, pay and band of each employee who is a scheme member
- which employees are paying Additional Regular Contributions (ARCs) and / or Additional Voluntary Contributions (AVCs)
- the amounts which represent deductions in each of the pay bands from the pay of each of the employees and the periods covered by the deductions, distinguishing any amounts representing deductions for any voluntary contributions.

⁸ The CLG produced an IDRP guide for employees, including a form for scheme members to complete under the dispute procedure. This is available on their website at <http://www.xog83.dial.pipex.com/empga.htm>

The new scheme Regulations are likely to say that, once allocated, an employer can reallocate an employee to a new band following a material change in their pay. It seems that an employer could, therefore, reattribute

- a) once a year
- b) upon a contractual change
- c) whenever pay changes

provided that the decision to reallocate is reasonable.

Each option has a number of pros and cons.

Under option (a) the bands would be reassessed, say, at the beginning of each April. The advantages of this approach are:

- i) it is the simplest approach from a payroll perspective
- ii) if reassessed at the beginning of the financial year there would be no need to split pay bands and contributions on the end of year return to the Pension Fund administering authority.

The disadvantages of option (a) are:

- i) if a person's pay, because of a backdated pay award, a regrading, increment, etc. increases during the year and the increase would have taken them into a new band, the person will not be allocated to that new band, paying the higher contribution rate, until the following April. Overall, the contribution "take" from employees would be marginally less than would have been the case if the bands were reassessed whenever there is a pay change. However, it is likely that it would be many years before this would have an impact on the employer's contribution rate
- ii) if a person's pay decreases (e.g. as a result of a downgrading, be that voluntary or otherwise) and the decrease would have taken them into a lower band, the person will not be allocated to that new band, paying the lower contribution rate, until the following April. Persuading an employee in this situation that they should continue for the remainder of the year to pay at the higher rate might be difficult
- iii) if the reassessment is undertaken once a year, but the date chosen to do this is not April (i.e. the beginning of the financial year), it would be necessary to split pay bands and contributions on the end of year return to the Pension Fund administering authority.

It should be noted that if a member goes on unpaid leave of absence or on maternity leave, paternity leave or adoption leave, he / she must continue to pay for any added years they were purchasing under the old scheme, and for any additional pension they are purchasing by way of Additional Regular Contributions (ARCs) under the new scheme, based on the pay they would have received had they not been on leave (unless the person opts to stop paying any such contributions). The person may continue to pay any Additional Voluntary Contributions (AVCs) they were paying.

Systems may need to be amended to cater for the above.

Final Pay, Certificates of Protection, etc

In the new scheme, retirement benefits for leavers on or after 1st April 2008 will be based on:

- a) the highest actual 1 year's whole time equivalent pay in the last 3 years (but fees will be averaged over the last 3 years), or
- b) if, on or after 1st April 2008 and within 10 years of leaving, a member (voluntarily or compulsorily) has restricted pay, reduces their grade or moves to a position with less responsibility, the employee can choose to use the average of any 3 consecutive years pay in the last 10 years ending on a 31st March (plus RPI from the end of the 3 year period).

We believe that CLG intend to provide that, for the purposes of (b) above, only pay received from the current employer (and not from any previous scheme employer) can be taken into account. We believe that CLG also intend to provide that a member will be able to utilise the provisions in (a) and (b) above even where the period used cuts back into a period with the employer for which benefits are already being drawn following flexible retirement with the employer.

Employers will need to ensure that payroll data is kept for 10 years in respect of cases falling into category (b).

No old style certificates of protection can be issued in respect of pay drops / restrictions in pay that are outside of the employee's control and that occur on or after 1st April 2008 (but a certificate can be issued post April 2008 in respect of any such pay drops / restrictions in pay that occurred pre 1st April 2008). Employers will, of course, need to ensure that payroll data for cases where certificates have been issued is kept for a minimum of 13 years.

Earliest Retirement Age

- either the nominated co-habiting partner is financially dependent on the scheme member or they are financially interdependent on each other.

