

PENSIONS ON DIVORCE OR DISSOLUTION

A Brief Guide for Members of the LGPS (NI)



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BACKGROUND

Navigating your path through a divorce or the dissolution of a civil partnership can be a confusing and distressing time. This guide is designed for members of the Local Government Pension Scheme in Northern Ireland (LGPS (NI)) – to help you understand how your pension may be affected by divorce or dissolution and some of the practical steps that you may have to take. This guide does not provide legal advice in relation to divorce or dissolution – for legal advice you should contact a legal professional, such as a solicitor.

DISCLAIMER

This guide is for general information only and cannot cover every personal circumstance and is not a full statement of the law. Individuals should seek further information from their solicitors about the relevance of pension sharing orders or pension adjustment orders in their circumstances.



DIVORCE AND DISSOLUTION PROCEEDINGS

In Northern Ireland, either spouse or civil partner can petition the court for a divorce or dissolution.

One important aspect of the proceedings will be the sharing of any matrimonial or civil partnership property between the two people. This will often be resolved by a settlement agreed between the couple or, if no agreement is reached, the court will decide on the division.

Why is a Pension important in a Divorce or Dissolution?

Whether you are trying to reach a settlement about the sharing of matrimonial or civil partnership assets or you are preparing for the matter to be heard in court, you will have to exchange detailed information regarding the value of all relevant property – including for example the family home, cars, other houses or land, savings, investments, insurance policies and pensions. Often this is done through your solicitors.

For many people their pension is one of their most important and valuable assets and you are likely to need specific details about the value of your pension as part of this exchange of information. However, individual circumstances vary and, as stated above, we recommend that you take appropriate legal advice, including on how to deal with your LGPS (NI) pension.

If you have not already done so, either you or your solicitor (with a letter of authority from you), should write to us for an estimate of the cash equivalent transfer value (CETV) of your pension rights. This estimated CETV is the value that your solicitors and the court will take into account in any settlement discussions or court orders.

Costs

You are entitled to one free CETV estimate each year. Any further CETVs in that twelve-month period will incur a cost. There are other costs for supplying information or complying with a court order. For details of all costs, please see the Schedule of Charges on pages 17 to 19. Any charges incurred will be recovered from you and/or your former spouse or civil partner.

When will you contact me?

We will acknowledge, in writing, all correspondence sent to us regarding your divorce or dissolution. If no acknowledgement is received, please contact us.

Your Privacy matters to us

We will only give basic information about the Scheme directly to your former spouse or civil partner, or their legal representatives. We will not give your personal information to anyone but you unless:

- You have directed us to do so: for example, you may ask us to send information to your solicitor
- We are under a legal obligation: for example, a court order

For full details of how we deal with information about you, please see our Privacy Notice for Members and Beneficiaries on the NILGOSC website, which sets out the purposes for which we process your personal information and the parties with whom we may share that information

How will a Divorce or Dissolution affect my LGPS (NI) Pension?

If your pension is considered to be a relevant matrimonial or civil partnership asset, there are three ways in which your LGPS (NI) pension may be dealt with on divorce or dissolution:

1. **Offsetting**

The value of the pension is offset against the value of other financial assets.

2. **Pension Sharing Order**

The pension is split at the time of divorce or dissolution so that you and your former spouse or civil partner have separate and independent pension entitlements under the Scheme.

3. **Pension Adjustment Order**

Part of your pension (your monthly pension and/or any lump sum) is paid to your former spouse or civil partner once they come into payment.

Each of these options is explained in more detail in the sections below.

OFFSETTING

Offsetting is a common outcome in financial settlements. It is often attractive to the parties as it is a very simple approach. The matrimonial or civil partnership assets are considered as a whole and a division is agreed. One person may ask that his or her pension remains intact and, in return, agree to receive a smaller share of other assets, so that the overall division remains the same. For example, if you wanted to keep all of your pension, your former spouse or civil partner might get a larger share in the equity in the family home or of your joint savings.

Often both of the couple have pensions – and in this case the value of each may be set off against the other and any difference sought in an adjustment to the share of other assets.

Please note - it is not the purpose of this guide to assist you to decide what may be a fair division of property or what property may be taken into account.

PENSION SHARING ORDER

A Pension Sharing Order is also a common way of dealing with pension assets. Just as it sounds, each person is given a share of the pension by a court. The court may make the order following an agreement between the couple or it may be imposed following a court hearing if the financial aspects of the divorce or dissolution are contested.

For the purposes of this part of the guide, we are writing from the point of view of a member of the LGPS(NI) where a pension sharing order has given a share of the pension to the former spouse or civil partner.

