Getting divorced

Find out how divorce could affect your pension

You have three main options:

- **Offsetting** – both sides keep their own pension, but the value of your pensions are offset against any other assets of a similar value, like cash or property. For example, you might keep your pension, but they might keep the house.
- **Pension sharing** – the benefits you've built up are split between you. The Court will decide how your benefits are split. Your pensions will be completely independent from each other after the split.
- **Earmarking or pension attachment** – some of your pension will be paid to your former spouse when you retire and start taking it. This is the only option that'll provide an ongoing link between you both.

We explain these options in more detail below, as well as a few differences if you're getting divorced in Scotland.

For your State Pension, your basic or new State Pension cannot be shared but any additional State Pension you get could be.

Deciding which option is right for you when getting a divorce is not easy. We can tell you what your options are, but you may need to get financial advice to understand which option is best for you. Visit our guidance and financial advice page for more information.

Key terms

Clean break: This is when there's a settlement between you both, approved by the Court, that means your finances are completely separated from one another. No future claims can be made.

Cash equivalent transfer value (CETV) or cash equivalent value (CEV): This is the cash value placed on your pension benefits and any savings. It's how your pension benefits are valued for divorce.

Former spouse: Whenever we use this term, we're referring to your former spouse or civil partner.

Transfer day: This is the date the relevant Court order or agreement takes effect. We'll recalculate your cash equivalent transfer value (CETV) on this date, as your pension savings may have changed since your original CETV. At any time, you may find it helpful to seek advice and support from The Pensions Advisory Service.

Offsetting

What is offsetting?

With offsetting, you both keep your own pensions, but the value of those benefits is offset against any other assets you might have, like a house or cash. Assets of the same or similar value as your pension may be allocated to your former spouse, and your pension stays with you. It provides a clean break between you if there's an approved Court order, meaning no further claims can be made.

If you're in Scotland, only the benefits and any savings built up while you were married or in a civil partnership are offset, but elsewhere in the UK it includes everything you've built up.

In situations where there may not be many assets or assets have high values, offsetting may not be suitable and so pension sharing or pension earmarking could be used instead.

What you need to do:

- Request a cash equivalent transfer value from us if you need to, to understand the value of your pension benefits for offsetting. You can do this via our contact us page and we'll provide it within 21 days.
- Make sure you update your Expression of Wish, to let us know who you wish to receive a lump sum that may be payable under life cover when you die. Log in to My USS to complete online or download the Expression of Wish form to print and return to us.

Pension sharing

What is pension sharing?

With pension sharing, your pension benefits and savings are split between you both. This includes any additional contributions you've made to save a bit more. It provides a clean break, meaning you can both decide what to do with your share independently from each other.

A Pension Sharing Order granted by a Court will outline the split. This will be a percentage of your cash equivalent transfer value.

In Scotland you can either enter into a Pension Sharing Order or a Qualifying Agreement, which is included within a formal Minute of Agreement (or a Separation Agreement) without the Court. It can be agreed as either a percentage or a monetary amount of your cash equivalent transfer value.

- **If you divorce before you retire**, pension sharing will apply to everything you've built up to the time of divorce, subject to a few exceptions. For example, if you're receiving a dependant's pension this would not be shared. Nothing you build up after divorce will be included in the split.
    - This is different in Scotland as only the benefits and savings you've built up while you were married or in a civil partnership are considered.
- **If you divorce after you retire**, pension sharing will apply to your pension in payment and anything left in your Investment Builder pot.

What you need to do:

- Request a cash equivalent transfer value from us (either you or the Court can do this), which we'll provide within 21 days. This can be done via our contact us page
- Share a draft version of the Pension Sharing Order or Qualifying Agreement with us before it's finalised, so we can confirm that we can comply with the terms
- Once you're divorced, remember to update your Expression of Wish, to let us know who you wish to receive a lump sum that may be payable under life cover when you die. Log in to My USS to complete online or download the Expression of Wish form to print and return to us.

Once the Pension Sharing Order or Qualifying Agreement is agreed, we'll also need:

- A copy of the agreed order or agreement
- Evidence of your divorce (a copy of the decree absolute, or extract decree of divorce if you're in Scotland)
- Your former spouse's details (full name, date of birth, National Insurance number, address)
- Payment of any charges relating to your divorce proceedings.

If you live in Scotland, these documents must be provided within two months of the date of the extract of decree of divorce – the formal document of divorce from the Court.

How are your benefits calculated?

Your benefits

If you divorce before you retire, your pension and lump sum will be reduced in line with the split in the Pension Sharing Order or Qualifying Agreement. Any Investment Builder savings will also be reduced in line with the split.

