

## BTPS Divorce Guide

This guide is for all parties involved in the divorce. Please read it carefully. It sets out the information that the BT Pension Scheme (BTPS) is legally obliged to provide. You'll also find other information that may be helpful. This includes the details you'll need to supply before we can put in place a pension sharing or earmarking order.

When this guide refers to "ex-partners" it means both ex-spouses and former civil partners. Similarly, mentions of "marriage" and "divorce" include civil partnerships being formed and dissolved. The BTPS rules deal with civil partnerships coming to an end in the same way as marriages do so both are covered in the guide.

### Differences in UK divorce law

What exactly can be divided in a divorce depends on where in the UK you're divorcing or dissolving your civil partnership.

#### In England, Wales or Northern Ireland

The total value of the pensions you have each built up are considered. This doesn't mean only the pensions that you or your ex-partner built up while you were married or in a civil partnership, but all your BTPS benefits.

#### In Scotland

If your divorce is subject to Scottish law, please let us know immediately as it will affect the transfer value quote we send you. Only the value of the pensions you have both built up during your marriage or civil partnership are considered. This means that anything built up after your date of separation or before you married or became civil partners doesn't count.

Some of the information in this guide doesn't apply to divorce in Scotland.

If the Scottish courts are dealing with your case, please follow the guidance of your legal advisers. They'll make sure you understand exactly how you'll be affected.

If your BTPS benefits are to be subject to a pension sharing arrangement under Scottish law, we will need to receive certain documents within two months of the "relevant date". The "relevant date" is usually the date of the extract of the decree for the divorce, dissolution or annulment, but it does depend on the type of arrangement put in place. If we do not receive the required information within two months, the pension sharing arrangement will be deemed to never have taken effect and we will not be able to implement the arrangement. Please discuss with your legal advisers to ensure that you fully understand this requirement.

*Your benefits are always subject to the BTPS Rules and relevant legislation. If there's any difference between the description of benefits in this document and the BTPS Rules or legislation, the BTPS Rules and legislation will take precedence.*

# The Divorce Process

## 1. Decide the right way forward for you and your ex-partner

Read this guide and your Cash Equivalent Value (CEV) Quote for divorce purposes carefully. The information in them could help you decide whether to go ahead with a legal case.

A Cash Equivalent Value Quote provided for divorce purposes is only an estimate of the value at that point in time. It isn't a guaranteed quote. We'll need to recalculate the value at a current date within the implementation period. The implementation period will only commence when all the required information, documentation and charges, have been received.

## 2. If your divorce goes to court or you agree a Scottish Qualifying Agreement

As part of the divorce process, you'll be given a final order ending your marriage/civil partnership. A court order or Scottish Qualifying Agreement will be issued if pension earmarking or pension sharing is involved.

Before we can process any court order or Scottish Qualifying Agreement, we need proof of your ex-partner's identity and age, plus the relevant court order or Scottish Qualifying Agreement.

Please send us:

- Your ex-partner's birth certificate, passport or driving licence.
- Your final order certificate.
- The relevant court order and pension sharing annex known as Form P1 or Scottish Qualifying Agreement and annex.
- If the information is not included in the relevant court order or Scottish Qualifying Agreement, then details of your ex-partner's receiving scheme, this is the Scheme they wish us to transfer the pension credit into.

You may have a court order and annex – that's an instruction from the court to the BTPS Trustee – or alternatively a Scottish Qualifying Agreement and these documents may contain all the information we need to carry out the pension sharing. However, in some cases we may need some extra information. If we do, we'll ask for it.

For pension sharing cases, we'll need all the information we ask for above before we can implement the order or Qualifying Agreement.

Take the time to read the Frequently Asked Questions in this guide. There you'll find more information about pension earmarking and pension sharing, plus the process involved.

## 3. If your case doesn't go to court or you decide not to enter into a Scottish Qualifying Agreement.

You don't need to do anything. If we don't hear anything further, we'll assume that there was no court order or Scottish Qualifying Agreement against your BTPS benefits.

## Other sources of help

There are free resources to help you make pension decisions after a divorce settlement. Here's a brief summary:

### **MoneyHelper (which includes Pension Wise)**

In June 2021, the Money and Pensions Service brought its three consumer services together under the new name, MoneyHelper. So, the Money Advice Service, The Pensions Advisory Service and Pension Wise now all come under MoneyHelper.

MoneyHelper is here to make your money and pension choices clearer. It provides impartial help, backed by government and is free to use. Whatever your circumstances or plans, online or over the phone, you'll get clear money and pensions guidance, and pointers to trusted services if you need more support.

As you have additional voluntary contributions (AVCs), Pension Wise offers free, impartial guidance about your options in relation to your AVCs. It can be accessed online, by phone or face to face. If you are over 50, you can call Pension Wise from MoneyHelper on 0800 138 3944 Monday to Friday or visit the website to book an appointment. If you're outside the UK call +44 (0) 203 733 3495.

Visit [moneyhelper.org.uk](https://moneyhelper.org.uk) for more information.

