

Pensions and divorce or dissolution of a civil partnership

This factsheet looks at what happens to your LGPS benefits if you get divorced or your *civil partnership* is dissolved.

Where pension terms are used, they appear in ***bold italic*** type. These terms are defined at the end of this leaflet. You may wish to get legal advice from your solicitor on how to deal with your LGPS benefits during any divorce or dissolution of a ***civil partnership*** because you and your partner will need to consider pension rights as part of any divorce/dissolution settlement.

What happens to my benefits if I get divorced or my civil partnership is dissolved?

- Should you die before your ex-wife, ex-husband or ex-civil partner, they will not be entitled to a widow's, widower's or ***civil partner's*** pension.
- Any children's pension paid to an ***eligible child*** in the event of your death will not be affected by your divorce or dissolution.
- If you have expressed a wish for your ex-wife, ex-husband or ex-civil partner to receive any lump sum death grant payable on your death, this will remain in place and may still be acted upon unless you change it. If your wishes change either contact the East Riding Pension Fund or visit our website for a new form. The Court may, however, issue an Earmarking Order stating that all or part of any lump sum death grant is payable to your ex-spouse or ex-civil partner.

What is the process to be followed?

You will need specific information about your LGPS benefits as part of the proceedings for a divorce, judicial separation or nullity of marriage, or for dissolution, separation or nullity of a ***civil partnership***. You should complete and return the attached form as this will allow the East Riding Pension Fund to issue all the necessary information required by your solicitor or the Courts. This information will be taken into account when reaching any settlement.

The Court may offset the value of your pension rights against your other assets in the divorce/dissolution settlement or it may issue a Pension Sharing Order (qualifying agreements in Scotland) or an Earmarking Order against your pension.

Offsetting pension rights

You can offset the value of your pension rights against the value of other financial assets in your divorce/dissolution settlement. For example, you could keep your pension but your ex-spouse or ex-civil partner could get a larger share of the value of the house.

Pension Sharing Order

If the Court issues a Pension Sharing Order (qualifying agreement in Scotland) part of your benefits are transferred to your ex-spouse or ex-civil partner. They will keep that share, in their own right, even if your or their circumstances change. This is known as a Pension Credit and it can be left in the scheme, normally paid from State Pension Age but can be drawn on or after age 55 with a reduction for early payment. Alternatively, the pension credit can be transferred to another qualifying pension scheme.

Your pension and any lump sum will be reduced by the amount transferred to your ex-spouse or ex-civil partner. This is known as a Pension Debit and it will be increased in line with the rise in the cost of living between the date it was first calculated and the date your benefits are paid. When your benefits are paid, the revalued amount of the

Pension Debit will be deducted from your retirement benefits. Alternatively, you can still transfer your remaining benefits to another pension arrangement on leaving the LGPS. If you transfer within the LGPS, your new fund will reduce your benefits by the Pension Debit at retirement.

If your benefits have already been paid then your pension in payment will be reduced as per the Court's instructions.

In assessing the value of your benefits against the value of all the pension savings you are allowed before you become subject to a tax charge (lifetime allowance), the reduced value of your benefits after the Pension Debit has been deducted will be used. The lifetime allowance for 2021/2022 is £1,073,100. Most scheme members' pension savings will be significantly less than the lifetime allowance.

Earmarking Order

If the Court makes an Earmarking Order, your LGPS benefits still belong to you, but some are earmarked for your ex-spouse or ex-civil partner. The earmarked benefits will be paid to your ex-spouse or ex-civil partner when your benefits are paid, reducing the amount paid to you.

The Order can require that your ex-spouse or ex-civil partner receive one or a combination of the following:

- all or part of your LGPS pension (this doesn't apply to divorces / dissolutions in Scotland)
- all or part of any lump sum payable to you. You should be aware that the Court can order you to commute your pension, up to the maximum amount permitted (this power does not apply to divorces / dissolutions in Scotland), and
- all or part of any lump sum payable on your death.

When earmarked benefits become payable, the Pensions Section will contact your ex-spouse 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 on leaving the LGPS, as long as your new pension provider can accept the earmarking order.

Earmarking has limitations and is not widely used. As the pension rights remain with you, your ex-spouse or ex-civil partner must wait for you to retire or die to receive the earmarked benefits. If your ex-spouse or ex-**civil 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 cease and the full pension would be restored to you. Pension payments to your ex-spouse or ex-**civil partner** would cease on your death, although any earmarked lump sum death grant would then become payable to your ex-spouse or ex-**civil partner**.

What if I remarry or enter into a new civil partnership?

If your LGPS benefits are subject to a Pension Sharing Order and you remarry, enter into a new **civil partnership** or **have an eligible co-habiting partner**, any spouse's pension, **civil partner's pension** or **co-habiting partner's** pension payable following your death will also be reduced.

If you remarry or enter into a new **civil partnership** and then divorce or dissolve your **civil partnership** again, your remaining pension rights can be subject to further division, although a Pension Sharing Order cannot be issued if an Earmarking Order has already been issued against your LGPS pension rights. Similarly, an Earmarking Order cannot be issued if your pension benefits are already subject to a Pension Sharing Order in respect of the marriage/**civil partnership**.

Is anything different if I am getting divorced from a same sex marriage?

Same sex marriages were made legal in England from 29 March 2014. If you are getting divorced from a same sex marriage, the forms and procedures are exactly the same.