If you're retired, your pension in payment and any Investment Builder savings left with us will be reduced in line with the split. We'll need to apply the split in line with the date set out on the Pension Sharing Order, which means we'll backdate the split to the transfer day. This means you may need to pay back any pension payments you received following the transfer day that should have gone to your former spouse.

Your former spouse's benefits

We'll calculate their own cash equivalent transfer value with their share of the order or agreement. They then have two options:

1. **Buy their own benefits with us** (otherwise known as an internal transfer or a pension credit). This means they can transfer their cash equivalent transfer value into USS to buy benefits. They'll also get a share of any Investment Builder savings you may have. They'll be entitled to a pension but no automatic cash lump sum. But they may be able to choose to take a cash lump sum when they retire and receive a lower income instead (if you're notalready retired).
2. **Transfer their share out** to another HMRC-registered scheme or a recognised overseas pension scheme, whether that's a new or existing one (otherwise known as an external transfer).

If they buy USS benefits, when they retire we'll need to know whether they'd like:

- a pension payable with a five-year guarantee – this means, if they die within five years of retiring, the balance of what would have been paid during those five years may be paid as a lump sum to any beneficiaries on their Expression of Wish form, or
- no guarantee but a higher monthly income (this is the default option if they do not make a choice).

If they transfer their share out

We'll write to them with all the information they need and what they need to do.

How long does it take?

Once we have the relevant information, know whether your former spouse wants an internal or external transfer and any relevant charges have been paid, we'll implement the Pension Sharing Order or Qualifying Agreement within four months, which is the legal deadline. If we do not hear from them within eight to ten weeks after sending the options, we'll implement the default option (an internal transfer with no guarantee but a higher monthly income).

What happens to your benefits when you die?

Visit what happens when you die for more information and read the factsheet that's relevant to you.

What happens to your former spouse's benefits when they die?

Any Investment Builder savings	Life cover	A pension for a surviving spouse	A pension for any children (when there's a surviving spouse too)	A pension for any children (when there's no surviving spouse)
These may go to any nominated beneficiaries on their Expression of Wish form, which can be updated in My USS.	A lump sum of 2.4 times the pension that would have been paid to them at 65 may go to any nominated beneficiaries on their Expression of Wish form. If they die after they get their pension, there's no lump sum payment unless they chose the five-year guarantee.	40% of the pension that would have been paid to them at age 65 will go to a surviving spouse or civil partner.	One or two eligible children will get 30% of their pension each. For three or more eligible children, 60% of their pension will be split between these children.	One or two eligible children will get 40% of their pension each. For three or more eligible children, 80% of their pension will be split between these children.

Earmarking or pension attachment

What is earmarking or pension attachment?

With earmarking or pension attachment, your pension will remain yours and when you come to take it, some of it'll be paid to your former spouse.

Depending on the earmarking order or attachment, they'll get all or part of:

- your pension and one-off cash lump sum
- any savings in the Investment Builder
- your lump sum that may be payable under life cover when you die.

Any payments to them will not be made until you start taking your benefits. And if they remarry, any pension payments they're receiving will usually stop.

What happens if you die?

Your former spouse will no longer get a share of your pension. But they may get a dependant's pension if they're reliant on you financially when you die.

Complete a Registration of potential dependant form to let us know who you wish to receive a dependant's pension when you die. Log in to My USS to complete online or download a copy to print and return to us.

If you die before you retire, your former spouse may also be entitled to a lump sum payment under your life cover.

This does not provide a clean break

This means there'll still be a link between you and your former spouse – your finances will not be separated from one another and future claims could still be made.

What you need to do:

You'll need to send the earmarking order to us and we'll implement it accordingly.

We'll also need:

- Evidence of your divorce (a copy of the decree absolute or extract decree of divorce if you're in Scotland)
- Your former spouse details (full name, date of birth, National Insurance number, address)

When you come to retire, we'll check that any earmarking orders are still valid and arrange for payment to be made.

Further information

Your first cash equivalent transfer value request is free of charge, as long as you're not retired. But there are charges for any after that, as well as a charge to implement a Pension Sharing Order. See our Divorce information charges form for more information.

Your former spouse and any representatives cannot have access to any of your benefit details, unless you give them signed authority.

This publication is for general guidance only. It is not a legal document and does not explain all situations or eventualities. USS is governed by a trust deed and rules and if there is any difference between this publication and the trust deed and rules the latter prevail. Members are advised to check with their employer contact for latest information regarding the scheme, and any changes that may have occurred to its rules and benefits. For a glossary of our terms please see our important terms page.