The share given to your former spouse or civil partner is a permanent change to your pension and it is not affected by any later changes in either person's circumstances – for example it is not affected if either person remarries or enters into a civil partnership and it is not affected if either person dies. It is based on the value of your pension at the effective date of the pension sharing order.

Where the court issues a pension sharing order (or qualifying agreement in Scotland) sharing your pension:

- your pension is reduced - a percentage of your pension is transferred to your former spouse or civil partner, known as a Pension Debit; and
- your former spouse or civil partner becomes entitled to the transferred pension as a Pension Credit and becomes a Pension Credit Member

Effect on your Pension – Pension Debit

Your pension and any lump sum will be reduced by the amount allocated to your former spouse or civil partner at the point of divorce or dissolution. This reduction is known as a Pension

Debit. The practical impact is slightly different depending on whether the order is made before you have claimed your pension or when you are a pensioner receiving pension.

Pension Sharing Order Before Retirement

Your pension and any subsequent spouse's or civil partner's pension will be reduced by the percentage allocated to your ex-spouse or ex-partner. (In Scotland, the court will specify either a percentage or a monetary amount.) The reduction will normally be calculated within four months of the pension sharing order being received.

The amount of the Pension Debit will increase in line with the cost of living between the date it was first calculated and the date your pension is paid. When your pension is paid, the revalued amount of the Pension Debit will be deducted from your pension. The debit will be adjusted if your pension is being paid either before or after your Normal Pension Age.

If you later marry or enter into a civil partnership or cohabit with a partner, the Pension Debit will reduce any survivor's pension payable on your death to your new spouse or civil partner or to any eligible cohabiting partner. It does not reduce any children's pensions that may be payable – children's pensions continue to be calculated as if no pension sharing order had ever been made.

Pension built up after the effective date of the pension sharing order is not affected.

Transferring Pension

You can transfer your remaining pension to another pension scheme providing you have left the LGPS (NI) and are at least one year off your Normal Pension Age. A transfer will only be paid in respect of the amount of your pension after the Pension Debit

has been deducted. The pension of the Pension Credit Member (your former spouse or civil partner) is unaffected and will remain in the Scheme unless that person decides to transfer.

Buying Additional Pension

You may be able to top up your pension by buying extra LGPS (NI) pension through Additional Pension Contributions (APCs), paying Additional Voluntary Contributions (AVCs) or by paying into a concurrent personal pension plan or stakeholder pension. More information is available in the 'Increasing Your Retirement Benefits Guide' or on our website. Additional pension which you purchase after the effective date of the pension sharing order is not affected by that order.

Paying your Pension

Your pension is claimed and paid in the normal way.

Pension Sharing Order After Retirement

The pension currently in payment will be reduced by the percentage allocated by the court to your former spouse or former civil partner from the effective date of the pension sharing order.

If you later marry or enter into a civil partnership or cohabit with a partner, the Pension Debit will reduce any survivor's pension payable on your death to your new spouse or civil partner or to any eligible cohabiting partner. It does not reduce any children's pensions that may be payable – children's pensions continue to be calculated as if no pension sharing order had ever been made.

Tax Implications – Annual and Lifetime Allowance

The value of your pension when you draw it is assessed against the value of all the pension savings you are allowed before you become liable for a tax charge (the Lifetime Allowance). The reduced value of your pension after the Pension Debit has been deducted will be used. The Lifetime Allowance for 2021/22 is £1.073 million. If you are a high earner a Pension Debit may affect any Lifetime Allowance protection that you have – and you should contact HMRC to inform them of the pension sharing order so that any necessary recalculation can be undertaken.

Also, in assessing the value that your pension savings have increased in any one year without you having to pay a tax charge (the Annual Allowance) the reduction to your pension due to the Pension Debit is ignored in the Scheme year that the pension sharing order or qualifying agreement is applied to your pension.

Pension Rights for your Former Spouse or Civil Partner - Pension Credit

When awarded a share in your pension, known as a Pension Credit, your former spouse or partner becomes a Pension Credit Member in the Scheme. A Pension Credit Member can:

- choose to transfer the pension to another qualifying pension scheme
- claim pension in the LGPS (NI) at their Normal Pension Age (see page 11 for more details)
- choose to claim pension early with reductions for early payment
- choose to claim pension later with actuarial enhancements for late payment

The Pension Credit Member must draw their pension before their 75th birthday.

What will a Pension Credit provide?

Within four months of a pension sharing order being received, your former spouse or former civil partner will be awarded a pension in the LGPS (NI) in their own name. The pension awarded will be equal to the value of the share of your pension granted by the court. They are known as Pension Credit benefits. Please note there may be costs payable – see the Schedule of Charges on pages 17 to 19 for details.

