



*Pensions*

**Information for people  
who intend to divorce or  
dissolve a civil  
partnership**

# Introduction

## **Information for Scheme members and their spouse or civil partner**

For many people, pension rights are one of their most important assets.

Provisions brought into effect from December 2000 allow for 'Pension Sharing' arrangements on divorce. From 5 December 2005 civil partnership couples have the same rights as married couples on the dissolution of the civil partnership. Information about Pension sharing can be found on pages 3 to 8.

Information about 'Earmarking' of pension benefits on divorce or dissolution of a civil partnership can be found on pages 9 and 10.

This booklet gives general information about these provisions and those of the Scheme and is only a general guide.

It is not a full statement of the law which governs the Scheme, and members are advised to take appropriate legal advice.

## **Limits of tax-free pension benefits**

From 6 April 2006 HM Revenue and Customs (HMRC) changed the way it limits tax-free pension savings in all registered pension schemes like the NHS Pension Scheme (NHSPS).

The previous tax law limits on length of membership and maximum contributions, have been replaced with an individual Lifetime Allowance and Annual Allowance. (More information about the new tax rules can be located in the main "Guide to the Scheme" booklet SD Guide.) A Pension sharing or Earmarking arrangement is subject to the provisions of this legislation.

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# Pension sharing

## What is pension sharing?

Pension sharing is where a court serves a Pension Sharing Order on the Scheme. When the court orders a pension to be shared, the former spouse or civil partner is allocated a percentage (up to 100%) of the member's benefits at the effective date of the order.

The court order will be sent to NHS Pensions who will acknowledge and implement it as directed. The former spouse or civil partner will be allocated a personal reference number in the Scheme under which their pension benefits will be held.

The member's benefits are reduced accordingly, and the former spouse or civil partner will hold benefits in their own right, independent of the Scheme member.

Where a Scheme member is in receipt of a HMRC Primary Protection certificate (see "Limits on tax-free pension benefits" section of booklet SD Guide - Guide to the Scheme) and subsequently becomes

subject to a pension debit either their Primary Protection factor will be reduced or if the capital value of their pension benefits, at 6 April 2006, falls below £1.5m the Scheme member will lose their Primary Protection. Any questions about this should be directed to HMRC.

## What will a pension share mean for the Scheme member?

### Pension Share ordered before retirement

The member's pension, lump sum retiring allowance and any subsequent survivor benefits, at the effective date of the order, will be reduced by the percentage allocated to their former spouse or civil partner. For divorces or dissolutions taking place in Scotland, the court will specify either a percentage or monetary amount. This reduction will be known as a 'pension debit'.

At retirement, the pension debit will be increased in line with the cost of living and deducted from the member's

total pension benefits. The reduced benefits will be tested against the Scheme member's lifetime allowance.

On the member's death, if they have remarried or formed a new civil partnership, a pension share will reduce the survivor benefits available to a new spouse or civil partner. But, if the member has dependent children, any child allowance payable will not be reduced because of a pension share.

### **Transferring benefits**

The member will still be able to transfer their remaining benefits to another registered pension scheme or arrangement.

### **Pension share ordered after retirement**

The pension currently in payment will be reduced by the percentage allocated to the former spouse or civil partner from the date of the pension share. The reduced benefits will be tested against

the Scheme member's lifetime allowance.

On the member's death, if they have remarried or formed a new civil partnership, a pension share will reduce the survivor benefits available to a new spouse or civil partner. But if the member has dependent children, any child allowance payable will not be reduced because of a pension share.

### **What will a pension share provide for a former spouse?**

#### **Pension share ordered before the member's retirement**

After a pension share the former spouse or civil partner will hold pension credit benefits in the NHS Pension Scheme in their own right. The pension credits will provide:

- an annual pension, payable at age 60, or the date of the pension share whichever is the later, and

- a lump sum equal to three times the pension, or
- a lump sum equal to three times the annual pension, on the death of the former spouse or civil partner before benefits are claimed, or
- early payment of commuted benefits on the grounds of serious ill health of the former spouse or civil partner, or
- commutation of trivial benefits. If the pension credit is very small we may be able to convert it into a once and for all payment providing the requirements of the Finance Act 2004 are met.

At the payment stage, the pension credit benefits (if applicable) will be increased in line with the cost of living from the date of the pension share and will be subject to the lifetime allowance. The receipt of a pension credit does not count for the purpose of the individual's Annual Allowance.

Pension credit benefits do NOT provide survivor or dependant benefits.

