



# Pensions, divorce & dissolution

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## About this guide

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This leaflet gives general guidance to help scheme members of the Local Government Pension Scheme (LGPS) and their husbands, wives or civil partners who may be involved in divorce or nullity of marriage proceedings, dissolution or nullity of civil partnership proceedings. It's not a statement of law governing the pension scheme.

For more information about earmarking or pension sharing orders in divorce, dissolution or annulment proceedings, you should contact your solicitor.

### **We use the following terms throughout:**

**'Pension debit member'**- A member of the LGPS whose pension benefits have a pension sharing order applied to them.

**'Pension credit member'**- An ex-wife, ex-husband or ex-partner who has been granted a share of the LGPS member's pension benefits through a pension sharing order.

If you need more information about the LGPS, you should contact the pensions team directly.



## Introduction

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Until 1996, the only way pensions could be taken into account when couples were divorcing, was to offset their value against the value of other financial assets in the divorce or nullity of marriage settlement.

Provisions brought into effect from 1 July 1996 (England and Wales), 19 August 1996 (Scotland) and 1 December 2000 (all UK), allowed divorcing couples two more ways to take their pension benefits into account. From 15 December 2005, civil partners dissolving their partnership are also included.

They are:

- Earmarking
- Pension sharing

This booklet gives general information about these provisions in line with the Occupational Pension Scheme Regulations. The right to offset the value of pension rights against the value of other financial assets in the divorce or dissolution settlement is still an option. It should be noted that earmarking can also be used in cases of judicial separation.

## Divorce and dissolution of partnership

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In cases of divorce or nullity of marriage, or dissolution or nullity of a civil partnership, the petitioner (either the husband, wife or civil partner) can make an application to the court for a share of the marriage or partnership assets. Once the application has been lodged with the court, the date for the first appointment at court will be made.

If you've not already done so, you'll need to apply for a valuation of your pension rights. This is because, as a couple, you must disclose to each other and to the court all your financial interests. This will include details of those benefits under your pension scheme which are shareable rights.

### **How to get information about your benefits if you're involved in divorce or dissolution proceedings**

The court will need information about your pension benefits and general information about your pension scheme to decide if an earmarking or pension sharing order is appropriate.



Your ex-husband, ex-wife, ex-partner or their solicitor can ask for basic information about the scheme.

As a scheme member you have the right to ask for information about your pension scheme and your own personal benefits within the scheme. As part of this process, you should fill in the form to ask for this information.

### **Earmarking order**

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If the court makes an earmarking order, your pension benefits still belong to you, but some are earmarked for your ex-wife, ex-husband or ex-civil partner. The earmarked benefits will be paid when your benefits are paid, reducing the amount paid to you. The order can give your ex-husband, ex-wife or ex-partner one or a mix of the following:

- All or part of your pension (this doesn't apply to divorces or dissolutions in Scotland)
- All or part of any lump sum due to you,
- All or part of any lump sum due on your death.

When earmarked benefits become due, Shropshire County Pension Fund will contact your ex-husband, ex-wife or ex-civil partner to check that the earmarking order is still valid and arrange payment of the earmarked benefits.

You can transfer your benefits to another pension arrangement if you leave your pension scheme and if your new pension provider can accept the earmarking order.

Earmarking has limitations and is not widely used. As the pension rights stay with you, your ex-husband, ex-wife or ex-civil partner must wait for you to retire or die to receive the earmarked benefits. If your ex-wife, ex-husband or ex-partner remarries or enters into a new civil partnership, an earmarking order against pension payments but not lump sums (unless the order directs otherwise), would stop and the full benefit would be returned to you.

Pension payments to your ex-husband, ex-wife or ex-partner would stop on your death, although any earmarked lump sum death grant would then become due to your ex-wife, ex-husband or ex-civil partner.



## Pension sharing order

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If the court issues a pension sharing order, part of your benefits are transferred to your ex-wife, ex-husband or ex-civil partner and they become a pension credit member. They will keep that share even if their circumstances, or your own as the pension debit member, change. The pension credit member holds these benefits in their own right. They can be left in the scheme and paid from their normal pension age or, they can be transferred to another qualifying pension scheme. As the pension debit member, your pension and any possible lump sum will be reduced by the amount given to your ex-husband, ex-wife or ex-civil partner at the point of divorce or dissolution.

The reduction to your benefits is known as a pension debit. The amount of the pension debit will be adjusted in line with the rise in the cost of living between the date it was first worked out and the date the benefits are paid.

When your benefits are paid, the revalued amount of the pension debit will be taken from your retirement benefits and will be adjusted if your benefits are paid before or after your normal pension age. In measuring the value of your benefits when you draw them, against the value of all the pension savings you're allowed before you're affected by a tax charge known as the lifetime allowance, the reduced value of your benefits after the pension debit has been taken will be used.

Most scheme member's pension savings will be less than the lifetime allowance. However, if you're affected by the lifetime allowance, a pension debit may affect any lifetime allowance protection you may have. Also, in measuring the amount by which the value of your pension benefits may go up by in any one year without you having to pay a tax charge (the annual allowance), the reduction in your benefits due to the pension debit is ignored in the scheme year that the pension sharing order or qualifying agreement is applied to your benefits.



## What will a pension share mean for the scheme member?

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### **Pension share ordered before retirement**

Your benefits and those of any future husband, wife or civil partner's will be reduced by the percentage given to your ex-husband, ex-wife or ex-partner.

At retirement, your benefits will be revalued in line with the rise in the cost of living between the date the amount of the pension debit was first worked out and the date the pension becomes due. This revalued amount of pension debit will then be taken from your total benefits. On your death, if you've remarried or re-entered a civil partnership, a pension share will reduce the benefit due to your new wife, husband or civil partner. However, if you have dependent children, any child's pension due won't be reduced because of a pension share.

