



Pensions on divorce

How should pensions be divided on divorce?

This can depend on the circumstances of you and your family. If your marriage has been short and both of you are in your twenties or thirties, then your pensions may not need to be divided formally at all, although their value may still be taken into account in other ways.

Pensions are more likely to play a more central part in the divorce if you and your partner are in your 50s. The following questions will need to be considered:

- What is the earliest date that you can take the pension and when are you actually likely to want to retire?
- What capital sum or income will each of you be able to get from your existing pensions in retirement?
- What expenditure do you think you will have when you retire, i.e., how much do you think you will need?
- Are there other savings that can be used to meet your retirement needs?

What should I do first?

Identify what pensions you and your partner have. There are different types of pensions that work in different ways however the objective of them is to provide income and possibly a lump sum on retirement.

As an alternative to sharing a pension, sometimes it is possible for one person to keep more of the housing capital so that on retirement they can 'downsize', releasing capital from their property. Swapping pension entitlement for other assets is called 'offsetting'.

Can pensions be divided?

It is possible for pensions to be shared. There needs to be a final divorce (decree absolute) and a formal court order for a pension sharing order to take effect. However, that order can be one that is made by the court by agreement as part of a negotiated settlement.

A pension sharing order will result in a percentage of the pension being transferred into a separate pension in the name of the spouse. This pension will be completely independent from the original and will have all the same benefits. Those rights will not be affected, for example, by your death.

In most cases, the value that you receive as a result of the pension sharing order will be moved out of your former partner's scheme and reinvested in your own new pension. The alternative, which applies more commonly with public sector schemes like the police, civil service and the NHS, is for you to have your own "ex-spouse" fund within the existing scheme, but you will still be able to draw on that independently.

What should I consider next?

Make sure you are aware of the transfer value of any pensions; this can usually be found on the annual statement. Alternatively, you can ask the pension provider for information but there may be a charge for this.

If there is a final salary scheme or there are problems with the pension being underfunded it may be necessary to get professional advice about your pension.

The pension will need to be seen as part of the overall financial settlement. A pension is illiquid – in other words, you cannot access it in the same way as money in a bank account, other savings or the proceeds of sale of a property. This means that in many cases there will be a division of the non-pension assets on the one hand and the pension assets on the other. If you do take cash or other realisable assets instead of all or part of a pension, you may get less in terms of pure value as a way of recognising that they are different types of assets.