A lump sum is not normally payable when a Scheme pensioner dies, unless the pension has only been in payment for a very short time. Then the lump sum will be 5 times the pension less the amount of pension already paid. This is subject to a maximum of twice the member's pensionable pay less the retirement lump sum already paid. The smaller amount will be paid. The lump sum will be subject to the lifetime allowance.

### **Pension share ordered after the member's retirement**

If a pension share takes place after the member has retired, the pension credit will provide:

- an annual pension payable from age 60, or the date of the pension share, whichever is the later, or
- a lump sum equal to three times the annual pension

payable on the death of the former spouse or civil partner before benefits are paid, or

- early payment of commuted benefits on the grounds of serious ill health of the former spouse or civil partner, or
- commutation of trivial benefits. If the pension credit is very small we may be able to convert it into a once and for all payment provided the requirements of the Finance Act 2004 are met.

At payment stage, the pension credit benefits (if applicable) will be increased in line with the cost of living from the date of the pension share and will be subject to the lifetime allowance. The receipt of the pension credit does not count for the purposes of the individual's Annual Allowance.

Pension credit benefits do NOT provide survivor or dependants benefits.

A lump sum is not normally payable when a Scheme

pensioner dies, unless the pension has only been in payment for a short time. Then the lump sum will be 5 times the pension less the amount of pension already paid. This is subject to a maximum of twice the member's pensionable pay less the retirement lump sum already paid. The smaller amount will be paid. The lump sum will be subject to the lifetime allowance.

### **IMPORTANT**

As the former spouse or civil partner's benefits are independent from the member's, a pension sharing order does not lapse on the death of the member, the remarriage of the former spouse or the former civil partner forming a new civil partnership.

### **Transferring benefits**

It will not be possible to transfer pension credits to another pension scheme. Similarly, pension credits cannot be transferred into the NHS Pension Scheme.

## **Buying additional membership**

The former spouse or civil partner will not be able to make additional voluntary contributions to increase their pension credit benefits in the NHS Pension Scheme.

## **Paying the shared pension**

The Scheme member will claim their NHS pension benefits in the normal way.

NHS Pensions will advise the former spouse or civil partner how to apply for their benefits when the pension share is confirmed.

The pension will be taxed, adjusted for the lifetime allowance (if appropriate) and paid by our agents.

If the former spouse or civil partner is, or has been, in pensionable NHS employment, their benefits will be paid independently from any pension credit rights, and will be payable from age 60, regardless of when their other benefits are paid.

## **Lifetime Allowance Enhancement Factors**

Where a former spouse or civil partner acquires pension credit rights before 6 April 2006, an increase to the individual's level of lifetime allowance may be available from HMRC. Individual's have until 5 April 2009 to apply to HMRC for a Pre-commencement Pension Credit Factor.

If the former spouse or civil partner has also applied to HMRC for Primary Protection then they cannot have a Pre-commencement Pension Credit Factor, as the Primary Protection Factor will include the Pre-commencement Pension Credit Factor.

Where a former spouse or civil partner acquires pension credit rights after 5 April 2006 and these come from a Scheme member's pension already in payment, payable after 5 April 2006, an increase to the individual's level of lifetime allowance may be available from HMRC. Individual's have up to 5 years after 31 January following the tax year when the

provision took effect to apply to HMRC for a Pension Protection Factor.

There will be no entitlement to a Pension Protection Factor when a former spouse or civil partner acquires pension credit rights after 5 April 2006 where there is no Scheme member's pension in payment or where the Scheme member's pension in payment became payable before 6 April 2006.

If you require any further information regarding the Lifetime Allowance please see HMRC's website at **[www.hmrc.gov.uk](http://www.hmrc.gov.uk)**

# Earmarking

## What is earmarking?

Earmarking is the term used to describe special attachment orders, made by the court.

When an attachment, or earmarking order is made, the pension still remains that of the Scheme member, but the Scheme is required to make some form of payment to the former spouse or civil partner.

The court can order that the former spouse or civil partner receives one, or a combination, of the following:

- all, or part, of the member's NHS pension
- all, or part, of the member's NHS lump sum retiring allowance
- all, or part, of any lump sum payment paid in the event of a member's death
- all, or part, of the member's NHS benefits bought by additional voluntary contributions.

The order will be sent to NHS Pensions who will

acknowledge it and ensure that it is acted upon.

## Changes

As it may be many years between the divorce / dissolution of a civil partnership and the benefits coming into payment, it is important to be aware of the effect of the following changes:

The former spouse or civil partner must inform NHS Pensions of any change of address, and/or bank account details.

