



West Yorkshire Pension Fund

Lincolnshire
Pension Fund



Pensions and divorce

A guide for members of the Local
Government Pension Scheme

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Introduction

Your pension rights are one of your most important and valuable assets.

Until 1996 the only way your pension benefits could be taken into account in a divorce was to offset their value against the value of your other financial assets in the divorce or nullity of marriage settlement.

From 1 July 1996 (England and Wales), 19 August 1996 (Scotland) and from 1 December 2000 (all UK) divorcing couples could take their pension benefits into account in two additional ways:

- **Earmarking** (from 1996)
- **Pension sharing** (from 1 December 2000)

You still have the right to offset the value of your pension rights against the value of other financial assets in the divorce settlement.

Earmarking can also be used in cases of judicial separation.

Disclaimer

This is a general guide, not a full statement of the law that governs the pension scheme. You should take legal advice on the options available to you. It applies to you only if you were/are a member of the Local Government Pension Scheme (LGPS) on or after 1 April 2014.

Divorce proceedings

General

In cases of divorce or nullity of marriage, the petitioner (either the husband or wife) can apply 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 have to apply for a valuation of your LGPS pension rights. This is because you and your husband or wife have to disclose all your financial interests – including shareable LGPS benefits – to each other and to the court.

How do I get information about LGPS pension benefits if I am involved in divorce proceedings?

To decide if an earmarking or pension sharing order is appropriate, the court will need information about your pension benefits, and general information about the LGPS.

We can only give your husband or wife, or their solicitor, basic information about the scheme, but we can give you information about the scheme and your own pension benefits. You must request these details from us in writing: ask for information on the LGPS and a **Cash Equivalent Value (CEV)** – the capitalised value of your LGPS pension benefits.

This is a convenient way of assessing the value of your pension in relation to other assets such as a house.

As a member, you're entitled to one free CEV a year, for any purpose, though there are exceptions to this.

Our charges for providing a CEV and for administering an earmarking or pension sharing order are shown on the enclosed list of charges.

We'll acknowledge all the correspondence you send us about your divorce. If you don't get an acknowledgement, please contact us.

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 the pension rights you built up during your marriage can be shared or be part of 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 how to divide their assets.

if you enter into such an agreement with your former husband or wife you must tell us that you intend to share your pension rights.

Earmarking

What is earmarking?

Earmarking is a term used to describe special attachment orders made by the court.

When the court makes an attachment, or earmarking order, your pension remains yours, but we have to make some form of payment to your former husband or wife when your benefits become payable.

The court can order that your former husband or wife receives one of the following benefits or a combination of more than one.

- All, or part, of your LGPS pension (this does not apply in Scotland).
- All, or part, of your LGPS lump-sum retirement grant.
- All, or part, of any lump sum paid on your death.

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

The court will send the order to us. We will acknowledge it within 21 days and make sure it's applied.

Please send us a copy of your **decree** or **declarator** of divorce, nullity of marriage or judicial separation including, in the first two cases, confirmation that the decree has been made absolute.

What changes affect an earmarking order?

It may be many years between your divorce and when your benefits come into payment. An earmarking order can be affected in the following ways.

- An earmarking order against your pension (but not your lump sum retirement grant unless the order directs otherwise) will automatically lapse if your former husband or wife marries, in which case your pension would be restored to you in full.
- Pension payments to your former husband or wife will stop if you die
- If you transfer your pension benefits to another scheme, the earmarking order will transfer and, within 21 days, we will tell your former husband or wife about this.

Your former husband or wife must tell us if they change their address, their name (by marriage or by deed poll) and, when the earmarked pension is in payment, any change of bank account.

We need to know if you or your former spouse die.

Paying the earmarked pension

We will contact your former husband or wife when you apply for payment of your pension benefits, or, if the lump sum payable on your death was earmarked, when you die. If the earmarking order is still valid we will make the appropriate payment to your former husband or wife.

