

Member Guide to Pensions and Divorce



Local Government Pension Scheme

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Disclaimer: This guide gives general information to assist you and your spouse in divorce dissolution or nullity of marriage proceedings. You are strongly advised to take legal advice on the options available to you

Introduction

Information for Scheme members

For many people, pension rights are one of their most important and valuable assets.

Until 1996 the only way pension 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 from 1 December 2000 (all UK) allow divorcing couples two additional ways of taking their pension benefits into account. They are:

Pension sharing

Earmarking

This booklet gives general information about these provisions.

The right to offset the value of pension rights against the value of other financial assets in the divorce settlement still remains an option.

It should be noted earmarking can also be used in cases of judicial separation.

Disclaimer

This booklet gives general guidance only to assist scheme members who may be involved in divorce or nullity of marriage proceedings. It is not a full statement of the law which governs the scheme.

The Norfolk Pension Fund will provide information to you at various stages during the divorce or annulment proceedings.

Individuals should seek further information from their solicitors about the relevance of earmarking or pension sharing provisions in individual divorce or annulment proceedings.

Divorce proceedings

General

In cases of divorce or nullity of marriage, the petitioner (either the husband, wife or civil partner) can make an application to the Court for a share of the matrimonial assets.

Once the application has been lodged with the Court, the date for the first appointment at Court will be made.

If you haven't already done so, you will be required to apply for a valuation of your pension rights under the Local Government Pension Scheme (LGPS). This is because divorcing couples are required to disclose to each other and to the Court all financial interests.

Obtaining information about benefits under the LGPS if you are involved in divorce proceedings.

The court will need information about your pension benefits and general information about the LGPS in order to consider whether an earmarking or pension sharing order is appropriate.

If you are required to obtain a Cash Equivalent Value (CEV) of your benefits, Norfolk Pension Fund will need a signed written request. You can complete the form at the end of this booklet to request information on the LGPS and a Cash Equivalent Value (CEV). Alternatively, we can accept a signed letter requesting a CEV for divorce purposes by post or as an attachment to an email. Please provide your National Insurance Number, current address and signature. A CEV is the capitalised value of your LGPS pension benefits. It provides a convenient way of assessing the value of the pension in relation to other assets such as a house.

As an active or deferred scheme member, you're entitled to one free CEV per year, for any purpose, though there are exceptions to this.

Our charges, if any, for providing a CEV and for administering an earmarking or pension sharing order can be found on pages 10-11.

We will acknowledge, in writing, all correspondence sent to us regarding your divorce. If no acknowledgement is received, please contact us.

We can only give your spouse, civil partner, or their solicitor, basic information about the Scheme.

Additional information relating to divorces in Scotland

Scottish law uses the concept of 'matrimonial property'. Pension benefits form part of the matrimonial property' and, unlike in the rest of the UK, only pension rights built up during your marriage can be shared or be subject to an earmarking order.

In Scotland, a divorcing couple often make 'Minutes of Agreement' to settle as many issues as possible before going to Court. This allows them to reach their own decisions (with legal advice) about the division of the matrimonial assets.

If you and your spouse or civil partner enter into such an agreement, you must notify the Norfolk Pension Fund you intend to share pension rights with the spouse.

Pension Sharing

What is pension sharing?

Pension Sharing was introduced from 1 December 2000 to enable clean break settlements and to overcome some of the problems associated with earmarking orders (see page 9) i.e. with an earmarking order, your former spouse or civil partner will have to wait until you retire (or die) before becoming entitled to the earmarked pension (or lump sum) and is also at risk of:

- Losing their retirement income if they remarry (although any earmarked lump sum is not lost, unless the order instructs otherwise)
- Losing their retirement income if you die first (although any earmarked death grant would be payable)
- Having their intended income delayed if you delay your retirement.

Pension sharing is similar to earmarking in that the Court will serve us with a Pension Sharing Order.

When the Court orders your pension benefits to be shared, your former spouse or civil partner is allocated a percentage (up to 100%) of your benefits. Your own benefits are reduced accordingly, and your former spouse or civil partner will hold benefits in their own right.

The Pension Sharing Order will be sent to the Norfolk Pension Fund who will implement it as directed.

A copy of the divorce decree absolute or declaration of divorce, nullity of civil partnership, marriage or judicial separation, should be sent to the Norfolk Pension Fund.

What will a pension share mean for you?

Pension share ordered before retirement

Your benefits and any subsequent spouse's or civil partner's benefits will be reduced by the percentage allocated to your former spouse or civil partner. (For divorces or dissolution in Scotland, the Court will specify either a percentage or a monetary amount.)

This reduction is called a 'pension debit' and will normally be calculated within 4 months of the pension sharing order being received.