On the scheme member's death, a survivor's pension would be paid to the nominated co-habiting partner if:

- the nomination has effect⁹ at the date of the scheme member's death, and
- the nominated cohabiting partner satisfies the administering authority that the above conditions had also been met for a continuous period of at least 2 years immediately prior to the scheme member's death.

It is important that scheme members wishing to nominate a cohabiting partner complete and return a nomination form as the Pension Scheme cannot pay a pension to a cohabiting partner if the administering authority does not hold a valid nomination form. Members should therefore be made aware of this new provision by the Pension Fund administering authority and, as appropriate, issued with a nomination form. The LGPC Secretariat has devised and issued a standard nomination form to Pension Sections for this purpose.

It is important to note that the facility to nominate a cohabiting partner only applies to scheme members who have contributed to the scheme on or after 1st April 2008. Members who left before then with a deferred benefit or payment of a pension cannot nominate a cohabiting partner.

Additional Contributions

It is important that employees are informed that, if they want to buy added years under the current scheme arrangements, they must elect to do so before 1st April 2008 (even though contributions do not start until their birthday which may fall on or after 1st April 2008). No new elections can be made after 31st March 2008. Ensure that any stocks of leaflets / application forms for purchasing added years are replaced with documentation for the new facility to pay Additional Regular Contributions (ARCs). From April 2008 members will be able to buy up to £5,000 of additional pension (in multiples of £250) by paying additional contributions. They will have the choice of whether to purchase additional pension just for themselves, or with an inbuilt prospective surviving partner's pension. Members will still be able to pay AVCs and employers will still be able to contribute to a shared cost AVC.

⁹ A nomination ceases to have effect if-

- (a) either the scheme member or their nominated partner gives written notice to cancel the nomination, or
- (b) the scheme member makes a subsequent valid nomination in favour of a new co-habiting partner, or
- (c) either the scheme member or their nominated partner marries, forms a civil partnership or lives with a third person as if they were husband and wife or as if they were civil partners, or
- (d) the nominated partner predeceases the scheme member.

Let's take a look at how the main changes affect you if you are an existing member being moved over to the New Look LGPS.

➤ **New Contribution Rates**

In the new scheme, instead of most people paying a standard contribution rate of 6%, there are different contribution rates for different pay bands. These new rates have been designed to give more equality between the cost and benefits of scheme membership.

The new rates are between 5.5 and 7.5% of your pensionable pay. The rate you pay depends on which pay band you fall into.

If you work part-time, your rate will be based on the whole time pay rate for your job, although you will only pay contributions on the pay you actually earn.

Here are the pay bands from April 2008:

If your Whole Time Equivalent pay rate is:	Your contribution rate will be:
Up to £12,000	5.5%
More than £12,000 and up to £14,000	5.8%
More than £14,000 and up to £18,000	5.9%
More than £18,000 and up to £30,000	6.5%
More than £30,000 and up to £40,000	6.8%
More than £40,000 and up to £75,000	7.2%

Let's take a look at someone who works full time at a pay rate of £20,000.

They'll pay 6.5% of their pay - that's around £108 a month - in contributions.

If they were working half time, they'd still pay the 6.5% rate. That's because the whole-time rate for their job is still £20,000, but their

If you pay tax and National Insurance, you'll get tax relief on your contributions and pay a lower rate of National Insurance, so the actual cost to you is less.

If you're currently paying a protected rate of 5%, the rate you pay will be increased on a phased basis from 1st April 2008, bringing it into line with all other Scheme members by 1st April 2011.

If you are currently paying a protected rate of 5%	
From:	Your contribution rate will be:
1 st April 2008	5.25%
1 st April 2009	5.5%
1 st April 2010	6.5% or (if lower) the relevant rate from the pay band table
1 st April 2011	the relevant rate from the pay band table

Ill health retirement

The new scheme introduces better targeted benefits if you are unable to work because of serious illness.