An earmarking order against pension payments (but not lump sums) will automatically lapse on the remarriage of the former spouse, or the registration of a new civil partnership, and the full pension will be restored to the member.

If the NHS Pension Scheme member transfers their benefits to another registered pension scheme, the earmarking order will also transfer. NHS Pensions will keep the former spouse or civil

partner informed of any transfer.

## **Paying the earmarked pension**

NHS Pensions will contact the former spouse or civil partner when the member applies for their pension benefits, or, if the lump sum payable on death has been earmarked, when the member has died. We will check that the earmarking order is still valid and if so, arrange for payment to be made to the former spouse or civil partner.

### **IMPORTANT**

If NHS Pensions have not been informed of your change of address and are unable to contact you, benefits will revert back to the member.

At retirement or death all appropriate benefits, including any that are earmarked, must be tested against the Scheme member's HMRC lifetime allowance.

# Divorce or civil partnership dissolution proceedings

## What to do if you are involved in divorce or civil partnership proceedings

The court will need information about the member's benefits and the NHS Pension Scheme, to consider if a pension sharing order is appropriate.

The member's spouse or civil partner, or their solicitor, can only request basic information about the NHS Pension Scheme.

Members are entitled to ask for information about the Scheme and their own benefits and should complete the forms PDI and/or PD2, which come with this booklet, to request a current Cash Equivalent Transfer Value (CETV). This is the capitalised value of their NHS pension benefits. It provides a convenient way of assessing the value of the pension in relation to other assets (eg. a house).

Members are entitled to one CETV per year, for any purpose and they must

confirm that the CETV is required for divorce or dissolution proceedings. It is important to tell us the date of a court appointment if one has been set.

A charge will be made for any additional CETV within 12 months or where the Scheme member is already in receipt of their NHS pension benefits.

The charges that NHS Pensions make for administering a pension sharing or earmarking order are shown in the Schedule of Charges we have sent with this booklet and can also be found on our website.

This booklet gives general guidance only to assist a Scheme member and their spouse or civil partner who may be involved in divorce or dissolution proceedings.

Individuals should seek further advice from their solicitors about the relevance of pension sharing provisions to individual proceedings.

## **Money Purchase Additional Voluntary Contributions (AVCs)**

Members who have made contributions to the NHS Money Purchase AVC providers should contact their provider to request details of the fund value for pension sharing purposes. The NHS Money Purchase AVC providers are:

Standard Life  
Group Pensions Public Sector  
Standard Life House  
30 Lothian Road  
Edinburgh  
EH1 0WT

**[www.standardlife.co.uk/nhs](http://www.standardlife.co.uk/nhs)**  
Helpline: 0800 33 33 06

Prudential  
FREEPOST RG2384  
PO Box 2711  
Reading  
RG1 3UL

**[www.pru.co.uk/retire/nhs](http://www.pru.co.uk/retire/nhs)**  
Helpline: 0845 070 2456

The Equitable Life including  
Clerical Medical Investments  
GV30 PO Box 183  
Equitable Life  
Walton Street  
Aylesbury  
Bucks  
HP21 7GP

**[www.equitable.co.uk](http://www.equitable.co.uk)**  
Helpline: 0870 909 0009

# General information about family benefits and life assurance

You are automatically covered by the Scheme's life assurance and family benefits from the day you join. The amount that can be paid depends on whether the person who died was:

- **a Scheme member**, someone who is contributing to the Scheme.
- **a former Scheme member**, someone who was in the Scheme but left before they reached retirement age and their benefits are still held by the Scheme.
- **a Scheme pensioner**, someone who is receiving a NHS pension

There are some things which will not vary, whatever your circumstances:

## Lump Sums

- These are normally tax-free when paid to a spouse or civil partner. However, if payment of the death benefit lump sum partly or wholly causes you to exceed the lifetime allowance (LTA), then the

excess payment above the LTA will be subject to a lifetime allowance charge (LTAC).

- In addition to the possible liability to a LTAC, a lump sum paid to a nominee or into a deceased person's estate may be subject to Inheritance Tax.
- Whenever a death lump sum is payable we will inform your legal personal representative (LPR) of the amount and percentage of the standard LTA represented by the death lump sum. Your LPR is responsible for identifying any LTAC that may be due. The beneficiary of the death lump sum is legally responsible for paying any LTAC that may become due.
- If you are legally married (including separated), or have formed a civil partnership, your surviving spouse or civil partner will automatically get the lump sum unless you have nominated someone else on form DB1.