At retirement, the 'pension debit' will be revalued in line with the cost of living between the date the amount of the 'pension debit' was first calculated and the date your pension becomes payable. The revalued amount of 'pension debit' will be deducted from your total benefits.

If you remarry and you die, a pension share will reduce the widow(er)'s benefit payable to your new spouse or civil partner. However, if you have dependent children, any child's pension payable will not be reduced because of a pension share.

Transferring benefits

You will still be able to transfer your remaining benefits to another pension scheme or arrangement on ceasing membership of the LGPS with the Norfolk Pension Fund.

If 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 in respect of the debited amount of your benefits.

Paying the shared pension

You will claim your pension benefits in the normal way.

Pension share order after retirement

The pension currently in payment will be reduced by the percentage allocated by the Court to your former spouse or civil partner from the date of the pension share. If you die and have remarried or entered a civil partnership, a pension share will reduce the pension benefit payable to your new spouse or civil partner. However, if you have dependent children, any child's pension payable will not be reduced because of a pension share.

What will a pension share provide for the former spouse or civil partner?

Normally, within 4 months of a pension sharing order being received, your former spouse or civil partner will be granted pension benefits in the LGPS in their own right. These will be equal to the value of the share of the member's benefits granted by the court and are known as 'pension credit' benefits.

The pension credit is payable to your former spouse or civil partner unreduced from their normal pension age which is linked to their State Pension Age. However, they will have the option to take their pension credit early, from age 55, or to defer taking it up to the age of 75. If your former spouse or civil partner chooses to take their pension credit before their normal pension age it will be reduced, as it's being paid earlier. Pension credits must be taken before age 75.

Your ex-spouse or civil partner will have the option of converting some annual pension for a cash lump sum when they take their pension credit, providing you have not retired and commuted part of your pension for lump sum before the date the pension sharing order takes effect.

A pension credit will not provide a spouse or dependant benefit.

These benefits are held separate from your own benefits and will be revalued in line with cost of living.

Transferring benefits

Your former spouse or civil partner can opt to transfer the value of the 'pension credit' to another qualifying pension scheme or arrangement (other than to another LGPS fund) at any time up to one year before their normal pension age.

Paying the shared pension

The Norfolk Pension Fund will advise your former spouse or civil partner how to apply for the 'pension credit' benefits when the pension share is confirmed.

The pension, when paid, will be subject to PAYE (if appropriate).

As your former spouse's or civil partner's 'pension credit' benefits are independent from your benefits, a pension sharing order does not lapse on your death or the remarriage of your former spouse.

If a former spouse or civil partner were to remarry, and that marriage were to end in divorce or annulment, the 'pension credit' could itself be subject to a pension sharing order.

Earmarking

What is earmarking?

Earmarking is a term used to describe special attachment orders which are made to the Court.

When an attachment, or earmarking, order is made your pension remains yours, but we are required to make some form of payment to the former spouse or civil partner when your benefits become payable.

The Court can order your former spouse or civil partner receives one, or a combination, of the following benefits:

- All, or part, of your Local Government Pension (this does not apply in Scotland)
- All, or part, of your Local Government lump sum retirement grant.
- All, or part, of any lump sum paid in the event of your death.

An order can also require you to exchange some pension for an additional lump sum retirement grant (this does not apply in Scotland).

The order will be sent to the Norfolk Pension Fund. We will acknowledge it within 21 days, and ensure it is acted upon.

A copy of the divorce decree absolute or declaration of divorce, nullity of marriage or judicial separation, should be sent to the Norfolk Pension Fund.

Changes

As it may be many years between your divorce and your benefits coming into payment, it is important to be aware of the following changes:

- An earmarking order against pension payments, but not lump sums (unless the order directs otherwise), will automatically stop on the remarriage of your former spouse or civil partner, and the full pension will be restored to you.
- Pension payments to your former spouse or civil partner stop if you die.
- Your former spouse or civil partner must inform the Norfolk Pension Fund of any change of address, any change of name by marriage or by deed poll and, where the earmarked pension is in payment, any change of bank account details.
- If you transfer your benefits to another scheme, the earmarking order will transfer. The Norfolk Pension Fund will, within 21 days of the transfer, inform your former spouse or civil partner of any transfer.

The Norfolk Pension Fund must be informed if either you or your former spouse or civil partner dies.

Paying the earmarked pension

The Norfolk Pension Fund will contact your former spouse or civil partner when you apply for payment of your pension benefits or, if the lump sum payable on death has been earmarked, when you die. The Norfolk Pension Fund will check the earmarking order is still valid and, if so, will arrange for payment to be made to your former spouse or civil partner.

Charges for Pension Sharing on Divorce

Like most pension schemes, we charge for the work involved in dealing with pension sharing orders and agreements. Our current charges are set out here and are correct as at 1 April 2023. They'll go up every April. VAT will be added.

