



North East Scotland Pension Fund  
**nespf**



**GUIDE TO**

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# **Divorce or Dissolution of a Civil Partnership**



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## What Happens to my Benefits if I get Divorced or my Civil Partnership is Dissolved?

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- Your ex-spouse or ex-civil partner will not be entitled to a spouse's or civil partner's pension if you die before them.
- Any children's pension paid in the event of your death will not be affected by your divorce or dissolution.
- You should complete a new *Expression of Wish* form to confirm or change your death grant wishes. The Court may, however, state that all or part of any death grant is payable to your ex-spouse or ex-civil partner through the issue of an earmarking order.

## What is the Process to be Followed?

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- You should contact the Fund for a cash equivalent value (CEV) of your pension. The Court will take this value into account in your settlement. The provision of this estimate may be subject to a charge.
- You should send a copy of the decree of divorce or dissolution or separation to the Pension Fund as soon as it has been obtained.
- All correspondence in connection with divorce or dissolution proceedings will be acknowledged in writing by the Fund. If no acknowledgement is received, please contact us again to ensure your correspondence has been received.
- In Scotland, it is the norm for couples to draw up a 'Minute of Agreement', with the help of their lawyers, to settle as many issues as possible before going to Court. This may include sharing your pension benefits. Minutes of Agreement, once registered, are binding and can be enforced.

If an agreement cannot be reached, the Court will decide what financial arrangements are appropriate. The Court may offset the value of your pension rights against your other assets in the divorce/dissolution settlement. Alternatively, the Court may issue a Pension Sharing Order or an Earmarking Order against your pension.

## Offsetting

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You can offset the value of your pension benefits against the value of other financial assets in your settlement. For example, you could keep your pension, and in exchange your ex-spouse or ex-civil partner could get a larger share of the value of the house.

## Sharing Pension Benefits

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There are two main options for pension benefits to be shared as part of a divorce or dissolution settlement:

### 1. Pension Sharing Order

If the Court issues a Pension Sharing Order, or your benefits are subject to a Minute of Agreement, part of your benefits are transferred to your ex-spouse or ex-civil partner.

Your ex-spouse or ex-civil partner will hold those benefits in his or her own right. These can then be:

- Left in the Pension Scheme and paid from their Normal Pension Age, or
- They can be drawn on or after age 55 with reductions for early payment, or
- Transferred to another pension scheme.

Your ex-spouse or ex-civil partner must draw their benefits before their 75<sup>th</sup> birthday.

This reduction to your benefits is known as a Pension Debit.

In Scotland, only the pension built up during your marriage/civil partnership is taken into account.

### 2. Earmarking Order

If the Court makes an Earmarking Order, your LGPS benefits still belong to you, but some are earmarked for your ex-spouse or ex-civil partner when your benefits are paid, reducing the total paid to you. The Order can require that your ex-spouse or ex-civil partner receive one or a combination of the following:

- all or part of any lump sum payable to you, and
- all or part of any lump sum payable on your death.

When earmarked benefits become payable, the Pension Fund will contact your ex-spouse or ex-civil partner to check that the Earmarking Order is still valid and arrange payment of the earmarked benefits.

You can transfer your benefits to another pension arrangement on leaving the LGPS, as long as your new pension provider can accept the Earmarking Order.

Earmarking has limitations and is not widely used. As the pension rights remain with you, your ex-spouse or ex-civil partner must wait for you to retire or die before they can receive the earmarked benefits. Tax liabilities such as the lifetime allowance also remain with you.



## Pension Debit

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The value of the Pension Debit will be adjusted in line with the cost of living between the date it was first calculated and the date your benefits are paid. When your benefits are paid, the revalued amount of the Pension Debit will be deducted from your retirement benefits.

In order to make up for the benefits 'lost' following a Pension Sharing Order, you may be able to increase your benefits by:

- buying extra scheme pension through Additional Pension Contributions (APCs),
- paying Additional Voluntary Contributions (AVCs) or Free Standing AVCs (FSAVCs)
- paying into a concurrent personal pension plan or stakeholder pension scheme

Information on increasing your benefits can be found in our *"Increasing your pension"* guide.

You can still transfer your remaining benefits to another pension arrangement on leaving the LGPS. If you transfer within the LGPS, your new fund will reduce your benefits by the Pension Debit at retirement.

The value of your benefits after the Pension Debit has been deducted will be used when assessing your pension against the lifetime allowance tax charge. Also, in assessing the amount your pension can increase in one year without you having to pay an Annual Allowance tax charge, this reduction in your benefits is ignored in the scheme year that the Pension Sharing Order or qualifying agreement is applied.

### What if I Remarry or Enter into a New Civil Partnership?

If you have a Pension Sharing Order and you remarry, enter into a new civil or cohabiting partnership, any survivor's pension payable following your death will also be reduced.

If you remarry or enter into a new civil partnership and then divorce or dissolve your civil partnership again, your remaining pension rights can be subject to further division. If an Earmarking order has already been issued a Pension Sharing Order cannot be issued. Similarly if an Earmarking Order has been issued, a Pension Sharing Order cannot be issued.

## What if My Pension is Already in Payment?

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Any pension currently in payment will be reduced by the percentage allocated by the Court to your former spouse or civil partner from the date of the Pension Sharing or Earmarking Order.

## More Information

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For more information please contact the pension Fund at the details below

### North East Scotland Pension Fund

Resources  
Business Hub 16  
3<sup>rd</sup> Floor – West  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

**Tel:** 01224 264 264

**Email:** [pensions@nepf.org.uk](mailto:pensions@nepf.org.uk)

**Web:** [www.nespf.org.uk](http://www.nespf.org.uk)

### DISCLAIMER

The information in this guide is based on the Local Government Pension Scheme (Scotland) Regulations 2018 and other relevant legislation. It applies to people who were contributing members of the Local Government Pension Scheme on 1 April 2015 or who have since joined the Scheme. This guide was up-to-date at the time of publication in 2020. It is for general use and cannot cover every personal circumstance, nor does it cover specific protected rights that apply to a very limited number of employees. In the event of any dispute over your pension benefits, the appropriate legislation will prevail as this guide does not confer any contractual or statutory rights and is provided for information purposes only