Divorce and dissolution

October 2021

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

Members with final salary and career average Benefits

If a Scheme member has accrued benefits in both the 'Teachers' Pension Scheme 2010' (final salary) and the 'Teachers' Pension Scheme 2015' (career average) it's possible to share either or both of these entitlements. If differing percentages apply to each Scheme, two separate Pension Sharing Annexes will be required. They must have a clear reference to either the 'Teachers' Pension Scheme 2010' (final salary) or the 'Teachers' Pension Scheme 2015' (career average) on each document. If the Annex only refers to the 'Teachers' Pension Scheme', then all of the Scheme member's entitlement under both Scheme's will be shared.

What is earmarking?

Earmarking is the term given to the arrangement for the allocation of a part of your future pension benefits to be paid to the former spouse or civil partner when you retire. We 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 Scheme as a result of an out of court settlement.

Which benefits can be earmarked?

- The pension due when you retire.
- Any lump sum due when you retire.
- A death grant. We can be instructed to pay a part of this or all of this to a former spouse or civil partner.

Are there any benefits that can't be earmarked?

- Dependants' pensions or pension benefits that have already been earmarked.
- Mandatory and Discretionary Compensation from your employer can't be earmarked.

What information is required?

- A copy of the draft order and pension attachment annex for our approval.
- The order should include a reference to our 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 you retire.
- 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 you die before retiring, a death grant, if covered by the order, will be paid to the former spouse or civil partner.
- It is important that you or your former spouse or civil partner notify us of any address changes so we can contact you when benefits are due.

Pension Sharing

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

Your former spouse or civil partner becomes a 'pension credit member' of the Teachers' Pension Scheme and is provided with pension benefits in their own right. At the same time your pension entitlement is adjusted. 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.

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 actuarially reduced retirement benefits after age 55. This cannot, however, be before the date of the Pension Sharing Order. A pension credit member's pension is payable for their lifetime, regardless of whether they remarry, enter into another civil partnership or are pre-deceased by the member.

Pension Sharing is not allowed in cases where your benefits under the Scheme are already subject to Earmarking. Only Pension Sharing Orders and agreements that comply with the Pension Sharing legislation can be accepted. Orders can't contravene the Teachers' Pensions regulations. The Teachers' Pension Scheme cannot accept overseas Pension Sharing Orders (PSO). 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 Scheme 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?

The relevant forms and factsheet can be accessed via our website at www.teacherspensions.co.uk. However, we can provide you with these upon request. You should complete and return the appropriate information and we'll 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, we will need your written authority before providing the information.

Teachers' Pensions

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

We 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 that the Pension Sharing order or agreement was sealed by the Court.
- The percentage 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.

The Scheme is unable to apply any pre- conditions contained in a Pension Sharing Order.

Draft Pension Sharing Order and Pension Sharing Annex

You must send us a copy of the draft Pension Sharing Order and the Pension Sharing Annex for our approval. The Pension Sharing Order will not be implemented if it contravenes the Teachers' Pensions Regulations. After confirming whether the draft Order is acceptable, we will require the Sealed Order, Pension Sharing Annex and the following documents:

- Your original birth certificate;
- Your former spouse or civil partner's original birth certificate; and
- A sealed copy of the Decree Absolute for the divorce or annulment or order dissolving a civil partnership;
- Form POD Ex for completion by the Transferee/the pension credit member;*
- Form POD Serv/Sal for completion by the Transferor/the debit member and their teaching employer.*

*Form POD Ex and POD Serv/Sal will be sent to you by us upon receipt of the draft Pension Order.

On receipt of all required documentation, we will issue an invoice for the administration fee in accordance with Section D of the Pension Sharing Annex. The fees must be paid in full when requested. Only one administration fee will apply in respect of either or both the 'Teachers' Pension Scheme 2010' (final salary) or, the 'Teachers' Pension Scheme 2015' (career average).

What happens next?

We 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 28 days from the date of the Sealed Pension Sharing Order. If you or your 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 four months of receiving all relevant information, we 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?

1. Benefits are calculated without the Pension Sharing reduction; then
2. The sharing reduction is up-rated to the current value by applying Pensions Increase (index-linking);
3. 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 remarry 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 Scheme and decide to transfer out?

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

What happens if I've 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.

Teachers' Pensions

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. However, if you are a mixed member of the Scheme and have a NPA of 60 and 65, the pension credit member's NPA will be 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 Teachers' Pension Scheme.
- If a pension credit member is already a member of the Scheme 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 Scheme and another one recording their Pension Sharing arrangement.
- If before NPA the pension credit member's life expectancy is less than one year, they may apply for serious ill-health benefits.
- If the effective date of the Order is after the Pension Debit Members NPA but they have not claimed benefits, they will be treated as a pension member and benefits will be backdated to their NPA. The pension share will be based on a pensioner CETV and there will be no automatic lump sum paid to the Pension Credit Member.