### **Pension Tracing Service**

If you need to track down documents from one of your pensions, the Government's Pension Tracing Service should be able to help. They're a central tracing agency to help people keep track of the benefits they have in previous employers' schemes. Go to [gov.uk/find-pension-contact-details](https://gov.uk/find-pension-contact-details)

### **Pension Scams**

Pension scams are on the increase. Scammers take advantage of the fact you can now access your pension savings in new ways. They may try to lure you with promises of upfront cash, time-limited offers, or one-off 'deals' with guaranteed high returns. Learn how to spot the signs and guard against pension predators by following the guidance in the 'Beware of pension scams' section of this guide. The Pensions Regulator (TPR) has some helpful information to help you protect your pension, visit [pension-scams.co.uk](https://pension-scams.co.uk)

# Frequently Asked Questions

## What is pension sharing?

The aim of pension sharing is to treat pension rights like any other asset in a divorce. Unlike earmarking, you can transfer some, or all, of your pension rights to your ex-partner as part of the financial settlement when you divorce or have your marriage annulled. This provides a clean break.

Pension sharing can't be used in judicial separations, but earmarking can.

Your ex-partner's rights are called the pension credit. The pension credit cannot be kept within BTPS and will need to be transferred to another scheme of your ex-partner's choice to provide them with their own pension benefits. This may include an occupational pension or another suitable scheme that's willing to accept the transfer payment.

Your ex-partner must give us the details of the receiving scheme before we can carry out a pension sharing order or Scottish Qualifying Agreement.

The amount that your BTPS benefits are reduced by is called the pension debit.

The pension sharing order will apply to all your BTPS benefits, including any AVCs, unless otherwise stipulated in the court order, and your Guaranteed Minimum Pension (GMP).

## How are pension sharing arrangements carried out?

Before we can act on a pension sharing order or Scottish Qualifying Agreement, we'll need all the relevant documents outlined in The Divorce Process section of this guide. We'll also need all charges paid in full.

Your ex-partner must choose a suitable scheme for us to transfer the pension credit into. We'll send them a form to complete.

We'll tell you when the implementation period has started and then when the pension sharing order or Scottish Qualifying Agreement has been implemented.

If you haven't taken your pension yet, the pension sharing order or Scottish Qualifying Agreement will set out how much of your benefits we will transfer to your ex-partner. Your BTPS benefits will be reduced in line with the pension sharing order or Scottish Qualifying Agreement.

Your reduced BTPS benefits will continue to increase each year in the usual way until you take your pension. If you decide to take your pension earlier than Normal Pension Age, it may be reduced for early payment as well as through the pension sharing arrangement. We'll tell you about any reduction. If you've already taken your pension, the pension sharing arrangement will set out how much of your benefits we need to transfer to your ex-partner. Your pension will be reduced in line with the arrangement.

Following your divorce, you would give up your spouse benefits unless you choose to remarry or nominate an adult dependant. If you do remarry, we would normally pay a spouse's pension to your surviving spouse upon your death.

## What is pension earmarking?

Pension earmarking is the payment of benefits to your ex-partner when your pension begins to be paid. If you're getting divorced, legally separated or having your marriage annulled, by law we have to comply with an earmarking order – sometimes called an attachment order – when issued by a court.

An earmarking order can mean we have to:

- Pay a fixed percentage of your annual pension to your ex-partner. Payment will be straight away if you're already receiving your pension, or else at the point you start to take it;
- Pay part or all of any retirement lump sum to your ex-partner when your pension comes into payment; and/or
- Pay part or all of any lump sum death benefit to your ex-partner. The order may require you to nominate your ex-partner to get any lump sum. If this is the case you wouldn't be able to nominate anyone else, even if you remarried.

Your ex-partner (or their legal advisers) will need to serve the earmarking order on BTPS. They must also tell us about any changes to their personal and account details.

If you have an AVC fund, this can also be affected by an earmarking order. If you're eligible, you may want to think about contributing to an external AVC fund to make up any shortfall in your pension left by earmarking. There are limits on what you can contribute to a pension without paying tax when you start taking a pension income. See the 'tax on your private pension' section on HMRC's website at [gov.uk](http://gov.uk) for more information.

When an earmarking order is issued, your ex-partner doesn't have their own member rights under the BTPS, but they do become entitled to benefits through your membership.

A court order earmarking benefits isn't a final, binding settlement. If we receive a variation to the order, we earmark any new benefits or amend payment to reflect this.

If your ex-partner re-marries, the earmarking order against your pension will no longer apply. The only exception to this, is that any lump sum covered may continue to be affected - depending on the terms of the order. The earmarking order will no longer apply if your ex-partner dies.

## How do you deal with an earmarking order?

We'll tell you when we get the earmarking order. We'll also give you and your ex-partner some information about changes you must tell us about.

There may be many years between your divorce and the date you take your pension. So, your ex-partner must tell us:

- About any changes of name or address; and
- If they remarry or form a new civil partnership. If they do, any earmarking order against your annual pension – but not your lump sum – will then stop automatically.

Your ex-partner must tell us about these changes within 14 days of them happening.