## Child allowances

These are based on the member's pension and membership. They can be paid to anyone who has care of the children, or to the children if they look after themselves.

The amount of the allowance depends on the number of dependent children, and whether there is a surviving parent who will get a Scheme survivor's pension.

### A dependent "child" is someone who:

- is under age 17, or
- is age 17 or over but still in full time education or training and has been so **continuously** since the age of 17 until they reach a maximum age of 23, or
- aged under 23 at the time of your death but unable to earn a living due to permanent ill health or handicap.

If a "child" is 17 or over and is in full time education or training, we will ask for proof from the place of education.

If a "child" is dependent because of ill health or handicap, we will ask for medical advice and a medical report before paying the allowance.

A "child" includes, a member's child; an adopted child; a step child; a child of your civil partner; a grandchild; any dependent child; a nephew or a niece. If you are in any doubt get in touch with us.

The allowances are normally based on membership of at least 10 years provided the member could have reached 10 years' membership by age 65.

If there is entitlement to a survivor's pension from the Scheme the allowance is:

- for 1 child - one quarter of the pension
- for 2 or more children - one half of the pension.

If there is no entitlement to a survivor's pension from the Scheme the allowance is:

- for 1 child - one third of the pension

- for 2 children - two thirds of the pension.

Where there are 2 or more children the child allowance is divided between them.

The amount of dependants' benefits payable in the first year after the member's death is limited by HMRC to no more than the member would have received in pension.

Any dependants' benefits payable do not count against either the deceased's or the recipient's personal lifetime allowance.

# Benefits payable for a Scheme member

## Lump Sum

If a Scheme member dies in pensionable employment we will pay a lump sum equal to 2 years pensionable pay based on the pay earned in the best of the last 3 years of membership.

For general medical, dental and ophthalmic practitioners it will be twice the annual average of their uprated pensionable pay earned throughout their career. Booklet SDP - Benefits for General Practitioners explains uprated pensionable pay.

**For members who were in the Scheme for less than 1 year** the lump sum will be *equivalent* to 2 years pensionable pay.

## Survivor's pension

The spouse or civil partner of a Scheme member will get a short term pension for 3 months, or 6 months if there is at least one dependent child.

The amount of the short term pension will usually be the

same as the member's pensionable pay on the day they died.

After this, the survivor will get a pension for life, or until they remarry, form a new civil partnership or begin living with someone as their spouse or civil partner. The amount of the pension will depend on the length of Scheme membership and age of the person who has died.

## For members under age 60 with less than 2 years membership

**a widow** will not get a pension from the Scheme, but we will pay an amount to the Department for Work and Pensions (DWP). The DWP will then pay the widow the State widow's pension and an additional pension of one half of the member's state earnings related pension.

**a widower or surviving civil partner** will get a pension equal to one half of the state earnings related pension the member would have got from the DWP.

**For members with at least 2, but less than 5 years membership**

**a widow** will get a survivor's pension of one half of the pension her husband would have got if he had retired on the day he died.

**a widower or surviving civil partner** will get a survivor's pension of one half of the pension the member would have got if they had retired on the date of their death, usually based on membership since 6 April 1988 only. ***This also applies to members who are age 60 or over with less than 2 years membership.***

**For members with 5 or more years membership**

**a widow** will get a survivor's pension of one half of the pension her husband would have got if he had retired **because of ill health** on the day he died.

**a widower or surviving civil partner** will get a survivor's pension of one half of the pension the member would

have got for any membership since 6 April 1988 if they had retired **because of ill health** on the day they died.

The pension the member would have got at retirement because of ill health is worked out after increasing their membership as described in the main Guide to the Scheme.

# Benefits payable for a former Scheme member

## Lump Sum

The Scheme will normally pay a lump sum when any former member dies within 12 months of leaving pensionable employment or with deferred benefits. If the member had claimed a refund of contributions or transferred their benefits to another scheme a lump sum will not be payable.

The amount of the lump sum will be three times the annual pension the member would have got if they had retired on the day they died.

## Survivor's pension

The amount of pension depends on when the member left the Scheme and whether they were married or had a registered civil partner at the time of leaving.

**For former members who married or formed a civil partnership before they left the Scheme** no short term pension will be paid, but the spouse or civil partner will get a survivor's pension from the day

after the date of death.

**For former members who die within 12 months of leaving the Scheme** the spouse or civil partner's survivor pension will be worked out as explained earlier.