A Pension Credit will provide:

- An annual pension and, if applicable, a lump sum
- Commutation of trivial benefits (you must be aged 55 or over) – if the Pension Credit is very small it can be paid as a one-off lump sum. This extinguishes all other pension benefits that person may have in the LGPS (NI).
- A lump sum death grant, which varies according to circumstances:
 - three times the value of the annual pension, if the Pension Credit Member dies before the Pension Credit is implemented
 - five times the value of the annual pension, if the Pension Credit Member dies after the Pension Credit is implemented but before it is payable
 - ten times the value of the annual pension less the amount of pension already paid and any commuted lump sum, if the pension is already in payment when the Pension Credit Member dies

When is a Pension Credit payable?

Pension Credits Awarded From April 2015

Pension under a Pension Credit is payable from the Pension Credit Member's Normal Pension Age (NPA), which is the same as his or her State Pension Age. However, a Pension Credit Member has the option of taking the pension early, from age 55,

or to defer up to age 75. If the pension is taken before NPA they will be reduced as they are being paid early; if taken after NPA, the pension will be increased.

Pension Credits Awarded Pre-April 2015

A pension is usually payable from age 65 or later if the pension sharing order was issued after the Pension Credit Member reached age 65. Members who were awarded Pension Credits before 1 April 2015 can draw their pension early from age 55 on a reduced basis.

A Pension Credit pension must be taken before age 75.

Pension Credit Members can check their State Pension Age by visiting www.gov.uk.

Can Pension Credit Members opt to convert Pension to Cash?

Depending on the nature of the pension shared, the Pension Credit Member will sometimes have an automatic right to a lump sum. A Pension Credit Member may also have the option to convert some pension for a cash lump sum, on top of any automatic lump sum due.

Whether or not a Pension Credit Member has the option to convert pension to lump sum when claiming payment of the pension depends on what the circumstances were at the effective date of the pension sharing order.

A Pension Credit Member does not have this option if, at the effective date of the pension sharing order, the person whose pension is debited had an actual right to payment of pension. In general terms, this means where the former spouse or partner whose pension was debited was, at the effective date of the pension sharing order, either:

- already receiving pension; or
- all legal requirements were in place for the pension to be paid.

In all other circumstances the Pension Credit Member will have the option to convert up to 25% of the value of their pension into a one-off lump sum, which is normally tax-free. This conversion reduces the annual pension payable.

Transferring a Pension Credit Benefit

When setting up a Pension Credit, we will advise the Pension Credit Member (or his or her solicitor) of:

- the pension that would be provided under the LGPS (NI) and
- the cash equivalent transfer value of their share.

The Pension Credit Member can choose to keep the pension in the LGPS (NI) or to transfer it to another scheme. If the Pension Credit Member does not choose one of these options within one month, we will automatically award a Pension Credit in the LGPS (NI).

The Pension Credit Member can choose to transfer the Pension Credit to another appropriate pension scheme up to one year before their Normal Pension Age.

General Notes for Pension Credit Members

- A Pension Credit is not affected if the former spouse or civil partner dies.
- If a Pension Credit Member remarries or enters into a Civil Partnership and that new relationship ends in divorce or dissolution, then the Pension Credit itself could be subject to a pension sharing order.

- A Pension Credit pension cannot be aggregated with any other pension that the member may have in the LGPS (NI) in their own right.
- It is not possible to refund contributions in the normal way for a member who is also a Pension Credit Member as a refund will extinguish the Pension Credit.
- A Pension Credit will not provide any survivors' benefits.
- A Pension Credit Member cannot make Additional Voluntary Contributions (AVCs) or purchase Additional Pension Contributions (APCs) in the LGPS (NI) to increase their Pension Credit benefits.

PENSION ADJUSTMENT ORDER

A Pension Adjustment Order is a method of sharing a pension on divorce or dissolution which has limitations and is not widely used. Generally the courts will look for a clean-break in financial matters (other than support for children) – and one drawback of a pension adjustment order is that it keeps financial ties in place indefinitely. However, there may be some circumstances in which the couple and their legal advisers or the court believe that it is the appropriate option.

If a court makes a pension adjustment order, your LGPS (NI) pension still belongs to you. However, depending on the terms of the order made, one or more of the following may apply:

- when you draw your pension, the amount paid to you is reduced and a percentage is paid directly to your former spouse or civil partner.
- the amount of any lump sum you take when beginning your pension or that may be payable on your death may be reduced and a portion paid to your former spouse or civil partner.

A pension adjustment order is sometimes described as a form of deferred maintenance, as it can result in periodical payments to

your former spouse or civil partner.

In Scotland, a similar order exists, called an earmarking order. Please note that in Scotland, an earmarking order can only apply to a lump sum due when you take your pension or upon your death – it is never applied to your monthly pension.