Disclaimer

The information in this leaflet applies to active, deferred and pensioners of the Local Government Pension scheme in England and Wales and was up-to-date at the time of publication in April 2015 so reflects the current provisions of the LGPS. Changes to the scheme can be made by the Government in the future after consultation with interested parties. This leaflet is for general use and cannot cover every personal circumstance nor does it cover specific protected rights that apply to a very limited number of employees. In the event of any dispute over your pension benefits, the appropriate legislation will prevail as this leaflet does not confer any contractual or statutory rights and is provided for information purposes only.

Glossary

Civil partnership

A Civil Partnership is a relationship between two people of the same sex (civil partners) which is formed when they register as civil partners of each other.

Eligible children

Eligible children are your children. They must, at the date of your death:

- be under 18 and be wholly or mainly dependent on you, or
- be aged 18 or over and under 23, be dependent on you, and be in full-time education or undertaking vocational training (although a dependent child who commences full-time education or vocational training after the date of your death may be treated as an eligible child up to age 23),
- or in some cases, a dependent child of any age who is disabled may be classed as an eligible child.

In all cases, the children must have been born before or within a year of your death.

Eligible co-habiting partner

A co-habiting partner is someone you are living with as if you are married or in a civil partnership. To be able to have an eligible co-habiting partner, you must have been a contributing member of the LGPS on 1 April 2008 or have since joined. An eligible partner can be either opposite or same sex, but your relationship has to meet certain conditions laid down by the LGPS.

For further information please contact:

East Riding Pension Fund
PO Box 118
Council Offices
Church Street
Goole
DN14 5BG

Email: erpf@eastriding.gov.uk

Telephone: 01482 394103

Website: www.erpf.org.uk

Pensions and divorce or dissolution of a civil partnership

Provision of information - schedule of charges

Procedure	Member type/comments	Cost
Provide CETV quotation	Contributing member	No charge
	Deferred member	No charge
Provide CEV quotation	Pensioner member	£300.00 (including VAT)
Provide CETV quotation(s) to a contributing or deferred member within 12 months of previous quotation	Please send payment with request	For each further quotation: £300.00 (including VAT)
Provide other information	If under disclosure of information regulations	No charge
	otherwise, depending on nature of request	On application
Receipt of Pension Sharing Order To cover all administration costs from receipt of Pension Sharing Order to payment of all benefits	All classes of member A pension sharing order will not be implemented until the charge is received	£950.00 (including VAT)
Objections to order	The onus is on the person who drafts the order to ensure its accuracy Please provide a copy of the draft before it is issued	Costs incurred relating to inoperable orders will be recovered

Charges and method of recovery

Items 1-3: The member is responsible for any charges incurred and **must pay any charge due, in advance.**

Item 4: Before the pension sharing implementation period can begin, the member or former spouse **must pay the charge in advance.**

Item 5: The member or former spouse must pay any charge on request from us.

If at any stage the East Riding Pension Fund incurs third party administration costs or fees for specialist actuarial services and legal advice, or charges for obtaining any necessary information, then these will be passed on in addition to our standard charges.

The above charges are applicable from 12 April 2021. In future, the charges will increase each April in line with the rise in the cost of living.

For information on how to make payment, please contact us by:

writing to **East Riding Pension Fund, PO Box 118, Council Offices, Church Street, Goole, DN14 5BG**
calling us on **01482 394103**
emailing us at **erpf@eastriding.gov.uk**

Pensions and divorce or dissolution of a civil partnership

This form must be completed and returned to the East Riding Pension Fund to provide written authority for pension information to be released for divorce purposes.

Personal details

Surname:	<input type="text"/>	Forenames:	<input type="text"/>
Date of birth:	<input type="text"/>	National Insurance Number:	<input type="text"/>
Address:	<input type="text"/>		
	<input type="text"/>		
	Postcode:		
	<input type="text"/>		

Question One

Do you currently contribute to the Local Government Pension Scheme? Yes No

If you have answered no, please go to Question Two.

If you have answered yes please provide copies of your three most recent pay advice slips and complete the following section.

Job Title:	<input type="text"/>	Payroll Number :	<input type="text"/>
Current Hours:	<input type="text"/>	Term Time Formula (if applicable):	<input type="text"/>
Annual Full Time Rate of Pay:	<input type="text"/>		
Please tick to confirm you have enclosed copies of your three most recent pay advice slips			<input type="checkbox"/>

Question Two

Are you in receipt of a pension from the Local Government Pension Scheme? Yes No

If yes, please refer to the Schedule of Charges information provided.

Question Three

Are divorce or nullity proceedings to be lodged in Scotland? Yes No

If yes, please enclose a copy of your marriage certificate.

Question Four

Once calculated where do you want the pension information sending? Please tick one box only.

- a. Home address only (as provided in personal details overleaf)
- b. My solicitor (address as provided below)
- c. Both my home address and my solicitor (address as provided)

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Solicitors details

If you have requested the ERPF to provide information directly to your solicitor, please give us authority to do so by completing the section below:

Name of solicitor:

**Address of
solicitor:**

<input type="text"/>
<input type="text"/>
Postcode:

I can confirm that the information I have supplied is accurate and this is the information that the ERPF will use in the calculation of my benefits for divorce purposes.

Signed:

Date:

Please send the completed form to: East Riding Pension Fund, PO Box 118, Council Offices, Church Street, Goole, East Riding of Yorkshire, DN14 5BG.