

A guide to navigating pension sharing orders

Pensions are often one of the most significant assets a couple has, however are frequently avoided in financial settlement on divorce due to their complexity.

Most people have pension provision, even if only by virtue of a workplace pension, so it is quite surprising that only 12% of financial orders on divorce contain a pension sharing order. This suggests many are at risk of under-settling or paying insufficient attention to their long-term needs.

What is a pension sharing order?

A pension sharing order provides for the transfer of one spouse or civil partner's pension into a pension scheme in the other's name. The order will provide a specific percentage which is to be transferred.

Will I need an expert?

An expert report regarding pensions is usually referred to as a 'actuarial report'. In certain circumstances it may be necessary to appoint an expert to assist with determining the appropriate pension share.

How do I determine the percentage to be transferred?

To determine the appropriate pension share each party will need to provide full financial disclosure. This includes details about their pension including a cash equivalent transfer value (CETV) figure. This is a CETV which is an estimate of the value of the pension scheme.

Top tip: This can be a time-consuming process and therefore you should seek to request your CETV figure from your pension schemes as soon as possible.

What happens after the appropriate pension share has been determined?

A pension sharing order can only be approved and implemented by way of an order of the court. Therefore, the pension sharing order will need to be submitted to the court for their consideration and approval.

The pension sharing order if approved will come into effect on the later of:

- a) The date of decree absolute/final order of the divorce or dissolution; or
- b) 28 days from the date of the pension sharing order.

Top tip: An individual should wait a minimum of 28 days after the date of the pension sharing order before applying for their decree absolute/final order in respect of their divorce.

When can individuals receive their pension share?

In relation to pension sharing orders there is no requirement for parties to wait for their ex-spouse/civil partner to retire. Each person's pension pot is separate once the pension has been shared. You do not need the agreement of your former spouse to draw down on the pension and can do so when you are ready in accordance with the scheme rules.

Top tip: It is important to obtain independent financial advice on the options available to you dependent on the pension scheme.

What other options do individuals have in relation to pension sharing?

Pension attachment order

Pension attachment 'earmarks' the pension benefits for the benefit of the other spouse in the future.

There are negatives of this option such as one spouse must wait for their ex-spouse to retire or choose to start taking benefits before, they can share in them.

If they take their benefits early, then the benefits would reduce for the receiving spouse.

Pension offsetting

This is when one party gets a greater share of another asset, instead of receiving a pension share. For example, the former matrimonial home.

The values of each asset are calculated so that they can 'offset' each other. If the values are not equivalent it is possible to do a partial offset.

The negatives of this option is that whilst it may meet the individuals needs in the short term it may fail to provide long term stability.

Due to the complex nature of pensions, it is advised to contact a specialist family lawyer to help provide further assistance in relation to financial settlements on divorce.

Get in touch

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