

# Divorce or Dissolution of a Civil Partnership



## WARWICKSHIRE

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# pension fund

Local Government Pension Scheme  
(LGPS) in England and Wales

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## **Pensions and Divorce or Dissolution of a Civil Partnership**

In this leaflet, we look 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 and you and your partner will need to consider how to treat your 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 said that you would like your ex-wife, ex-husband or ex-civil partner to receive any lump sum death grant payable on your death by completing and returning an expression of wish form, this nomination will no longer be valid. You will need to contact the Pensions Section 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 or your solicitor should contact the Pensions Section for this information, requesting an estimate of the cash equivalent value (CEV) of your pension rights. The Court will take this value into account in your settlement. In Scotland, only the pension rights built up during your marriage / civil partnership are taken into account.

You usually get one free CEV estimate each year. Any other costs for supplying information or complying with a Court Order will be recovered from you and/or your ex-spouse or ex-civil partner in accordance with a schedule of charges available from the Pensions Section.

All correspondence received by the Pensions Section in connection with divorce or dissolution proceedings will be acknowledged in writing. If no acknowledgement is received, you should contact the Pensions Section to ensure that your correspondence has been received.

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, and 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, or your benefits are subject to a qualifying agreement in Scotland, part of your benefits are transferred into your ex-spouse's or ex-civil partner's

possession. They will keep that share even if your or their circumstances change.

Your ex-spouse or ex-civil partner will hold those benefits in his / her own right. They can be left in the scheme and are normally paid from age 65 or at a reduced rate from age 60. As an alternative the ex-spouse/partner can transfer the entitlement to another qualifying pension scheme.

Your pension and any lump sum will be reduced by the amount allocated to your ex-spouse or ex-civil partner at the point of divorce/dissolution.

The reduction to your benefits is known as a Pension Debit. The amount of the Pension Debit will be increased approximately by the rise of 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.

You may be able to top up your benefits by buying extra scheme pension (ARCs), paying Additional Voluntary Contributions (AVCs) or Free Standing AVCs (FSAVCs), or by paying into a concurrent personal pension plan or stakeholder pension scheme in order to make up for the benefits 'lost' following a Pension Share.

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.

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 2010/2011 is £1.8 million. 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, (the Court can Order that you commute your pension, up to the maximum amount permitted, into a lump sum) 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

former spouse or 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 former spouse or 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 cohabiting partner** to receive a survivor's pension, any spouse's pension, **civil partner's pension** or **nominated cohabiting 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**.

### Some terms we use

#### **Cash equivalent value (CEV)**

This is the cash value of your pension rights for the purposes of divorce or dissolution of a **civil partnership**.

#### **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 cohabiting partner**

A cohabiting partner is someone you are living with as if you are married or in a civil partnership. To be able to nominate a cohabiting partner, of either opposite or same sex, to receive a survivor's pension on your death, your relationship has to meet certain conditions laid down by the LGPS.

## More information

For more information or if you have a problem or question about your LGPS membership or benefits, please contact:

Treasury & Pensions  
Warwickshire County Council  
PO Box 3  
Shire Hall  
Warwick  
CV34 4RH  
Email: [pensions@warwickshire.gov.uk](mailto:pensions@warwickshire.gov.uk)  
Website: [www.warwickshire.gov.uk/pensions](http://www.warwickshire.gov.uk/pensions)  
Telephone: (01926) 736382/412186

The national web site for members of the LGPS can be found at

**[www.lgps.org.uk](http://www.lgps.org.uk)**

## Disclaimer

The information in this leaflet applies to individuals who were contributing members of the Local Government Pension Scheme on 1 April 2008, or who have since joined. The leaflet was up-to-date at the time of publication in June 2010. 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. This leaflet does not confer any contractual or statutory rights and is provided for information purposes only.

**Whichever choice you make in the future, it is recommended that members seek independent financial advice before finally making a decision.**

