

Factsheet: the impact of divorce or dissolution of a civil partnership on pension benefits

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Divorce or dissolution of a civil partnership is a complicated area and if this is something you are considering you should seek advice from a qualified family law solicitor at the earliest opportunity.

This factsheet is designed to be a basic reference point for members of all RNLI pension arrangements. You should not rely on this factsheet as a statement of the law as it is intended as guidance only – not as a substitute for you seeking professional advice.

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Introduction

Which RNLI pension arrangement or arrangements are you a member of?

If you joined the RNLI before 1 January 2007 and joined the pension scheme, you are a member of the “old scheme” called the RNLI 1983 Contributory Pension Scheme. These members are referred to in this document as “**RNLI 1983 members**”.

If you either –

1. joined the RNLI after 1 January 2007 and joined an RNLI pension scheme; or
2. stopped paying contributions to the RNLI 1983 scheme in September 2012

and joined a new RNLi pension scheme from October 2012,

you are a defined contribution pension member, most likely to be in an arrangement with Aviva or Clerical Medical. These members are referred to in this document as “**DC members**”.

Getting in touch with the right scheme administrator

There are some differences in how pension sharing affects RNLi 1983 members and DC members. If you intend to put in place any form of pension sharing as a result of divorce or dissolution of a civil partnership, you should inform the relevant RNLi pension scheme administrator as soon as possible and keep them informed throughout the whole process. Contact details are set out below.

You should bear in mind that you may be both an RNLi 1983 member **and** a DC member. The option to implement some form of pension sharing will apply to both arrangements separately and so it is important that that you disclose to your legal adviser your membership of all RNLi (or any other) pension arrangements. If you are both an RNLi 1983 member and a DC member, you will need to contact each scheme administrator separately in relation to pension sharing.

Additional information on the approach the RNLi pension schemes take to pension sharing on divorce or dissolution of a civil partnership will be provided to you after you first get in touch with the relevant scheme administrator. If the information you are sent does not include details of the charges associated with pension sharing, please contact the scheme administrator again to ask for this information.

Limits of this factsheet

The principles and guidelines set out in this factsheet are just that – the exact options that may be available to you in the event of your divorce / dissolution of a civil partnership will depend on your particular RNLi pension arrangement or arrangements. This document is therefore subject to the rules and governing documentation of such RNLi pension arrangements, the provisions of which will override this document where there is any conflict.

Republic of Ireland

This factsheet is written from a **UK** perspective. If you have a **Republic of Ireland**-based pension arrangement, you may find the following two documents helpful:

- ***Pensions on separation and divorce checklist:***
http://www.pensionsauthority.ie/en/Publications/Information_Booklets/Pensions_on_separation_and_divorce_checklist_.pdf
- ***Brief guide to the pension provisions of the Family Law Acts:***
http://www.pensionsauthority.ie/en/Publications/Information_Booklets/A_brief_guide_to_the_pension_provisions_of_the_Family_Law_Acts.pdf

If you are a member of the RNLI's Fusion Plan, please contact the pension provider, Zurich, and ask for details of their process and charges connected to separation and divorce.

What happens to my pension benefits on a divorce or dissolution of a civil partnership?

Where couples separate, there are generally four possible options when it comes to taking into account pension benefits. They can:

1. **Offset** the value of pension benefits against the value of other financial assets in the divorce/dissolution settlement. For example, you could keep your pension, and your ex-spouse or ex-civil partner could get a larger share of the value of the house.
2. **'Share'** pension benefits as part of a 'clean break' settlement. Part of the member's benefits are transferred into the ex-spouse's or ex-civil partner's possession. In this case the Court will make what is known as a "**pension sharing order**";
3. **'Earmark'** some (or all) of the member's pension benefits to go direct to your ex-partner when they come into payment – in this case the Court will make what is known as a "**pension attachment order**"; or
4. **Ignore** pension benefits when agreeing the settlement.

If you intend to put in place either a **pension sharing order** or a **pension attachment order**, you will need to ensure you inform the relevant RNLI pension scheme administrator as soon as possible and keep them informed throughout the whole process.

This is very important because if the RNLI scheme administrator does not have the required information, this can delay the implementation of your Order.

At the end of this factsheet is a **flow chart**, which outlines the stages of the process, what you should do and details of who to get in touch with.

What is a Pension Sharing Order?

A pension sharing order is often used to deal with pension benefits where couples wish to achieve a "clean break".

If the Court makes a Pension Sharing Order (or your benefits are subject to a qualifying agreement in Scotland), part of your benefits are transferred into your ex-spouse's or ex-civil partner's possession by creating what is known as a 'pension credit' for the ex-partner and a corresponding 'pension debit' for you as the member.