Charges for a LGPS member divorcing : member not yet retired

1	CETV quotation (if the member or court doesn't stipulate a deadline for production)	Free
2	CETV quotation (if the member or court requires it within 3 months)	£135.85 *
3	Additional CETV Quotations	£135.85 *
4	Providing other information:- If legally required under the disclosure of information regulations Otherwise, depending on the nature of the request	Free £135.85
5	Dealing with a pension sharing order or consent order where the credited member (the ex-spouse) is under 65.	£760.88
6	Setting up a new pensioner record where the credited member (the ex-spouse) is 65 or over	£760.88
7	Processing a transfer out (instead of 5 above)	£326.13
8	Objections to order by NPF : costs of handling inoperable orders will be passed on.	

Charges for an LGPS pensioner divorcing (i.e. member already retired)

1	Assessing the lump sum value of the pension in payment, including any contingent benefits.	£362.35 *
2	Dealing with a pension sharing order or consent order where the credited member (the ex-spouse) is under 65	£760.88
3	Setting up a new pensioner record where the credited member (the ex-spouse) is 65 or over	£760.88
4	Processing a transfer out (instead of 2 above)	£326.13
5	Objections to order by NPF : any costs of handling inoperable orders will be passed on	

Notes:

1. The charges marked with an asterisk (*) must be paid in full, by either party to the divorce, **before** we do the work. All other charges would be received from the credit member's (ex-spouse's) cash value unless the consent order stated otherwise.
2. We would pass on in full any additional costs if we had to take specialist actuarial, legal or other advice.
3. Where the scheme member has an Additional Voluntary Contribution contract, the insurance company may charge for provided information. We would pass this charge on in full.
4. Any reasonable administrative costs incurred or likely to be incurred in complying with an 'earmarking order' will be charged to the member.
5. We would pass on any costs we incurred in relation to a pension sharing order that we cause by an application for leave to appeal out of time.
6. VAT will be added to all the above charges
7. The charges shown are correct as at April 2023 but will increase each April in line with price inflation.

Further Information

The authority administering the Local Government Pension Scheme is the Norfolk Pension Fund.

If you need more information about the Scheme, you should contact the Norfolk Pension Fund.

When you are notified of the pension share you will also be informed of the appeals procedure to follow if you disagree with any decision taken by the Norfolk Pension Fund when implementing the pension sharing order.

**Norfolk Pension Fund
County Hall
Martineau Lane
NORWICH
NR1 2DH**

www.norfolkpensionfund.org

Pensions Administration

Telephone: 01603 495923

Email: pensions@norfolk.gov.uk

If you would like this guide in large print, audio, Braille, alternative format or in a different language, please email pensions@norfolk.gov.uk or call 01603 222824

Written consent for valuation and provision of information in connection with matrimonial proceedings

Member Identifier – Please complete in full

Surname	<input type="text"/>	Title	<input type="text"/>
Forenames	<input type="text"/>		
Date of Birth	<input type="text"/> / <input type="text"/> / <input type="text"/>	NI Number	<input type="text"/>
Address for correspondence	<input type="text"/>		
	Postcode		
Telephone No	<input type="text"/>		
Email Address	<input type="text"/>		
Do you wish to be sent copies of any correspondence sent to your solicitor?			<input type="text"/> Yes / No

LGPS Details

LGPS Employer

Current LGPS Status (tick applicable boxes)

Active Member You are an Active Member if you are currently contributing into the LGPS

Deferred Member You are a Deferred Member if you no longer contribute to the LGPS and a pension is payable

Pensioner Member You are a Pensioner Member if you are currently receiving a LGPS pension

**Please complete and return this form to:
(Postal Address) Norfolk Pension Fund, County Hall,
Martineau Lane,
NORWICH, NR1 2DH**

Divorce Details

Have divorce or annulment proceedings formally commenced?

Divorce or annulment proceedings must have commenced under one of the following:

Part II of the Matrimonial Causes Act 1973 or Part III of the Matrimonial and Family Proceedings Act 1984 (England and Wales powers in relation to domestic and overseas divorce etc), or

Part III of the Matrimonial Causes (Northern Ireland) Order 1978, or Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (corresponding Northern Ireland powers), or,

The Family Law (Scotland) Act 1985 or Part IV of the Matrimonial and Family Proceedings Act 1984 (corresponding Scottish powers)

Solicitor Details – Please complete in full

Company Name

Contact Name

Telephone No

Email Address

Address for
correspondence

Postcode

Declaration

By completing this form I am requesting a Cash Equivalent Value (CEV) for divorce purposes and I authorise the Norfolk Pension Fund to provide the solicitor named above, if applicable, with any information in relation to my benefits within the LGPS.

Signed

Date

