

Pensions and divorce or dissolution of a civil partnership



This guide 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?

- Your ex-wife, ex-husband or ex-civil partner will cease to be entitled to a widow's, widower's or *civil partner's* pension should you die before them.
- 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 age 65 but can be drawn on or after age 60 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.

If you are still actively employed, you may wish to increase your monthly pension contribution to help offset any reduction to your benefits. If you require any information regarding increasing your pension benefits please contact us direct.

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 2011/2012 is £1.8 million but will reduce to £1.5 million from 1 April 2012. Most scheme members' pension savings will be significantly less than the lifetime allowance. If you are a high earner affected by the introduction of the lifetime allowance from 6 April 2006, a Pension Debit may affect any lifetime allowance protection you may have.

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 **nominate a co-habiting partner** to receive a survivor's pension, any spouse's pension, **civil partner's pension** or **nominated 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**.

More information

For further information please contact:

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

Email: erpf@eastriding.gov.uk

Hotline: 01482 394150

Website: www.erpf.org.uk

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 dependant 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 dependant 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.

Nominated 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 nominate a co-habiting partner you must have been a contributing member of the LGPS on 1 April 2008 or have since joined. You can nominate either opposite or same sex, to receive a survivor's pension on your death but your relationship has to meet certain conditions laid down by the LGPS.

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 2011 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.

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Provision of information - schedule of charges

Procedure	Member type/comments	Cost
1 Provide CETV quotation	Contributing member	No charge
	Deferred member	No charge
	Provide CEV quotation	Pensioner member
2 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: £265.00 (including VAT)
3 Provide other information	If under disclosure of information regulations	No charge
	otherwise, depending on nature of request	On application
4 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	£860.00 (including VAT)
5 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 7 April 2014. In future, the charges will increase each April in line with the rise in the cost of living.

Please make all cheques payable to East Riding of Yorkshire Council

Pensions and divorce or dissolution of a civil partnership



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

Please complete this form in full and return it to: East Riding Pension Fund, PO Box 118, Council Offices, Church Street, Goole, East Riding of Yorkshire, DN14 5BG

Your details (to be completed in all cases)

Surname: Forenames:

Date of Birth: National Insurance Number:

Address:

 Postcode:

Employer / Former Employer:

Do you currently contribute to the Local Government Pension Scheme (LGPS)? YES / NO *

If YES, please state your current contractual weekly hours and current rate of pay for calculation purposes: Weekly Hours:
 Rate of Pay: £

Please enclose a photocopy of a current payslip. Please note that if you send an actual payslip it will not be returned

Do you have a deferred pension in the LGPS? YES / NO *

Are you in receipt of a pension from the LGPS? YES / NO *

If the answer is YES have you enclosed the required payment of £258 (payable to East Riding of Yorkshire Council)? YES / NO *

The name of the employer in whose employment you are (or were) a member of the LGPS:

Are the divorce or nullity proceedings to be lodged in Scotland? YES / NO *

If the answer is YES please enclose a photocopy of your marriage certificate. Please note that if you send your original marriage certificate this will be returned by normal post

Have divorce or annulment proceeding formally commenced (see note 1 on the enclosed letter) i.e. have you completed a "Form A" for your Solicitor? YES / NO *

The name and address of the solicitor acting for you:

Do you authorise the Pensions Section to provide the solicitor above with such pension information as he/she may request in relation to your LGPS benefits? YES / NO *

Signed by: Date:

(* delete as appropriate)