If you have to leave work at any age due to permanent ill-health the new scheme provides a tiered ill-health retirement package. This gives graded levels of benefit based on how likely you are to be capable of gainful employment after you leave.

If you have at least 2 years in the pension scheme and you have no reasonable prospect of being capable of gainful employment before age 65, ill health benefits in the new scheme are based on your membership built up to date of leaving **plus all** your prospective membership from leaving to age 65. In other words, your pension will be based on the membership you would have had if you had stayed in the Scheme until age 65.

If you have at least 2 years in the pension scheme and you are unlikely to be capable of gainful employment within a reasonable period of leaving, but you may be capable of gainful employment at some date in the future before age 65, ill health benefits in the new scheme are based on your membership built up to leaving **plus 25%** of your prospective membership from leaving to age 65.

There are protections for existing Scheme members who will be aged 45 or over on 31st March 2008, to ensure they receive no less than they would have done under the current Scheme.

The Government is currently consulting on the nature of the ill-health benefit payable if you leave because you are permanently unable to do your LGPS job and have less than 2 years membership in the Scheme or if you leave because you are permanently unable to do your LGPS job but could immediately or within a reasonable period undertake other gainful employment.

➤ Improved death benefits

Provided you pay into the LGPS on or after 1st April 2008, there are improvements to the Scheme's benefits if you die.

The death in-service tax-free lump sum, known as a "death grant", increases from 2 to 3 times your annual pensionable pay. If you're part-time, the benefit is three times your actual part-time pay.

If you leave with deferred benefits and die before receiving them the death grant increases from 3 to 5 times your deferred annual pension; and for the death of a pensioner, it increases from 5 to 10 times the annual pension being paid, less the amount of pension already paid out.

Remember, you can say who you would like any death grant paid to by completing a form available from your Pension Fund. It's important you keep this form up to date but, whilst taking your wishes into account, your Fund will make the final decision on whom the death grant is paid to.

11. The Broads Authority.
12. A further education corporation.
13. A higher education corporation.
14. The London Pensions Fund Authority.
15. The South Yorkshire Pensions Authority.
16. The Environment Agency.
17. A National Park Authority established under Part 3 of the Environment Act 1995.
18. An Education Action Forum within the meaning of section 11 of the School Standards and Framework Act 1998.
19. The National College for School Leadership.
20. The Standards Board for England.
21. An Academy within the meaning of section 482 of the Education Act 1996 or by virtue of section 67 of the Education Act 2002 (conversion of city academies into Academies).
22. A body set up by a local housing authority in exercise of powers under section 2 of the Local Government Act 2000 as a housing management company to exercise management functions of the authority under an agreement approved by the Secretary of State under section 27 of the Housing Act 1985.
23. The Valuation Tribunal Service for England established under section 105 of the Local Government Act 2003 and the Valuation Tribunal Service for Wales established under regulation 5 of the Valuation Tribunals (Wales) Regulations 2005.
24. A conservation board established under section 86 of the Countryside and Rights of Way Act 2000.
25. Firebuy Limited established under Section 29 of the Fire and Rescue Services Act 2004.

PART 2

1. The Board of Governors of the Museum of London;
2. A body (other than a body listed in Part 1 of this Schedule) which is—
 - (a) a precepting authority (as defined in section 69 of the Local Government Finance Act 1992),
 - (b) a levying body within the meaning of section 74 of the Local Government Finance Act 1988 (levies), or
 - (c) a body to which section 75 of that Act (special levies) applies.
3. A passenger transport executive.
4. A designated institution which immediately before designation was assisted or maintained by a local education authority.
5. A company under the control of a body listed in Part 1 of this Schedule where “under the control” has the same meaning as in section 68 or, as the case may be, section 73 of the Local Government and Housing Act 1989 (except that any direction given by the Secretary of State must be disregarded, and any references to a local authority treated as references to such a body).
6. The Public Services Ombudsman for Wales.

7. The Serious Organised Crime Agency.
8. Transport for London.
9. The London Development Agency.
10. The Metropolitan Police Authority.
11. The London Transport Users' Committee.
12. The Cultural Strategy Group for London.
13. The Children and Family Court Advisory and Support Service.
14. An urban development corporation.