Pension sharing

What is pension sharing?

Pension sharing is similar to earmarking in that the court serves us with a **pension sharing order**.

When the court orders your pension benefits to be shared, it allocates your former husband or wife a percentage (up to 100%) of your benefits. Your own pension benefits will be reduced accordingly, and your former husband or wife will then hold benefits independently, in their own right. (In Scotland, the court might allocate an amount rather than a percentage.)

The court will send us the sharing order, which we will then implement.

Please send us a copy of the **decree** or **declarator** of divorce, nullity of marriage or judicial separation including, in the first two cases, confirmation that the decree has been made absolute.

Pension sharing was introduced from 1 December 2000 to enable clean-break settlements and to overcome some of the inherent problems associated with earmarking orders. For instance, with an earmarking order, your former husband or wife will have to wait until you retire (or die) before they become entitled to the earmarked pension (or lump sum), and also risk

- losing their retirement income if they remarry (although they wouldn't lose any earmarked lump sum unless the order says otherwise)
- losing their retirement income if you die first (although they would get any earmarked death grant), and
- having their intended income delayed if you delay your retirement.

What if the court orders a pension share before I retire?

Your pension, lump sum retirement grant and any subsequent spouse's benefits will be reduced by the percentage the court allocates to your former husband or wife.

This reduction is called a **pension debit** and we will normally calculate it within four months of getting the sharing order.

When the pension debit benefits become payable, the pension debit will be increased – in line with the Consumer Prices Index – between the date the amount was first calculated and the date your pension becomes payable. This revalued 'pension debit' is then deducted from your total benefits.

If you remarry and you die, a pension share will reduce the widow's or widower's pension due to your new husband or wife. However, if you have dependent children, their pensions won't be reduced.

What if I transfer my pension benefits to another pension scheme?

You will still be able to transfer your remaining benefits to another pension scheme or arrangement if you leave the pension scheme.

If you transfer your pension benefits to another LGPS pension scheme, they'll be transferred in full and your new pension scheme will apply the pension debit when you retire.

If you transfer your pension benefits to another type of pension scheme or arrangement, we will only pay a transfer value for the 'debited' amount of your pension benefits.

Buying additional pension benefits

You will be able to rebuild some of the pension rights you 'lose' because of the pension debit. You can do this by paying **additional voluntary contributions** (AVCs) or by buying up to £6,500 of **additional pension contributions** (APCs) in the LGPS. From April 2014 you can only buy additional pension for yourself, and not for your dependants. We'll ask you to have a medical examination before you start paying APCs.

You can pay AVCs to our in-house AVC plan with either Prudential or Scottish Widows.

You can take out an individual pension plan through another pension provider.

You may wish to take independent financial advice about this and any other options that may be available to you.

We can give you more information about the options available – contact us or visit www.wypf.org.uk

What if the court orders a pension share after I retire?

Your pension will be reduced by the percentage the court allocates to your former husband or wife, from the date of the pension share.

If you die, and you have remarried, a pension share ordered after you retire will reduce the widower or widow benefits due to your new husband or wife. However, if you have dependent children, their pension benefits won't be reduced.

Paying the shared pension

You claim your pension benefits in the usual way.

What does my former husband or wife get from a pension share ordered before I retire?

Your former husband or wife will normally be granted pension benefits in the LGPS, in their own right, within four months of us receiving a sharing order. Those benefits will be the share of your benefits the court grants and are known as **pension credit** benefits.

Your former husband or wife will get

- an annual pension payable from their normal pension age or, if later, from the date of the pension share, with the option to exchange part of the pension for a tax-free lump sum, or
- the option to take early payment of reduced benefits from age 55, or
- a one-off lump sum at state pension age if the pension is very small, or
- a lump sum of three times the annual rate of the pension credit if your former husband or wife dies before the pension credit becomes payable, or
- if your former husband or wife dies within five years of the pension credit becoming payable, a lump sum of five times the annual rate of the pension credit less the annual pension they have already received.