Your ex-spouse or ex-civil partner will keep that share of your pension benefits even if your or their circumstances change and will hold those benefits in their own right.

If you are an **RNLI 1983 member**, current scheme policy is for the ex-spouse's pension share to be transferred to another qualifying pension scheme nominated by the ex-spouse ie. the RNLI 1983 Scheme does not offer the option of ex-spouses to become members of the RNLI 1983 Scheme.

Your RNLI 1983 Scheme pension benefits will be reduced by reference to the proportion of your benefits which the Order declares are to be allocated to your ex-spouse or ex-civil partner at the point of divorce/dissolution. This will have an impact on the amount of pension payable to you from the Scheme upon retirement.

If you are a UK **DC member**, you can check whether Aviva or Clerical Medical will set up a mirror pension scheme to accept a pension sharing order transfer for the ex-spouse – or the ex-spouse can transfer it into another qualifying pension arrangement that accepts such transfers in.

Your DC savings benefits will be reduced by reference to the proportion of your benefits which the Order declares are to be allocated to your ex-spouse or ex-civil partner at the point of divorce/dissolution.

You may be able to top up your pension benefits by making further contributions to your defined contribution plan. You are not able to top up your benefits in the RNLI 1983 Contributory Pension scheme as this scheme closed to contributions on 30 September 2012.

You can still transfer your remaining benefits to another pension arrangement on leaving the RNLI if you wish. You should consider seeking advice from a Financial Adviser before you transfer benefits out of a Defined Benefit scheme (such as the RNLI 1983 Scheme). You should also be aware that from 6 April 2015 there will be a legal requirement in most cases to obtain independent financial advice where you are considering a transfer from a DB to a DC arrangement.

If you are a high earner and think you may be affected by the lifetime allowance (introduced from 6 April 2006, this limits the total amount of tax efficient pension savings you can build up), you should take appropriate personal financial advice to understand how pension sharing will interact with your personal tax position.

Pension Attachment Order

Under an attachment order or “earmarking” arrangement, your RNLI pension benefits would remain in your name but the relevant scheme would be required to make an agreed form of payment to your ex-spouse when you retire, reducing the amount paid to you. An Order can also “attach” death benefits payable to you so that your ex-spouse receives an amount upon your death.

The Order can require that your ex-spouse or ex-civil partner receives one or a combination of the following:

- all or part of your RNLI pension payments (either from the RNLI 1983 Scheme or an RNLI Defined Contribution scheme) (this doesn't apply to divorces/dissolutions in Scotland where “earmarking” applies only to lump sum benefits)
- all or part of any pension commencement lump sum payable to you; and
- all or part of any lump sum payable on your death.

If you decide to transfer out your pension benefits to another pension arrangement, you need to check that your new pension provider can accept the earmarking order.

“Earmarking” does have its limitations and is not widely used, mostly because the ex-spouse's entitlement to benefits is completely dependent on the member – as the pension rights remain with you, your ex-spouse or ex-civil partner must wait for you to retire or die to receive the earmarked benefits.

If your ex-spouse or ex-civil partner remarries or enters into a new civil partnership an earmarking order against pension payments, but not lump sums (unless the Order directs otherwise), would cease and the full pension would be restored to you.

Pension payments to your former spouse or civil partner would cease on your death, although any earmarked lump sum death grant would then become payable to your ex-spouse or ex-civil partner.

Charges

Most schemes will make charges for:

- providing information in connection with divorce proceedings, over and above that which it has a duty to provide free of charge under the existing statutory disclosure requirements;
- compliance with a pension sharing order or agreement; and
- any other activities in connection with pension sharing.

Action required before a Pension Sharing Order can be set up

The transfer out of pension benefits, to comply with the Pension Sharing Order (PSO), cannot be completed until all of the following has been received by Willis Towers Watson:

1. Written confirmation, preferably from the member's solicitor, otherwise from the member, enclosing the official court document which confirms that a PSO was set up and if so the details of the PSO.
2. Written confirmation, preferably from the member's solicitor, otherwise from the member, if a **PSO was not included** as part of the divorce settlement.
3. The payment of fees (normally payable to the RNLI 1983 Contributory Pension Scheme by both parties – unless part of the PSO is that one partner will be responsible for paying the fees). Scheme members can ask to reduce their pension benefits by the cost of their PSO fees, if this is the member's preferred way to pay their fees.
4. The full details of the ex-spouse's pension scheme that is due to receive the share of the RNLI 1983 Contributory Pension Scheme benefits on the 'sharing a pension after divorce' form.

