



Pensions on divorce and dissolution

March 2011

There are two main 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 'Pension Sharing' and 'Earmarking'.

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. At the same time the member's pension entitlement is reduced.

Please be aware that because of the factors used in the calculation, the pension benefits due to a pension credit member will not exactly replicate the pension benefits surrendered by the 'pension debit member.'

Pension benefits are payable when the pension credit member reaches their normal pension age.

As from 1 September 2010, if the pension debit member has

pensionable or non-pensionable teaching employment on or after 30 March 2000, the pension credit member may apply for retirement benefits after age 55. This cannot, however, be before the date of the Pension Sharing Order. These benefits will be actuarially reduced for life.

A pension credit member's pension is payable for their lifetime, regardless 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.

The TPS cannot accept overseas Pension Sharing Orders. But, if the divorce is recognised in the UK, a party to the divorce overseas can obtain a UK Pension Sharing Order and Annex, allowing benefits in the TPS to be shared.

Please be aware that any Mandatory or Discretionary Compensation paid as a result of Premature Retirement is a non-shareable right.

How do I obtain information for the court proceedings?

+ Teachers' Pensions (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 should be asked to confirm whether your benefits are already subject to any other legal orders.

What information needs to be on the Sharing Order/Annex?

- + 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 must not be a monetary amount, unless the Order was obtained in Scotland.

Draft Pension Sharing Order and Pension Sharing Annex

You should send TP a copy of the draft Pension Sharing Order and the Pension Sharing Annex for our approval.

After confirming whether the draft Order is acceptable, TP will require the Sealed Order, Pension Sharing Annex and the following documents:

- + 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);
- + POD Serv/Sal completed by you and your employer up to the date of pension share.

On receipt of all required documentation, TP will issue an invoice for the administration fee in accordance with Section D of the Pension Sharing Annex. The fee must be paid in full when requested. It cannot be deducted from the fund value or from potential benefits.

What happens next?

TP will:

- + implement the Pension Sharing Order using all pensionable service accrued up to the 'Effective Date'.

The 'Effective Date' of the Order is the later of the date of Decree Absolute, or 21 days from the date of the Sealed 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;

- + or, notify you that action cannot be taken and give you the reason.

Within 4 months of receiving all relevant information, TP will:

- + update your record with the reduction in your benefits and notify you of the change;
- + create a record for the pension credit member with their entitlement and will notify them of the details; and
- + if you are a pensioner, notify you of any overpayment of pension that has occurred.

How will my benefits be calculated when I retire?

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

What will be the effect on dependant's benefits, if I re-marry or register a new civil partnership ?

- + If you die before retirement, any dependant's short-term pension will not be reduced. This pension is normally paid for the first three months after your death at the rate of your salary.
- + 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 pension will continue to be paid at the full rate until the pension share is implemented.
- + The reduction in your pension will be backdated to the effective date of the Pension Sharing Order.
- + An overpayment of pension will therefore have accrued for the period from the effective date until all actions to implement the Order have been completed. This will need to be recovered from you.
- + The amount you can earn during re-employment without your pension being abated is increased by the amount of the reduction in your pension.
- + If the effective date of an Order is after your normal pension age (NPA) and you have not yet claimed benefits, you will be treated as a pensioner member and benefits will be backdated to your NPA. Any retirement lump sum will be paid to you in full.

When can a Pension Credit Member claim their pension?

- + Pension credit members should claim their retirement benefits at the same NPA as yours i.e. at age 60 or 65. If you have an NPA of 60 and 65, the pension credit member's NPA is 65.
- + If the pension debit member has pensionable or non-pensionable teaching employment on or after 30 March 2000, the pension credit member may apply for retirement benefits after age 55. This cannot, however, be before the date of the Pension Sharing Order. These benefits will be actuarially reduced for life.
- + Those who are solely pension credit members cannot transfer benefits into or out of the TPS.
- + If a pension credit member is already a member of the TPS in their own right, those existing benefits are unaffected by the Pension Sharing Order.
- + Such a person will have two separate membership records; one recording their service in the TPS and another their Pension Sharing arrangement.
- + If before NPA the pension credit member's life expectancy is less than 1 year, they may apply for serious ill-health benefits.

Earmarking

Earmarking is the term given to the arrangement for the allocation of a part of a member's future pension benefits to be paid to the former spouse or civil partner when the member retires. TP can only arrange earmarking as a result of an order from a UK court under the Matrimonial Causes Act. Benefits cannot be earmarked by the TPS 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.

Are there any benefits that cannot be earmarked?

- + Yes, dependants' pensions or pension benefits that have already been earmarked.
- + Mandatory and Discretionary Compensation cannot be shared.

What information is required by TP?

- + A copy of the draft order and pension attachment annex for our approval.

- + The order should include a reference to TP's costs.
- + The invoice for the fee will be sent to the scheme member.
- + The documentation must contain: the full name and address of the scheme member.
- + Once this is received, the former spouse/civil partner must complete an identification document for 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. This does not affect any earmarked lump sum.
- + 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.

Further information about 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