When the pension credit benefits become payable they will be increased – in line with the Consumer Prices Index – between the date the amount of the pension credit was first granted and the date the it becomes payable.

Once in payment, the annual rate of the pension credit will be increased each year in line with the Consumer Prices Index.

Pension credit benefits do not provide widow, widower or dependant benefits.

Can my former husband or wife transfer these benefits?

Your former husband or wife can transfer the pension credit to another qualifying pension scheme or arrangement – but not another LGPS pension scheme – at any time up to one year before their normal pension age (linked to state pension age). But they can't combine pension credit benefits with any LGPS pension rights they may have in their own right.

Your former husband or wife won't be able to make additional voluntary contributions (AVCs) to the LGPS or pay additional pension contributions (APCs) to increase their pension credit benefits.

Paying the shared pension

We will tell your former husband or wife how to apply for the pension credit benefits when the pension share is confirmed.

Once in payment, the pension will be taxable.

Because your former husband or wife's pension credit benefits are independent from your benefits, a pension sharing order doesn't lapse if you die or if your former husband or wife remarries. If your former husband or wife remarried, and that marriage ended in divorce or annulment, the 'pension credit' could itself become part of a pension sharing order.

What does my former husband or wife get from a pension share ordered after I retire?

Your former husband or wife will normally be granted pension benefits in the LGPS, in their own right, within four months of us receiving a sharing order. Those benefits will be the share of your benefits the court grants and are known as **pension credit** benefits.

When the pension share happens after you retire, the pension credit gives your former husband or wife

- an annual pension payable from normal pension age or, if later, from the date of the pension share, or
- the option to take early payment of reduced benefits from age 55.
- a one-off lump sum at state pension age if the pension is very small, or
- a lump sum of three times the annual rate of the pension credit if your former husband or wife dies before the pension credit becomes payable, or
- if your former husband or wife dies within five years of the pension credit benefits becoming payable, a lump sum of five times the annual rate of the pension credit less the annual pension they have already received.

When the 'pension credit' benefits become payable they will be increased – in line with the Consumer Prices Index – between the date the amount of the pension credit was first granted and the date it becomes payable.

Once in payment, the annual rate of the 'pension credit' will be increased each year in line with the Consumer Prices Index.

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Further information

The authority administering the Local Government Pension Scheme is West Yorkshire Pension Fund.

If you need more information about the pension scheme, please contact us at

West Yorkshire Pension Fund
PO Box 67
Bradford BD1 1UP

Phone 01274 434999 (or phone the number on any letter we send you to get through to the person dealing with your case)

Email wypf@bradford.gov.uk

Right of appeal

If you disagree with any decision we take when put a pension sharing order in place you have the right to appeal. We will tell you how to do this when we notify you of a pension sharing order.

List of charges

This is a list of what we charge to provide information and services for divorce proceedings.

Within any 12 month period we won't charge for the information **form E** asks for, including calculation of a **cash equivalent transfer value** (CETV).

- **£50.00 plus VAT** for requests for supplementary information in addition to that required on **form E**. This includes any further requests for a revised transfer value costing. You must pay either within three months of the request for the information or before the start of the sharing order if earlier. We will invoice you unless the court directs otherwise.
- **£350.00 plus VAT** for implementing a pension sharing order
- **Up to an additional £350.00 plus VAT** if we have to make changes because the instructions in an order are completed incorrectly or if an order is subsequently changed.

If at any stage of the process we are charged by third-parties for specialist actuarial services, legal advice, medical information, and other costs, we will pass these charges on to you in addition to our standard charges listed above.

We will invoice you unless the court directs otherwise. You should pay within 21 days of the end of the **implementation period** (four months from the date the order takes effect, or four months from the date that we have all the information we need to put the order in place). If you don't pay within 21 days, we will deduct the charge from your pension benefits plus any cost of living increases when they become payable.