



Pensions on divorce and dissolution

January 2008

There are two provisions which allow a member's pension benefits to be divided between the member and their former spouse or civil partner following a divorce or where a civil partnership has been dissolved: these are known as 'Earmarking' and 'Pension Sharing'.

Are there any benefits that cannot be earmarked?

- + Yes, dependants' pensions or pension benefits that are already earmarked.

Earmarking

Earmarking is the term given to the arrangement for the allocation of a part of the member's future pension benefits to be paid to the former spouse or civil partner when the member retires.

Teachers' Pensions (TP) can only arrange earmarking as a result of an order from a court under the Matrimonial Causes Act. Benefits cannot be earmarked as a result of an out of court settlement.

Which benefits can be earmarked?

- + The pension due when the member retires.
- + Any lump sum due when the member retires.
- + A death grant. TP can be instructed to pay a part of this to a former spouse or civil partner.

What information is required by TP?

- + A copy of the draft order.
- + The order should be sent by the court or by the scheme member's solicitor and include a reference to TP's costs.
- + The order must contain: the full name and address of the scheme member, the full name and address of the former spouse or civil partner and the former spouse or civil partner's signature for identification and security purposes.

What happens once arrangements have been set up?

- + The earmarking benefits are paid when the member retires.
- + The order ceases to apply to earmarked pensions if the former spouse or civil partner remarries or enters into another civil partnership.
- + The order ceases to apply when either party dies.

- + If the member dies before retiring, a death grant, if covered by the order, will be paid to the former spouse or civil partner.
- + It is important that the former spouse or civil partner as well as the member notifies TP of any address changes in order that TP can contact them when they are due to receive benefits.

Pension Sharing

Pension Sharing allows the value of the member's Cash Equivalent Transfer Value (CETV) to be shared between the member and their former spouse or civil partner following a divorce or where a civil partnership has been dissolved.

The former spouse or civil partner becomes a 'pension credit member' of the Teachers' Pension Scheme (TPS) and is provided with pension benefits in his or her own right, payable when they reach the member's normal pension age. The member's pension entitlement is reduced. The pension credit member's pension is payable for their lifetime irrespective of whether they re-marry, enter into another civil partnership or are pre-deceased by the member.

Pension Sharing is not allowed in cases where the member's benefits under the TPS are already subject to Earmarking. Only Pension Sharing orders and agreements that comply with the Pension Sharing legislation can be accepted.

How do I obtain information for the court proceedings?

- + TP will issue you with relevant literature and forms. You should complete and return the appropriate information.
- + TP then calculate and send you an estimate of your CETV. The CETV represents the cash value of the benefits you have accrued in the scheme.

If the information is requested by your solicitor, the court or any other third party, TP will need your written authority before providing the information.

What happens if the court decides my benefits are to be shared?

- + TP will be asked to confirm if your benefits are already subject to any other legal orders.
- + TP will then send you a form if you are in pensionable employment at the time of Pension Sharing or have left within 12 months of that date.
- + TP will issue an invoice for the administration charges involved.
- + You need to send TP a copy of the Sharing Order.

What information needs to be on the Sharing Order?

- + The names of the parties involved.
- + The date the Pension Sharing order or agreement takes effect.
- + The proportion of your accrued pension rights that are to be transferred to the credit member must be shown as a percentage of the CETV; this is not a monetary amount unless the order was obtained in Scotland.

Will any other documents be needed by TP?

Yes:

- + your birth certificate;
- + your former spouse or civil partner's birth certificate; and
- + a copy of the Decree Absolute for the divorce or annulment or order dissolving a civil partnership;
- + form POD (EX) which we will send to you for completion;
- + POD Service/Salary completed by you and your employer to date of pension share.

What happens next?

Within 21 days of receiving all information that enables the Pension Sharing order to be implemented, including payment of administration charge TP will:

- + send a written notification to you and or the former spouse giving the dates of the implementation period, i.e. a period of up to 4 months starting from the date all relevant information has been received;
- + notify you of the date the pension share will be calculated;
- + implement the Pension Share using all pensionable service accrued up to the 'Effective Date'.

The 'Effective Date' of the Order will always be the later of the date of Decree Absolute, or 21 days from the date of the Pension Sharing Order. If the member or former spouse/civil partner dies after the date of the sealed Pension Sharing order but prior to the effective date the Pension Sharing order cannot be implemented;

- + notify you that action cannot be taken and the reasons why.

Within 4 months of the implementation period TP will:

- + update your record with the reduction in your benefits and notify you of the change; and
- + create a record for the pension credit member with their entitlement and will notify them of the details.

How will my benefits be calculated when I retire?

- a) Benefits are calculated without the Pension Sharing reduction; then
- b) the sharing reduction is updated to the current value by applying Pensions Increase (index-linking); then
- c) the updated reduction is subtracted from the original benefit calculated to arrive at the benefits payable ($a - b = c$).

If I re-marry or register a new civil partnership what is the effect on dependant's benefits?

- + If you die before retirement, any dependant's short term pension, this pension is normally paid for the first three months after your death, will not be reduced.
- + If you die after retirement, any short term pension payable to an adult dependant will be at the same rate as you were receiving prior to your death but any child's pension will be paid at the rate you would have received if a sharing order had not been in place.
- + Any adult dependant's long term pension will be reduced in line with the previous Pension Sharing order.

What if I leave the TPS and decide to transfer out?

- + The transfer out will take into account your reduction in benefits.

What happens if I have already retired?

- + Your current pension will be reduced from the effective date of the pension sharing order.
- + If an overpayment of pension arises because of the order it will be recovered from your future pension payments.
- + The amount you can earn during re-employment without your pension being abated is increased by the amount of the reduction in your pension.

Are transfer provisions available to the Pension Credit Members?

No:

- + they cannot transfer-out pension benefits from the Scheme; and
- + they cannot transfer-in pension benefits from elsewhere.

When does the Pension Credit Member claim their pension?

- + The pension credit member's retirement benefits should be claimed at the same normal pension age as you have i.e. at age 60 or 65 whichever applies to you.
- + If they are also a member of the TPS in their own right those benefits are unaffected by the Pension Sharing order.
- + Where this circumstance exists such a member will have two records in the TPS one recording their service in the scheme, the other recording their Pension Sharing arrangement.
- + If before normal pension age the pension credit member's life expectancy is less than 1 year, they may apply for serious ill-health benefits.

Further information regarding the TPS can be found on our website at www.teacherspensions.co.uk

Where there is any difference between the legislation governing the Teachers' Pension Scheme and the information in this leaflet the legislation will apply.

For more information on this or any aspect of the TPS log on to www.teacherspensions.co.uk, call 0845 606 6166 or write to: Teachers' Pensions, Mowden Hall, Darlington DL3 9EE