

## Local Government Pension Scheme (LGPS)

### Getting Divorced or Dissolving a Civil Partnership

This factsheet examines the effect on your Local Government Pension Scheme (LGPS) benefits if you get divorced or your civil partnership is dissolved.

**You may also wish to seek additional legal advice from a solicitor as your LGPS pension benefits can be taken into account in the financial settlement of a divorce or dissolved civil partnership.**

#### If I divorce or my civil partnership is dissolved what happens to my benefits?

Your ex wife, husband or civil partner will no longer be entitled to a widow's, widower's or civil partner's pension if you die before them.

Children's pensions, paid to any eligible children, are not affected by a divorce or dissolution.

If you have nominated your ex wife, husband or civil partner to receive a lump sum death grant in the event of your death, your nomination will remain in place until you change it. You can do this by completing a new 'Expression of Wish' Form.

Depending on the circumstances of your financial settlement, the Court may issue an Earmarking Order stating that all or part of any lump sum death grant is paid to your ex husband or wife or civil partner.

If you have filled in a cohabiting partner's form and your relationship ends you must tell us in writing that your nomination is no longer valid.

#### What do I need to do?

You will need to ask us for specific information about your LGPS benefits as it will be needed as part of your divorce, or civil partnership dissolution proceedings. You, or your solicitor, should write to the Fund to request the information which includes an estimate of the cash equivalent transfer value (CETV) of your pension rights. The Court will take this value into account in your financial settlement.

You will receive one free CETV estimate each year, but any additional estimates, requests for information or complying with a Court Order will incur a charge which will be recovered from you and/or your ex husband, wife or civil partner in accordance with our schedule of charges which is available on request.

All correspondence received by the Fund in connection with divorce or dissolution proceedings will be acknowledged in writing. If no acknowledgement is received, you should contact us to make sure we have received your request. If you ask us for a CETV estimate, please allow up to 6 weeks for the information to be supplied as often have to obtain supplemental information before we can complete the calculation.

The Court may offset the value of your pension rights against your other assets in the divorce/dissolution settlement, or a Pension Sharing Order or an Earmarking Order can be made against your pension benefits.

If you require any further information, please contact us using the details below.

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## Offsetting Pension Rights

You can offset the value of your pension rights against the value of other financial assets in your divorce/dissolution settlement. For example, you could agree to keep your pension whilst your ex husband, wife or civil partner has a larger share of the value of your property. You should seek legal advice about sharing your pension on divorce/dissolution.

## Pension Sharing Order

If the Court issues a Pension Sharing Order, the stated percentage of your benefits will be transferred to your ex husband, wife or civil partner as a pension in their own right, regardless of any circumstances changing. The allocated pension can be left in the Scheme and is normally paid unreduced at their normal pension age, or can be claimed from age 55, but the value will be reduced. It can also be transferred to another qualifying pension scheme.

Your pension and any lump sum will be reduced by the amount specified in the court order, this reduction is known as a Pension Debit and will be increased in line with pensions increase values from the date it was first calculated to the date your benefits are paid out. When your benefits are paid to you, the re-valued amount of the Pension Debit will be deducted from your retirement benefits.

You may want to choose to top up your benefits by buying extra Scheme pension, paying Additional Voluntary Contributions (AVCs), or by paying into a concurrent personal pension plan or stakeholder pension to make up for the benefits you have forfeited following a Pension Sharing Order. You can find further information about topping up your benefits from our website or by contacting our helpdesk on the number shown on this factsheet.

## Transferring your Benefits following a Pension Sharing Order

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 value when you retire.

In assessing the value of your benefits against the value of the lifetime and annual allowances, it is the reduced value of your benefits after the Pension Debit has been deducted will be used in the calculation of the amounts to be used.

## Earmarking Order

When a Court makes an Earmarking Order, your LGPS benefits still belong to you, but some are earmarked for your ex husband, wife or civil partner. The earmarked benefits will be paid at the same time your benefits are paid and will reduce the amount paid directly to you. The Order can stipulate that your ex husband, wife or civil partner receives one, or a combination of the following:

- all or part of your LGPS pension
- all or part of any lump sum<sup>1</sup> payable to you, and
- all or part of any lump sum payable on your death.

When earmarked benefits become payable, the Fund will contact your ex husband, wife or civil partner to check that the Earmarking Order is still valid and arrange to pay the earmarked benefit directly to them.

You can transfer your benefits to another pension arrangement on leaving the LGPS, but your new pension provider must accept the earmarking order.

Earmarking has limitations and is not widely used as your ex husband, wife or civil partner must wait for you to retire or die to receive the earmarked benefits. If they remarry or enter into a new civil partnership an Earmarking Order against a pension (but not a lump sum unless the Order directs otherwise) would cease and the full pension restored to you. Pension payments following an earmarking order also cease on your death, although any earmarked lump sum death grant would then become payable.

<sup>1</sup> The Court can order that you commute your pension, up to the maximum amount permitted, into a lump

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## Pension Credit

If your ex husband, wife or civil partner is allocated a share of your pension benefits following a pension sharing order, they become entitled to their own LGPS benefit known as a pension credit.

A pension credit provides an annual pension for life, unreduced from their normal pension age (or later if the order was issued after then), or actuarially reduced from age 55. At the same time a tax-free lump sum for membership prior to 1 April 2008 is also payable, providing you have not already retired and received a lump sum when the order is made. There are also benefits due in the event of death.

These benefits are held as a separate benefit for your ex husband, wife or civil partner and will increase in value every year by the amount of pensions increase due.

The Cheshire Pension Fund provides details of the value of pension credit benefits at the point of divorce/dissolution and also provides an annual statement of benefits to both pension credit and debit members.

## What if I remarry or enter into a new civil partnership?

If your LGPS benefits are subject to a Pension Sharing Order and you remarry, enter into a new civil partnership or nominate a cohabiting partner to receive a survivor's pension, the value of any future widow's/widower's, civil partner's pension or nominated cohabiting partner's pension 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 sharing, although a Pension Sharing Order cannot be issued if an Earmarking Order has already been issued against your LGPS pension rights. Similarly, an Earmarking Order cannot be issued if your pension benefits are already subject to a Pension Sharing Order in respect of the marriage/civil partnership.

## Disclaimer

Every care has been taken in the production of this document however readers may wish, or will need to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility will be assumed by the Cheshire Pension Fund for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained herein. In the event of any dispute over your pension benefits the appropriate legislation will prevail. This guide does not confer any contractual or statutory rights and is provided for information purposes only.

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