Annex 3

SAMPLE NOTIFICATION LETTER

Dear

Local Government Pension Scheme

As part of a general review of public sector pension schemes, the Government has introduced changes to the Local Government Pension Scheme (LGPS) for employees in England and Wales from 1st April 2008.

If you're paying into the LGPS on 31st March 2008 and you continue to have a contract of employment on 1st April you will automatically transfer to the new scheme.

In the new scheme, instead of most people paying a standard contribution rate of 6% of their pensionable pay, there are different contribution rates for different pay bands. These new rates have been designed to give more equality between the cost and benefits of scheme membership.

The new rates are between 5.5 and 7.5% of your pensionable pay. The rate you pay depends on which pay band you fall into.

If you work part-time, your rate will be based on the whole time pay rate for your job, although you will only pay contributions on the pay you actually earn.

Here are the pay bands from April 2008:

If your Whole Time Equivalent pay rate is:	Your contribution rate will be:
Up to £12,000	5.5%
More than £12,000 and up to £14,000	5.8%
More than £14,000 and up to £18,000	5.9%
More than £18,000 and up to £30,000	6.5%
More than £30,000 and up to £40,000	6.8%
More than £40,000 and up to £75,000	7.2%
More than £75,000	7.5%

The pay bands will be adjusted each April in line with the cost of living.

Let's take a look at someone who works full time at a pay rate of £20,000. They'll pay 6.5% of their pay - that's around £108 a month - in contributions. If they were working half time, they'd still pay the 6.5% rate. That's because the whole-time rate for their job is still £20,000, but their contributions would be based on their part-time earnings, so they'd have £54 deducted. ~~and pay a lower rate of National Insurance,~~

If you're currently paying a protected rate of 5%, the rate you pay will be increased on a phased basis from 1st April 2008, bringing it into line with all other Scheme members by 1st April 2011.

If you are currently paying a protected rate of 5%	
From:	Your contribution rate will be:
1 st April 2008	5.25%
1 st April 2009	5.5%
1 st April 2010	6.5% or (if lower) the relevant rate from the pay band table
1 st April 2011	the relevant rate from the pay band table.

The contribution rate you will pay from April 2008 will be [enter %]. This has been determined by reference to

[employer to insert a statement, for example:

- your whole-time equivalent rate of pensionable pay
- Or

- your whole-time equivalent rate of pensionable pay at / from

Or

- your whole-time equivalent rate of pensionable pay of £xxxx

Or

- your whole-time equivalent rate of pensionable pay of £xxxx at / from]

[Employers might also wish to include an explanation of how they have determined the whole-time equivalent rate of pensionable pay for employees who receive pensionable pay other than basic annual salary]

This is a decision we are required to make under the rules of the pension scheme. It is not possible for you to continue paying your current standard contribution rate of 6% (or 5%).

If you would like a further explanation of how we have determined your contribution band please contact

.....
.....

However, if you believe that, based on your whole-time equivalent pay rate, we have allocated you to the wrong contribution band you have the right of appeal under the pension scheme's Internal Dispute Resolution Procedure. A leaflet explaining the appeal process is attached.

If your whole-time equivalent pay rate changes in the future we will need to consider whether, due to that change, you should be reallocated to a different contribution band. Our current policy is to make any required change

[employer to insert appropriate wording e.g.

- only from the April following the change in your whole-time equivalent rate of pay
- only from [some other specified month] following the change in your whole-time equivalent rate of pay
- from the time when your whole-time equivalent rate of pay changes for any reason
- only from the time when your whole-time equivalent rate of pay changes as a result of a change in your contract of employment]

Please note that if you are currently paying any additional contributions (for example, to purchase extra years of scheme membership) or are currently paying Additional Voluntary Contributions (AVCs) these contributions will continue to be collected and are not affected by the change to the standard pension contribution rate.

Yours sincerely

