## A Guide to Pension Sharing
### Divorce or Dissolution of a Civil Partnership
(Active Members)

### What is pension sharing?
It is a means by which pension rights are brought into the reckoning when dividing up the assets of a marriage or civil partnership. A proportion (or all) of a member’s rights can be transferred to the ex-spouse or ex-civil partner as part of a clean break financial settlement. It creates a ‘pension credit’ for the ex-spouse or ex-civil partner and a corresponding ‘pension debit’ for the member.

Either party to a divorce can ask the court for a pension sharing order. It is not compulsory. Couples can choose to offset pension rights against other assets (e.g. the family home) or to ‘earmark’ some (or all) of a member’s benefits to go direct to the ex-spouse or ex-civil partner when they come into payment.

It is not possible to have both pension sharing and earmarking in respect of the same pension rights.

Pension sharing is part of divorce legislation and applies only to legally married couples and civil partnerships. It does not apply to the break-up of ‘common law’ marriages.

### What rights are shareable?
‘Shareable rights’ include any pension rights a member has in the Scheme. This is your scale pension. If you are an Old or New Benefits member, this will also include any additional benefits such as AVCs, Added Years or a transfer-in. The percentage specified in the pension sharing order applies to any benefits in the Scheme. Therefore you cannot specify one percentage for the scale pension and a different one for any AVCs. Please see the scheme handbook on our website for further details of the benefits available for each section of the Scheme.

In England, Wales and Northern Ireland, all pension rights accrued up to the time of the divorce can be shared. In Scotland, only those rights accrued during the period of marriage or civil partnership can be shared.

The basic State pension, equivalent pension benefits (if this is the only benefit within the Scheme), death in service benefits and spouse’s or dependant’s pensions already in payment are exempt.

These notes have been prepared to comply with the Welfare Reform and Pensions Act 1999 and the Finance Act 1999, in so far as they allow pension rights in the BBC Pension Scheme (the Scheme) to be shared with an ex-partner (i.e. your ex-spouse or ex-civil partner) on divorce, nullity of marriage or dissolution of a civil partnership. They are not an authoritative statement of your legal rights. Matrimonial proceedings vary across the United Kingdom. You should consult and be guided by a suitably qualified family law practitioner on all matters relating to divorce.

find out more at bbc.com/mypension
How are pension rights valued?

To consider whether pension sharing is an appropriate method of dealing with pension assets, the divorcing couple need to tell the court the cash equivalent transfer value (CETV) of their accrued pension rights. A CETV represents the capital cost of providing the benefits to which a member is entitled. It assumes that the date on which the calculation is performed is both notional date of leaving service and also the date of transfer. The CETV will include dependant’s benefits and increases both before and after retirement. It does not include death in service or incapacity benefits. The calculation is done by discounting the value of future benefits up to the date of transfer using an appropriate rate of interest, which is one of a number of assumptions provided by the Scheme actuary. The process is similar to calculating the cost of buying an annuity from an insurance company which will be paid at a future date.

Anyone intending to apply for a pension sharing order must say so in his or her original divorce application (Form A). A copy of the application will be sent to the other party. If they have not already done so, both the applicant and respondent must apply for a CETV of their pension rights within seven days of receiving notification of their first appointment at court, which is usually 12 to 16 weeks after the application was serviced. They must complete and exchange a detailed financial statement (Form E), which includes their pension information, no later than five weeks before the first appointment. A CETV which has been obtained within the 12 months prior to the application may be used for this purpose.

Provided it is made clear that the information is needed in connection with divorce proceedings, the Pension and Benefits Centre will normally provide a CETV within 15 working days of receiving a written request either from the member, the member’s legal adviser or a court order. The calculation will be done at the date of request.

A spouse or civil partner is not entitled to request or receive a member’s CETV from the Scheme.

For Old and New Benefits members, the Department for Work and Pensions (DWP) will provide, on request, a valuation of any SERPS and S2P rights and an explanation of how a pension sharing order will affect State pension rights.

What do I have to pay?

The Scheme’s policy is to recover the costs from the divorcing couple for:

- the provision of information (over and above that which the member or spouse has a right to receive under existing statutory disclosure requirements);
- compliance with a pension sharing order or agreement; and
- any other activities attributable to its involvement in pension sharing in respect of the divorcing couple.

A schedule of the Scheme’s charges can be obtained from the pension service line. The charges are in line with the scale recommended by the Pension and Lifetime Saving Association (formerly the National Association of Pension Funds).

The Scheme requires that all charges are paid upfront before a sharing order or agreement can be implemented. Charges can be paid by cheque or bank transfer.