How much will my Former Spouse or Civil Partner receive?

The pension adjustment order can require that your former spouse or civil partner will receive one or a combination of the following:

- all or part of your LGPS (NI) pension
- all or part of any lump sum payable to you, and
- all or part of any lump sum payable on your death.

Can I transfer my LGPS (NI) Pension if there is a Pension Adjustment Order?

You can only transfer your pension benefits to another pension arrangement if your new pension provider can accept the pension adjustment order. All other normal rules with regard to transfers would also apply.

When is the Pension paid to my Former Spouse or Civil Partner?

As the pension benefits remain with you, your former spouse or civil partner will only receive payment of any share of the pension and/or lump sum when you have claimed payment of your pension benefits. At that time, we will contact your former spouse or civil partner and check that the pension adjustment order is still valid and arrange for payment of the pension benefits.

What happens if my Former Spouse or Civil Partner marries or enters into a Civil Partnership?

If your former spouse or civil partner marries or enters into a civil partnership it has the following effects on a pension adjustment order:

- any periodical payments to your former spouse or civil partner (that is any payments ordered to be paid from your monthly pension) would cease or, if you are not yet receiving your pension, the payments will never begin
- you would receive the full amount of your pension benefits
- there is no effect on any lump sum payable (unless the order specifically provides otherwise)

What would happen on my death?

Pension payments to your former spouse or civil partner would cease on your death, although any proportion of the lump sum death grant provided for in the order would then become payable.

SCHEDULE OF CHARGES

Like most pension schemes, NILGOSC charges for the additional work dealing with providing information and amending records on divorce or dissolution of a civil partnership. Where there is a Court Order that sets out how costs will be paid, who will pay them or how they will be split between the member and the former spouse or civil partner, NILGOSC will act in accordance with that Order. Usually such an Order will require that the charges are deducted from the CETV and set out the proportion to be borne by each person. Where the Court Order does not specify how the charges will be met, NILGOSC may allow the costs to be paid by other methods, including, for example an upfront payment by the member or former spouse or civil partner.



Pension Sharing Costs for Active and Deferred Members

Procedure	Comments	Estimated Cost (VAT will be payable in addition to the cost stated)
Produce CETV quotation	This is a standard entitlement under regulations for ONE quotation in a twelve-month period. Additional quotations are charged as set out below. CETV refers to “Cash Equivalent Transfer Value” – the value of pension rights from the scheme	£0
Additional CETV quotations (based on the same dates)	Any more than one quotation a year will incur a charge	£200 (direct payment to NILGOSC)
Provision of other information	Information which does not have to be provided free will incur a charge. Cost will depend upon the nature and complexity of the enquiry	Up to £250 (direct payment to NILGOSC)
Processing a Pension Sharing Order (PSO) – internal transfer, DB scheme	Includes an allowance for future scheme administration costs of approximately £1,000	£1,950 - £2,350 (see page 16 for payment details)

Procedure	Comments	Estimated Cost (VAT will be payable in addition to the cost stated)
Processing a Pension Sharing Order (PSO) – external transfer, DB scheme		£1,100 - £1,550 (see page 16 for payment details)

Pension Sharing Costs for Pensioner Members

Procedure	Comments	Estimated Cost (VAT will be payable in addition to the cost stated)
Produce CETV quotation	There is no entitlement to this information under regulations	£0
Additional CETV Quotations	Any more than one quotation a year will incur a charge	£200 (direct payment to NILGOSC)
Provision of other information	Information which does not have to be provided free will incur a charge. Cost will depend upon the nature and complexity of the enquiry	£0 - £250 (direct payment to NILGOSC)

Procedure	Comments	Estimated Cost (VAT will be payable in addition to the cost stated)
Processing a Pension Sharing Order (PSO) – internal transfer, DB scheme	Includes recalculation of CETV and recovery of pension arrears if the full amount is paid for a time after the Pension Sharing Order	£2,000 - £2,550 (see page 16 for payment details)
Processing a Pension Sharing Order (PSO) – external transfer		£1,300 - £1,900 (see page 16 for payment details)

You should ensure that all parties involved are aware of these charges.

KEEP NILGOSC UP TO DATE

You should send NILGOSC a copy of the decree absolute of divorce or dissolution of the civil partnership so we can keep your record up to date.



FURTHER INFORMATION

You can find more detailed information in other Scheme literature which can be viewed on our website at www.nilgosc.org.uk, requested from your employer or directly from NILGOSC.

If you have any questions on the content of this leaflet or on any aspect of the LGPS (NI), please contact the Pensions Administration Team by any of the methods on the following page.

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