

Your pension and divorce

Key points

- Your pension benefits are taken into account for divorce purposes.
- You should ask the Pensions Team for the transfer value of your benefits.
- If you are divorcing under Scottish law, remember to tell us the relevant date for the transfer value calculation.

What does divorce mean to my Diageo pension?

Potentially, quite a lot. When courts decide what money goes where, the pensions of both parties in the divorce will be considered in the divorce settlement. The idea is to prevent hardship for a spouse who may have given up their own career to raise a family, keep the house, and make a very material contribution to their partner's success. Without such a deal, they could end up in poverty in retirement.

So what can the courts do?

In December 2000, the law on pensions splitting was changed. The legislation that was introduced means that divorcing couples are now able to achieve a financial 'clean break' of their earned pension rights. This split of benefits is called "pension sharing" and allows an immediate splitting of your pension benefit by transferring part of your pension to your ex-spouse's pension plan.

How does pension sharing work?

In practical terms, if a court makes a pension sharing order, the Scheme will offer a transfer value to your ex-spouse. Your pension benefit would then be reduced by a corresponding pension debit.

The Diageo Pension Scheme will only hold the ex-spouse's pension credit if they're also a member of the Scheme. Otherwise, they'll be required to take an external transfer to a pension arrangement of their choice. In addition, the Scheme won't accept pension sharing credits from other pension schemes.

When calculating the maximum pension you're allowed under Inland Revenue limits, the pension debit will be taken into account. This means that your scope for paying additional contributions to make up any shortfall may be limited.

Will the courts automatically make a pension sharing order?

No. Pension sharing is simply one of three options available to the courts. The court may decide to simply 'offset' the value of your pension against other financial assets. The idea behind an offset is that the spouse with the bigger pension benefits will accept a smaller share of the other family assets to balance out their more valuable pension.

Take the example of a couple who jointly own a house worth £90,000 and have savings and investments worth £26,000. In addition, the husband is a member of the Diageo Pension Scheme and the transfer value of his pension is £80,000. This means that their total assets are valued at £196,000 and, if shared equally, would mean giving each partner £98,000. Under an offset arrangement, the wife might take the whole house and £8,000 of the savings. Her husband would keep his pension and take £18,000 of savings.

The other option open to the court is to earmark your pension. This means that a portion of your pension would be reserved or earmarked for your ex-spouse. If your ex-spouse remarries, the earmarking order will cease.

When would my ex-spouse be able to claim their pension?

If a pension sharing order was made, your ex-spouse would have complete control over their portion of the pension and could retire whenever they decided.

In the case of earmarking, the earmarked pension would be paid to your ex-spouse when you retire - they have no control over when it's paid. The pension payable to your ex-spouse would cease when you die and if you were to die before retirement, your ex-spouse could be left with nothing unless the earmarking order clearly stated what should happen in that event. In addition, their pension would be taxed according to your circumstances and not their own.

How is my pension valued?

The Pensions Team will calculate the transfer value of your pension in the same way as it would if you were transferring your pension to another provider. The transfer value of your pension is also known as the 'cash equivalent' of your pension benefits.

The theory behind the calculation is that if the transfer value was reinvested, based on current stock market returns and interest rates, it should be sufficient to produce the same benefit at retirement as the benefits given up under the Scheme.

The transfer value is calculated on a basis decided by the Trustees on the advice of the Scheme actuary and in accordance with legislation.

Are there any differences between Scottish and English law?

The options available to the Courts are the same – that is pension sharing, earmarking or offsetting. However, under English law, the transfer value of your pension is based on the full value of the pension including pension benefits that were earned before the marriage took place.

In Scotland, the law is different. Here, the transfer value is calculated only for that part of the pension which has been earned since marriage and up to the earlier of the date of the petition for divorce or when you stopped living together. If your divorce is under the jurisdiction of Scottish law, you'll need to provide the Pensions Department with the relevant date for calculating the transfer value.

Are there any charges for providing information for divorce purposes?

All members are entitled to request a transfer value of their pension benefit once every 12 months free of charge. If a further transfer value is required in the same 12 month period, you'll be charged an administration fee of £150 for each additional calculation.

If a pension sharing or earmarking order is made, an administration fee of up to £750 will be charged. The exact amount of any administration fee required for an individual case will be advised at the point information is requested and will depend on the complexity of the case.

Is there anything else I should know?

When you're going through divorce proceedings, we suggest that you instruct your solicitor to forward a copy of any proposed pension sharing or consent order to us at the earliest opportunity. This will allow us to comment before the final order is made and make sure it is workable.

Where can I get further information?

For more information about your pension, you can find access the pensions website at www.mydiageopension.com

In addition, you can contact the Pension Team in the following ways:

- By email to diageopensions@capita.co.uk
- By telephone 0333 222 0086
- In writing to
Capta
PO Box 555
Stead House
Darlington
DL1 9YT