

# A guide for members on divorce and dissolution

This guide gives you some useful information about how your rail pension can be split on divorce or dissolution of a civil partnership.

It tells you about:

- Who's entitled to your rail pension
- How your rail pension can be shared out
- How any Additional Voluntary Contributions (AVCs) you've paid towards your pension will be split
- What information the Court will need to consider as part of the divorce settlement
- Who can request information from the Scheme that is needed by the Court
- What administration charges may apply
- How the divorce/dissolution process is triggered
- What the process entails for your ex-spouse/former civil partner
- Whether your ex-spouse or former civil partner can request to take their share as a 'trivial commutation lump sum'
- Whether your long-time cohabiting partner is entitled to a proportion of your rail pension if you separate
- Protecting your RPS pension with a prenuptial agreement
- How to contact us
- Where to go for more information on the topic of divorce and dissolution of a civil partnership

## Who's entitled to your rail pension

If you are married or in a civil partnership and plan to divorce or dissolve it, your pension benefits can be considered as part of your overall assets and included in any financial settlement.

If you are living with your partner but are not married or in a civil partnership, they will not be entitled to any of your pension benefits if you separate.

Dividing any pensions you may have will usually be one of the biggest financial decisions you'll need to make. This is because the retirement income can be one of the most valuable assets people possess after the family home.

## How your rail pension can be shared out

Your pension may be divided in one of the following 3 ways:

### 1. Pension Offsetting

With Pension Offsetting, you keep your pension assets to yourself in their entirety while something else of the same or similar value, such as property, is awarded to your ex-spouse. For example, you might keep your pension, but they might retain the family home or a holiday property you own together. If your situation changes in the future and you re-marry or die, your offsetting agreement won't be affected.

Pension Offsetting might be a particularly good option if you or your ex-spouse have similar pension provision in place, or overseas pensions that needs to be split. This is because international pension assets cannot be shared via a UK court order.

## 2. Pension Attachment Order (Earmarking Order)

This option provides an ongoing link between you and your former spouse or civil partner. This is because some of your pension will go to them when you start to claim it. The amount they receive has to be agreed by both of you and approved by the Court. The amount could also include a portion of your lump-sum death benefit and/or your retirement lump sum. The payments will be made directly to your ex-spouse or former civil partner when you decide to take your benefits. The State Pension is not included in it, though.

If you die before you start receiving your pension, your ex-spouse or former civil partner will not get the share awarded to them. They may however, still receive some of the lump sum which could be paid out when you die.

If your ex-spouse or former civil partner remarries, has a new civil partnership or dies before you, they will no longer be eligible to receive any of your pension payments, awarded to them and it will be re-instated to you. However, they may still be entitled to any lump sum specified in the Court Order.

## 3. Pension Sharing Order (PSO)

With a PSO, the Court can decide the pension you've built up to be split between you and your ex-spouse or former civil partner at the time of divorce or ending of a civil partnership. This option provides for a clean break as assets are split immediately by the Court and pensions will be completely independent from each other after the split.

Here's how it works. The Court will specify the proportion of your pension benefits to be shared with your ex-spouse or your former civil partner. This will either be a percentage of the cash value of your pension pot or a specified amount. The share awarded to your ex-spouse or former civil partner is taken off the total amount of your pension – this is known as a 'pension debit'. Your ex-spouse receives their share, known as the 'pension credit' as soon as the order is finalised. A separate record is then created in the Scheme for your ex-spouse or former civil partner which holds their benefits. Once the share is applied and the record is created, your ex-spouse or former civil partner will have no further claim to your pension.

If you are a member of a Defined Benefit Section of the Railways Pension Scheme (RPS), the amount your ex-spouse or former civil partner receive from you may be used to buy pension benefits either in the RPS or with another pension provider. If you are a member of the Industry-Wide Defined Contribution (IWDC) Section of the Scheme, then they would need to transfer their share to another pension provider of their choice.

The pension benefits your ex-spouse or former civil partner receives from you are completely separate to yours. This means they do not have to receive their benefits at the same time you do. Their benefits can also continue to be paid after your death or if your ex-spouse or former civil partner remarries or enters a new civil partnership.

In this arrangement, if your ex-spouse or former civil partner dies before you do, the pension debit will not be re-instated to you.

### PSO calculation examples

Here are a couple of examples which show the principles of calculating the amount your ex-spouse or former civil partner will receive depending on your type of membership with the Scheme.

- DB pension debit calculation example:

You and your ex-spouse or former civil partner have agreed that they will receive 40% of your pension. You currently have £10,000 in your RPS pension. This means that your ex-spouse or former civil partner will receive £4,000 and a pension debit of the same value will be applied to your pension. This debit will be revalued up to the point you retire. If you're a retired member of the Scheme, then the pension debit will be taken off immediately.

$$40\% \times £10,000 = £4,000$$

The cash equivalent of the pension debit is given to your ex-spouse or former civil partner who can ask for it to be transferred to another pension provider. If you are a member of the DB section, your ex-spouse or former civil partner can decide to keep a pension credit in the RPS.