We'll also tell you about any outstanding charges you'll need to pay before we can carry out the order. We've outlined these charges later in this guide.

After your divorce, you may decide to change who you name to receive your benefits when you die. However, your updated nomination will only apply to the benefits not covered by any earmarking order. If the order specifies your ex-partner to receive your death benefits, you will not be able to nominate anyone else to receive them.

If you transfer to another pension scheme the earmarking order will also transfer, and we'll notify your ex-partner.

We'll contact you and your ex-partner six months before you reach your Normal Pension Age. We'll do this to check that the earmarking order is still valid and to gain the right bank details for your payments. Your payments will come from your net pension after tax. If you decide to take your pension before you reach your Normal Pension Age, we will make these checks then.

## What charges will you pay?

The charges around earmarking orders or pension sharing arrangements are as follows:

For all active and deferred members and for pensioner members who are under their Normal Pension Age:

Activity	Charge*
Providing an initial Cash Equivalent Value Quote for divorce purposes if you have a statutory right to receive this.	Free
Providing a further Cash Equivalent Value Quote for divorce purposes on the same basis if you don't have a statutory right to receive this. For example, within 12 months of your last request.	£250
Providing extra information in response to specific requests after receiving a Pension Sharing Order or Scottish Qualifying Agreement or being notified one may be made.	£330 per communication
Implementing a Pension Sharing Order or Scottish Qualifying Agreement if your ex-partner transfers to a scheme of their choice.	£2,100
Providing extra information in response to specific requests after being notified of an Earmarking Order.	£120 per communication
Implementing an Earmarking Order.	£540

\* All charges are inclusive of VAT.

For pensioner members who are over their Normal Pension Age

Activity	Charge
Providing a Cash Equivalent Value (CEV) where the member doesn't have a statutory right to receive one (as is the case for a retired member)	£1,080
Providing extra information in response to specific requests after receiving a Pension Sharing Order or Scottish Qualifying Agreement or being notified one may be made.	£330 per communication
Implementing a Pension Sharing Order or Scottish Qualifying Agreement if your ex-partner transfers to a scheme of their choice.	£2,550
Providing extra information in response to specific requests after being notified of an Earmarking Order.	£120 per communication
Implementing an Earmarking Order	£540

\* All charges are inclusive of VAT

## Your responsibilities

- You need to make the court aware of our charging policy. If you don't do this, it may delay us implementing the relevant court order or Scottish Qualifying Agreement.
- Your charges must be paid in full before we'll implement the pension sharing arrangement or earmarking order.
- You need to make your ex-partner or their legal representatives aware of the relevant information. If you don't do this and they later ask for information, there could be a charge. There will also be a charge if you ask for a Cash Equivalent Value Quote for divorce purposes when not legally entitled to one. The charges are in the table above.
- As directed by the court, we'll allocate these charges between the two parties and tell their legal representatives.
- To meet our legal obligations, we might in exceptional cases implement a pension sharing arrangement before its charges have been paid. We could also act to recover these charges in another way. Generally, this will mean that the Trustee deducts the charges from your and/or your ex-spouse's benefits, depending on the directions from the court. However, we would write to you and/or your ex-spouse, if applicable, before doing this. We would normally expect all charges to be paid in full before we implement the relevant order or Scottish Qualifying Agreement.
- When we've received a Pension Sharing Order or Scottish Qualifying Agreement, we might ask you or your ex-partner for further information. If this involves additional costs, we will pass these charges on to you or your ex-partner as appropriate.

## Don't lose your pension to a scammer

Pension scams are on the increase. Scammers can be polite, professional and highly articulate. They might have glossy brochures and websites that look legitimate. They may tempt you with promises of one-off investments, pension loans and upfront cash. What's more, members of defined benefit schemes – like you – are prime targets.

Here are some do's and don'ts that will help keep your pension benefits safe.

### DON'T

- Accept offers from anyone who contacts you about your pension out of the blue. These could include a 'free pension review', a home visit or hand-delivered paperwork.
- Believe anyone who says they're authorised by the FCA. Check for yourself that they're on the FCA's approved register. Visit [fca.org.uk](https://www.fca.org.uk)
- Be lured into overseas investment deals. Well-known scams include unregulated investments in things like hotels and vineyards, where your money is also more at risk because it's hard to access and in one place.
- Fall for 'guaranteed' returns. There's no such thing.
- Be rushed into a decision because of a 'time-limited' offer.

## DO

- Check the FCA's list of known scammers at [fca.org.uk/scamsmart](https://www.fca.org.uk/scamsmart)
- Ask MoneyHelper for help if you have doubts. Visit [moneyhelper.org.uk](https://www.moneyhelper.org.uk)
- Call Action Fraud on 0300 123 2040 if you think you've been scammed and be sure to let us know too. It may not be too late to stop a transfer if it hasn't gone through.
- Speak to an authorised independent financial adviser before making a decision that could affect the rest of your life. If you don't have a financial adviser, MoneyHelper has some helpful guidance on finding a financial adviser at [moneyhelper.org.uk](https://www.moneyhelper.org.uk)