Charges can be apportioned between divorcing couples either by the court or by agreement. Unless the Scheme is notified of the split, all charges are to be paid by the member.

What is the value of the pension credit?

A pension sharing order or agreement should specify the percentage by which a member’s CETV is to be reduced (although Scottish courts can specify an amount instead). This percentage is applied to a fresh CETV. The calculation date of the new CETV is decided by the Scheme, but will be within the implementation period (which is four months from when an order or agreement takes effect) and notified to both the member and ex-partner.

The value of the pension credit will there be equal to the amount by which the member’s new CETV is reduced.

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How does the Scheme treat a pension credit?

The Scheme's current policy is to use a pension credit to make a transfer payment to another pension arrangement that will provide retirement benefits for the ex-partner. Scheme membership will not be offered.

The ex-partner will be required to consent to a transfer of the pension credit and also nominate a suitable pension arrangement to receive it. If they fail to do so, the Trustees can transfer the pension credit to a pension arrangement of their choice. Whilst they will take every care in selecting a pension arrangement, they will not be responsible for any loss incurred by the ex-partner and their dependants.

If the ex-partner dies before the pension credit has been paid, the Trustees will hold the value of the pension credit on discretionary trust, to be allocated as they see fit.

Effect of the 1% limit on increases to Pensionable Salary and pension sharing on divorce for Old, New and CAB 2006 members

The pension debit will increase before retirement in the same way as a deferred pension. However, due to the 1% limit on increases to Pensionable Salary which was introduced from 1 April 2011, it may be that the benefits built up before the divorce as an active member increase at a lower rate than the pension debit. This means that by the time a pension becomes payable, the pension debit could reduce that part of the pension by more than the percentage originally ordered by the court. For example, if someone remains an active member for a further five years following their divorce and increases to the pension debit average 3% over this period, the pension debit would have increased by around 15% over the five years but the Pensionable Salary could not increase by more than 5.1% because of the 1% limit (after allowing for compounding). Similarly, over 10 years, the pension debit will increase by more than 30% and the Pensionable Salary could not increase by more than 10.5%.

This effect becomes bigger over longer periods and if increases to the deferred pension debit are higher.

This situation could always have happened if the Pensionable Salary did not increase as much as increases to deferred pensions. However, with the 1% limit there is very little scope for Pensionable Salary to catch up even if a large pay increase is awarded.

Depending on how long a member intends to remain an active member, it may be worthwhile considering if they can share assets other than the pension. If they have to share a pension, then in some cases it may be worthwhile considering whether to opt out of the Scheme and join LifePlan after the pension sharing order has been implemented. If a member does opt out of the Scheme they will be awarded a deferred pension which will increase at the same rate as the pension debit and so the percentage of pension that they are giving up should not increase. The pension debit created in the Scheme cannot be applied to the benefits built up in LifePlan so future benefits would not be affected. Opting out of the Scheme will need serious consideration as it will affect other benefits such as those payable on ill-health and death in service and you are strongly urged to seek financial advice in these circumstances. The Scheme cannot provide you with financial advice: these notes are a generic guide to some of the issues that can arise.
What is the implementation period?

Usually the Scheme has four months in which to comply with the terms of the pension sharing order which is called the implementation period. Before the implementation period can begin the Scheme must have received:

- the payment of the flat-rate charge for processing an order and any outstanding charges in connection with pension sharing; and
- the information requested at the time the CETV was issued.

How is the member’s pension affected?

The member’s accrued rights are reduced by the percentage (or amount) specified in the pension sharing order or agreement. The reduction applies on a benefit by benefit basis. For instance, any guaranteed minimum pension is reduced by the same percentage as the scale pension, as are pension credits, additional voluntary contributions etc.

Any new spouse’s, civil partner’s or nominated dependant’s pension will be based on the reduced pension rights.

Whether the member can rebuild their pension rights depends on individual circumstances. Except for those whose earnings are less than a quarter of the earnings cap when an order takes effect, Scheme limits have to be calculated as though no pension sharing order exists. In many cases, this will restrict the scope for paying extra contributions. Old Benefits members will not be allowed to increase the purchase of Added Years above the maximum permitted immediately before divorce proceedings started.

The Pension and Benefit Centre can only advise what headroom exists to rebuild pension rights after a sharing order has been implemented.

Additional Information

All correspondence should be addressed to:

Operations and Communications Manager
BBC Pension and Benefits Centre
Central Square
Cardiff
CF10 1FT.

General enquiries about pension sharing can be dealt with by calling the pension service line on 029 2032 2811. The pension service line cannot give financial advice.

In deciding how to use a pension credit, the ex-partner should obtain independent financial advice. For details of independent financial advisers in your area visit unbiased.co.uk.