Other pension issues to be aware of when getting divorced or dissolving a civil partnership:

Death benefits

- Your ex-wife, ex-husband or ex-civil partner will no longer be entitled to any spouse's pension that would have been paid to them should you die before them (RNLI 1983 scheme).
- Any children's pension paid to an eligible child in the event of your death will not be affected by your divorce or dissolution (RNLI 1983 scheme).
- If you have said that you would like your ex-wife, ex-husband or ex-civil partner to receive any lump sum death payment payable on your death (RNLI 1983 scheme) or the return of your pension fund or life cover payment (RNLI Defined Contribution Plan) by completing and returning an Expression of Wish form, this will remain in place unless you complete a new Expression of Wish form for each pension scheme you have accrued benefits in. The Court may, however, issue an Earmarking Order stating that all or part of any lump sum death grant is payable to your ex-spouse or ex-civil partner.

Expression of Wish form for the RNLI 1983 Contributory Pension Scheme:

<http://www.rnlipensions.org.uk/documents/1983-cps-expression-of-wish.pdf>

Expression of Wish form for members of the RNLI UK, ROI, CI or IOM Defined

Contribution pension plan:

<http://www.rnlipensions.org.uk/documents/ExpressionofWishFormJune2012.pdf>

If you are a member of **any other pension scheme**, please contact the scheme administrator and ask for a new 'nomination' or 'expression of wish' form. You should receive an annual statement from your Defined Contribution pension provider, which will include your pension scheme name/number, your pension membership number and the **contact details of your pension provider**.

Defined Contribution members: new pension flexibilities from April 2015

April 2015 will see the introduction of increased flexibility in the way that individuals aged 55 or over (rising to 57 in 2028) may access their DC pension savings. Broadly, individuals will be able to take their benefits as a lump sum, purchase an annuity or "drawdown" an income from their DC savings as they see fit.

These changes could be relevant to you in the context of the sharing or attaching of pension benefits on a divorce or dissolution and if you think you could be affected, it is important that you consider taking independent financial advice in relation to your options.

What if I remarry or enter into a new civil partnership?

If your RNLI 1983 pension benefits are subject to a Pension Sharing Order and you remarry, enter into a new civil partnership or nominate a co-habiting partner to receive a survivor's pension, then any spouse's pension, civil partner's pension or nominated cohabiting partner's pension payable following your death will be based on your reduced pension benefits.

If you remarry or enter into a new civil partnership and then divorce or dissolve your civil partnership again, your remaining pension rights can be subject to further division, although a Pension Sharing Order cannot be issued if an Earmarking Order has already been issued against your RNLI 1983 scheme pension rights. Similarly, an Earmarking Order cannot be issued if your pension benefits are already subject to a Pension Sharing Order in respect of the same marriage/civil partnership.

What if my RNLI 1983 Scheme pension is already being paid to me?

If you intend to obtain a pension sharing order where your scheme pension is already being paid to you, you should be aware that an unfortunate but unavoidable feature of the law of pension sharing is that you will receive more pension than you are entitled to for the period from the date the Order becomes effective and the date that the Pension Trustees implement the order.

The Pension Trustees will be required to recover any overpayments and you should be prepared for this eventuality by making whatever arrangements you deem necessary.

Factsheet is guidance only

This factsheet provides a summary of how your benefits can be treated on divorce and is a summary of the law as at March 2015. However, your legal rights are governed by the Trust Deed and Rules of the RNLI 1983 Contributory Pension Scheme and the governing documentation of your DC scheme.

If there are any differences between the Scheme Rules or the DC scheme's governing documentation and this factsheet, the Rules/documentation will override the factsheet.

Useful contacts

You will need specific information about your pension benefits as part of the proceedings for a divorce, judicial separation or nullity of marriage, or for dissolution, separation or nullity of a civil partnership.

If you are a member of the **RNLI 1983 Contributory Pension Scheme**, you should contact the scheme administrators, Willis Towers Watson to ask for an estimate of the **cash equivalent transfer value (CETV)** of your pension rights.

Email: rnli1983pensions@towerswatson.com

If you are a member of an **RNLI Defined Contribution plan**, you should contact the pension administrator (e.g. Aviva or Clerical Medical if you are a UK DC pension member and ask for a **Current Fund Value**.

Alternatively, if you are a member of the RNLI's Group Personal Pension Plan, you can register for online access to information about your pension arrangement and obtain your own current fund value:

UK DC scheme: <http://www.rnlipensions.org.uk/documents/Onlineaccessguide.pdf>

For all other pension arrangements, you should receive an annual mailing from your pension provider. This will contain the pension provider's contact details.