## For former members who die with deferred benefits

**a widow** will get a survivor's pension of one half of the deferred pension her husband would have got if he had retired on the day he died.

**a widower or surviving civil partner** will get a survivor's pension of one half of the deferred pension the member would have got if they had retired on the date of their death, based on membership since 6 April 1988 only. But there will be a bigger survivor's pension if the member paid for survivor's pension cover before 6 April 1988 or made a successful nomination.

**For former members who married or formed a civil partnership after leaving the Scheme** no short term

pension will be paid, but from the day after the date of death:

**a widow** will get a survivor's pension of one half of the pension her husband would have got for any membership since 6 April 1978 if he had retired on the day he died.

**a widower or surviving civil partner** will get a survivor's pension of one half of the pension the member would have got if they had retired on the date of their death, based on membership since 6 April 1988 only.

# Benefits payable for a Scheme pensioner

## Lump Sum

A lump sum is not normally paid when a Scheme pensioner dies, but there may be a small amount to pay where members draw their pensions for only a short time. Then the lump sum will be 5 times the gross annual pension less the pension already paid, subject to a maximum of twice pensionable pay less the lump sum already paid. We will pay whichever is the smaller amount.

This death benefit lump sum can be treated for lifetime allowance (LTA) purposes in one of two ways:

**a defined benefits lump sum death benefit**, in which case all or any part of the lump sum in excess of the LTA will be taxed at 55%, or

**a pension protection lump sum death benefit**, in which case all the lump sum paid will be taxed at 35% regardless of whether the LTA is exceeded.

As most members will not exceed the LTA, death benefit

lump sums will be treated on the first basis, unless you notify us in writing that you wish it to be treated differently. Before you make such a request you should take professional financial advice.

## Survivor's pension

A survivor's pension will normally be payable from the day after the date of death. The amount will depend on when the member retired and whether they were married or had formed a civil partnership at the time of retirement.

### **For pensioners who married or formed a civil partnership before retirement:**

**a spouse or civil partner** will get a short term pension for 3 months or 6 months if there is a dependent child. The short term pension will be at the same rate as the member was getting on the day they died.

After the short term pension has ended one of the following will be payable:

**a widow** will get a survivor's

pension of one half of the pension the member was getting on the day he died.

**a widower or surviving civil partner** will get a survivor's pension of one half of the pension the member was getting at the date of death, based on membership since 6 April 1988 only.

The widower or surviving civil partner of a member who retired before 6 April 1988 will not get a survivor's pension unless the member made a successful nomination.

There will be a bigger survivor's pension if the member paid for survivor pension cover for any membership before 6 April 1988 or made a successful nomination.

**For pensioners who married or formed a civil partnership after retirement:**

There will be a short term pension payable for 3 months, or 6 months if there is at least one dependent child. The short term pension will be at the same rate the pensioner

was getting on the day they died.

After the short term pension has ended one of the following will be payable:

**a widow** will get a survivor's pension of one half of the pension her husband was getting on the day he died for any membership from 6 April 1978 only.

**a widower or surviving civil partner** will get a survivor's pension of one half of the pension the member was getting on the day they died for any membership from 6 April 1988 only.

# More Information

If you need more information about Scheme benefits you can contact us at:

NHS Pensions  
 Hesketh House  
 200-220 Broadway  
 Fleetwood  
 FY7 8LG

Telephone: 01253 774774

This is the switchboard number. The switchboard is open from 8.30am to 5.00pm Monday to Thursday and to 4.30pm on Fridays (except Public Holidays).

You can get in touch with us by fax on 01253 774412.

Our website address is:  
**[www.pensions.nhsbsa.nhs.uk](http://www.pensions.nhsbsa.nhs.uk)**

If you have a NHS Pension Scheme reference number (it usually begins with "SD") it will help if you quote it. If you do not have a reference number please quote your National Insurance number.

You will find more information about the Scheme in these booklets and leaflets. You can get copies from your Pensions Officer or employer or downloaded from our website.

- SDGuide A Guide to the Scheme
- SDGP A Guide to the Scheme for GP Practice and Out of Hours Provider staff
- SDK Leaving the Scheme
- SD502 If you are thinking of leaving the Scheme
- SDP Benefits for Practitioners
- SDIB NHS Injury Benefits Scheme
- SDAVC Increasing your Benefits
- SDF Family Benefits and Life Assurance
- SDER Early Retirement
- SDCP\* Survivor Benefit for a Civil Partner

\* only available from our website.