### **Transferring benefits**

You'll still be able to transfer your remaining benefits to another pension scheme or arrangement on stopping membership of your current pension scheme. If you're an LGPS pension debit member and the transfer is to another LGPS fund, the benefits will be transferred in full and the pension debit applied by the new fund at retirement. If the transfer is to another type of pension scheme or arrangement, a transfer value will only be paid for the debited amount of your benefits and the transfer of benefits will mean they take on the new scheme's benefit structure and normal pension age.

### **Buying additional pension benefits**

Pensions debit members who are still paying into the LGPS, may be able to top up benefits by buying extra scheme pension to make up for the benefits 'lost' following a pension share. The options include paying additional pension contributions (APCs), paying additional voluntary contributions (AVCs), or by paying into a personal pension plan.

### **Pension share ordered after retirement**

The pension currently being paid will be reduced by the percentage given by the court to your ex-wife, ex-husband or ex-partner from the date of the pension share. On your death, if you've remarried or re-entered a civil partnership, a pension share will reduce the benefit due to your new husband, wife or civil partner. However, if you've dependent children, any child's pension due won't be reduced because of a pension share.



When told about a pension sharing order and as long as all the necessary information has been received for the order to be in place, the pensions team has four months to make the changes to the pension in payment, beginning with the later of:

- The day on which the order takes effect; or
- The first day on which the order is received.

We will try to bring in the order as soon as we get it however, where this isn't possible due to payroll deadlines, the order will be brought in the following month and your pension reduction worked out from the date the order was given. This may mean a backdated reduction will be applied to your pension after the pensions sharing order is received.

### **What will a pension sharing order give my ex-husband, ex-wife or ex-civil partner?**

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After a pension sharing order has been received, the pension credit member as your ex-husband, ex-wife or ex-civil partner, will be given pension benefits in the LGPS in their own right. These will be equal to the value of the share of your benefits granted by the court and are known as pension credit benefits.

#### **These will include:**

- An annual pension and, if applicable, a lump sum equal to three times the pension due from normal pension age.
- Commutation of trivial benefits at normal pension age (if the pension credit is very small it can be paid as a one-off lump sum payment),
- A lump sum equal to three times the annual rate of the pension credit if the pension credit member dies before the pension credit becomes due,
- If the pension credit member dies within five years of the pension credit benefits becoming due, a lump sum equal to five times the annual rate of the pension credit less the amount of annual pension already paid.

When the pension credit benefits become due they will be adjusted in line with the rise in the cost of living between the date the amount of the pension credit was first granted and the date the pension credit becomes due.

Once in payment, the annual rate of the pension credit will be adjusted each year in line with the cost of living as measured by Consumer Price Index (CPI). Pension credit benefits don't include widow(er)'s, civil partner's or dependant's benefits.



The pensions team will let the pension credit member know how to apply for the pension credit benefits when the pension share is arranged. The pension, when paid, will be taxed (if appropriate).

A pension credit member's right to take a lump sum depends on if the member whose pension rights are being shared has given up part of their pension for a cash sum upon retirement. The options available to the pension credit member will be given on retirement by the pensions team.

As the pension credit member's benefits are separate from your benefits, a pension sharing order doesn't expire on the death or the remarriage or re-entry into a civil partnership of the pension credit member. If the pension credit member were to remarry or enter into a civil partnership, and that were to end in divorce, dissolution or annulment, the pension credit could have a pension sharing order applied.

### **Transferring benefits**

A pension credit member can choose to transfer the value of the pension credit to another qualifying pension scheme or arrangement at any time up to one year before normal pension age (other than to another LGPS fund). Pension credit benefits can't be joined together with any pension benefits the pension credit member may have in the LGPS in their own right from paying into the scheme.

### **When will pension credits be paid?**

- **Pension credits awarded before April 2014**

Benefits are usually paid from the age of 65 or later if the pension sharing order is put in place after that age. However, it's possible to take pension credit benefits anytime from the age of 60 but, if the option to take them before the age of 65 is chosen, there will be a reduction for early payment.

- **Pension credits awarded after April 2014**

A pension credit awarded under the 2014 scheme is due when the pension credit member reaches their normal pension age. This is linked to their individual state pension age. Although the credit member can choose to draw their benefits from the age of 55 with a reduction applied. It's also possible for the credit member to not take payment of their benefits until age 75, resulting in an increase applied to their pension.





Pension credit members can find out their individual state pension age by visiting [www.gov.uk](http://www.gov.uk).

### Buying additional pension

The pension credit member won't be able to pay additional voluntary contributions (AVCs) or additional pension contributions (APCs) in the LGPS to increase the pension credit benefits.

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## Contact details

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The Shropshire County Pension Fund is a data controller under data-protection law. This means we store, hold and manage your personal information in line with statutory requirements to enable us to provide you with pension administration services. To enable us to carry out our statutory duty, we must share your information with certain bodies, but will only do so in limited circumstances. For more information about how we hold your information, who we share it with and what rights you have, you can ask for this information from the fund, please visit [www.shropshirecountypensionfund.co.uk](http://www.shropshirecountypensionfund.co.uk).

If you can read this but know someone who cannot, please contact us on 01743 252130 so we can provide this information in a more suitable format.

### Office hours

<b>Monday to Thursday</b>	8.45am to 5.00pm
<b>Friday</b>	8.45am to 4.00pm

### Contact details

**Email:** [pensions@shropshire.gov.uk](mailto:pensions@shropshire.gov.uk)

**Website:** [www.shropshirecountypensionfund.co.uk](http://www.shropshirecountypensionfund.co.uk)

**Tel:** 01743 252130

**Write:** Pensions, PO Box 4826, Shrewsbury, SY1 9LJ

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