

## What happens to your pension in a divorce?

### Introduction

Divorce is generally a difficult time, and it is important to get professional help rather than just relying on anecdotal information.

Appointing a solicitor early is a good idea, but if you want a step before that, try your local Citizens' Advice, or the Government's 'Money Helper' ( [www.gov.uk](http://www.gov.uk) ).

A study from the University of Manchester found that 90% of couples have some private and/or occupational pension wealth between them, with more than half having a combined pension wealth above £140,000. Yet surprisingly, figures suggest that only 12% of divorce cases involve any type of pension sharing.

Divorced women, who are not cohabiting, in their late 60s have less than 30% of the pension of men in an equivalent position. The study suggests that this is not only due to the initial inequality of pension pots, but further that women prefer to take a share of assets in the form of property, typically the family home, rather than in pension assets.

It is important that full advice is taken regarding potential pension sharing orders at the time of divorce, as £1 in a pension is not equivalent to £1 in the family home, and some pension schemes can work out to be much more valuable than the family home in the long run.

For working aged people, the pension split might not be at the forefront of discussion, but it is often one of the most valuable assets. After retirement, once pension is in payment, it is a key issue for many.

If you divorce, or your marriage is annulled or dissolved, then pensions are a joint marital asset and are included in the matrimonial pot. The rules regarding pension division differ between Scotland and the rest of the UK.

In Scotland, only the value of pensions built up during the marriage or civil partnership is considered.

In England, Wales, and Northern Ireland, the value of all workplace and private pensions, regardless of when they were built up, is typically included in divorce settlements.

All pensions - private and workplace, and even some state pension, will need to be included. Before dividing pensions, it is important to gather information about all the different pension assets held by both parties. These includes workplace pensions, personal schemes (such as self-invested personal pensions and stakeholder pensions), and any portion of the basic state pension built up under the additional state pension rules before April 2016.

Having a clear understanding of the recent values of these pensions is crucial, particularly recognising the indexation of annual increases in schemes like the Civil Service pension scheme.

When it comes to splitting pensions there are various options available, depending on the rules of the pension scheme, and on your individual circumstances.

In some cases, pensions can be transferred immediately, while in others a percentage share may be received when the former spouse or civil partner retires.

There are different possible outcomes for your pensions, assuming that these are not dealt with by adjustment (the offsetting) of other assets. That is something you would need to consider separately.

In 2019 the Pensions Advisory Group published a report on Pensions and divorce and concluded that pensions are designed to be income for retirement and should be looked at in that way and not as a division based on the value at a moment in time, particularly where it increases annually. (This is likely to be different in cases where the individuals concerned are relatively young and the pot is consequently relatively small.)

## Pension Sharing

The pension sharing order reduces a scheme member's pension permanently by a percentage (or Cash amount in Scotland). It will not revert on the death of ex-spouse/civil partner. Benefits are then paid to the ex-partner based on age and gender.

This is based on the amount due to the former partner in the divorce, and the pension scheme will use actuarial factors for the calculation. A Cash Equivalent Transfer Value will be assessed, which is equivalent to what you would be transferring out of the scheme if it was taken in one lump.

This calculation may be what the ex-partner receives and will depend on the most recent scheme valuation.

This means that, if and when the scheme valuations have to be carried out again - such as the situation that arose when the age discrimination cases were being considered recently - these calculations would have to be put on hold. This caused a lot of stress and inconvenience at the time.

The ex-spouse/civil partner becomes a 'pension credit' member of the scheme and has a scheme pension based on the monetary value - Cash Equivalent Transfer Value (CETV) - of the proportion of the original scheme member's pension.

During the divorce, a value is calculated, and that proportion is removed from one person's pension and set up as another pension. This does not equate to a person losing 'X' years and the former partner gaining 'X' years, as they will gain however much that amount buys them, which might be different depending on their age and gender. The debit will be applied when benefits are taken, even if that is early.

It is now likely that, when dealing with pensions in a divorce, the parties will need to jointly instruct a Pensions on Divorce Expert (PODE) to provide them with a pension report and to calculate the Pension Sharing Order to equalise incomes.

## Earmarking Order/ Pension Attachment Order

This is when a Court orders the pension administrator (MyCSP) to pay a specified amount of the divorced person's pension to their former partner on the retirement of the scheme member.

This may be a lump sum and/or a pension. If it's a pension, the payments will stop if the scheme member should die before the former spouse/civil partner, or if the former partner should re-marry or enter into a civil partnership in the future.

However, the right to a lump sum does not stop on remarriage but will stop when the former spouse/civil partner dies.

## If you divorce after you retire

If someone has already retired when they get divorced, it's the retirement income that needs to be looked at.

These benefits may need to be split — especially if the couple have a joint retirement income, or one that provides for your partner when you die - like the Civil Service widows/widower's benefits. Equality of income is key here.

MyCSP who administer your retirement benefits, will be able to tell you your options, so it's a good idea to get in touch with them.

There will be a key date of divorce that the scheme administrators will use to adjust the amount of pension a scheme member receives.

If you are already getting your pension, you may have to pay back some of the pension you have already received. The pension will be reduced to take into account the court order.

The start of your new lower rate of pension will be backdated to the effective date stipulated in the court order.

People who receive additional State Pension under the pre 2016 State Pension, or a protected amount of pension in the 'new' post 2016 State Pension scheme, may have to share that, but not their Basic State Pension in either the 'old' or 'new' scheme.

## Children's Pensions in the Civil Service Scheme

Divorce also affects child pensions, as these would be put into payment on the death of a scheme member until the children are no longer eligible. To be eligible for a children's pension, the children must have been conceived or born before the scheme member's employment with a Civil Service pension employer ended. They must also be in education or permanently dependent on the scheme member.

### Level of children's pensions

The level of the pension paid depends on the number of dependent children the scheme member leaves and who cares for them, in the case of divorce this is usually the ex-spouse.

They will pay:

- 1/4 of your pension for each child in the care of your widow, widower or surviving civil partner
- 1/3 of your pension for each child in the care of another person.

Usually, MyCSP will not pay more than half of the pension in total as a children's pension, although it is higher when a continuing pension for a widow, widower or surviving civil partner is not payable and/or when more than one child is in the care of another person.

If the scheme member leaves more than two children who qualify for a pension, the scheme will reduce each child's pension so they each get an equal share.

They pay children's pensions for children up to age 17.

They will also pay for children over 17 and under 23 while they are in full-time education or vocational training. In these cases, the Scheme Administrator (MyCSP) will need to see a letter from the school, college, or university.

## Conclusion

It is advisable to seek professional advice from a financial adviser to navigate through the complexities of dividing pensions during a divorce, as they can provide guidance tailored to your specific situation.

In any of these scenarios, a good source of help is the Government's Pension Advisory Service and Money Helper which are free.

<https://www.moneyhelper.org.uk/en/family-and-care/divorce-and-separation/state-pension-and-divorce-dissolution>

Further general information

[Pensions and Divorce: Exploratory Analysis of Quantitative Data \(manchester.ac.uk\)](https://www.manchester.ac.uk/research/quantitative-data/pensions-and-divorce)

[A Guide to the Treatment of Pensions on Divorce \(nuffieldfoundation.org\)](https://www.nuffieldfoundation.org/guide-to-the-treatment-of-pensions-on-divorce)

Please note that this guide is for informational purposes only and should not be considered legal advice.

For detailed information and guidance on pension rights in a divorce, it is recommended to consult with a legal professional.