- IWDC pension debit calculation example:

You and your ex-spouse or former civil partner have agreed that they will receive 40% of your pension pot. If you currently have £100,000 in your pension pot, this means that your ex-spouse or former civil partner will receive £40,000 from your RPS pension and £60,000 will be left in your pot.

$$40\% \times £100,000 = £40,000$$

### **We'll keep you in the loop of how your pension has been affected**

We will send you a letter that explains the changes that have been applied to your pension. The letter also confirms the reduction to your pot or Scheme pension and lump sum.

All future estimates of your benefits that you receive from us will reflect the reduction to your pension as a result of your divorce or ending of a civil partnership.

### **How any Additional Voluntary Contributions (AVCs) you've paid towards your pension will be split**

All pension benefits, including any additional voluntary payments you've made such as via BRASS or AVC Extra, or both, will be included in the calculations at the time of divorce or dissolution.

They'll form part of the total amount of your pension that will be shared between you and your ex-spouse or former civil partner.

### **What information the Court will need to consider as part of the divorce settlement**

The Court will require details of your pension benefits and some of the information you may need is:

- the value of your pension pot or a CETV (Cash Equivalent Transfer Value) of your defined benefits for divorce purpose
- the amount of lump sum death benefit payable if you died in service
- details of any dependant's pension
- your period of membership

A non-guaranteed free transfer out value quotation can be obtained online through your secure [myRPS account](#) at [railwayspensions.co.uk](https://railwayspensions.co.uk). The quotation is not guaranteed because further calculations will be applied over the course of the implementation of the Order. As a result of those calculations, the value may differ to the one provided in the free transfer out value quotation.

Please contact us at [csu@railpen.com](mailto:csu@railpen.com) or on 0800 012 1117 if your solicitor requires a guaranteed CETV for divorce purpose.

The CETV is worked out using instructions from the Scheme Actuary and takes into account:

- the value of your pension and lump-sum benefits
- the value of your ex-partner's dependant pension, and
- the value of your death in service lump sum

## Who can request information from the Scheme that is needed by the Court

We will only provide information to you, a solicitor acting with your written authority, or the Court.

## What administration charges may apply

There will be a charge for both a CETV quote and the implementation of any order. If you have pension benefits in more than one section in the RPS, the charge will be applicable to each section.

- CETV quote – there is a charge of £300 (including VAT). We will notify you how to pay the charge and this will need to be made before the quote can be produced.
- Implementation of Order – there is a charge of £1,200 (including VAT). The court order will set out who pays the implementation costs – this may be split between you and your ex-Spouse or could be paid in full by either party (and in most cases this is taken from pension benefits).
- There may also be an additional administration charge, which your ex-partner will need to pay, if they wish to keep their benefits in the Scheme. We will notify them what this charge is.

## How the divorce/dissolution process is triggered

The process starts when you tell us of your intention to divorce or dissolve your civil partnership and request a CETV quote.

We will give you all the information you need. We'll also answer any questions you have regarding the process we'll follow to implement your divorce/dissolution and calculate any reduction to your pension benefits. We will also tell you what documents we need to implement the order.

We will send an Information form, which your ex-spouse will need to complete and return to us.

The implementation of your divorce/dissolution order will take around 4 months to complete from the date we receive **ALL** relevant forms and documents.

Remember, we won't be able to process your divorce/dissolution if any of the forms or documents are missing. Communication between both parties is key at this stage to ensure a smooth and straightforward implementation.

## What the process entails for your ex-spouse or former civil partner

Your ex-spouse or former civil partner's engagement with us is vital for the efficient running of the process. This is because we'll need their signature on certain documents and forms that are integral to our procedures and duty to implement the terms of the Order. A delay in receiving any paperwork from either one of you may result in a delay to the overall process and payment of any benefits due.

Once your ex-spouse or former civil partner has signed and returned the Ex-Spouse Information form to us and the implementation of your divorce/dissolution order is complete, we will send them a letter that tells them what benefits have been allocated to them (if any) as a result of their divorce or dissolution from you. At this point they will need to decide whether they want to keep their share of benefits in the RPS (if this option is available to them) or to transfer them to another pension provider. We will send

them a form for them to complete and let us know of their decision. They will also receive the forms they'll need to complete if they decide to transfer their benefits out of the Scheme.

If they decide to retain their benefits in the Scheme, we will send them a letter welcoming them to the RPS along with a Scheme booklet.

## **Whether your ex-spouse or former civil partner can request to take their share as a 'trivial commutation lump sum'**

Yes, your ex-spouse or former civil partner can request to exchange their share of your pension benefits for a trivial commutation lump sum (i.e. a one-off cash) payment. This would only be possible though if they meet certain criteria.

If your ex-spouse or civil partner wants to take their share as a 'trivial commutation lump sum', they should contact the administrator of the Scheme, Railpen who will carry out the necessary checks and advise on next steps.

Once your ex-spouse or former civil partner has taken a trivial commutation lump sum they will no longer have any benefits remaining in the RPS.

Have a read of the [Read as You Need Guide on trivial commutation and small pot payments](#) to understand more.

## **Whether your long-time cohabiting partner is entitled to a proportion of your rail pension**

In relation to pension benefits, unmarried couples living together don't have the same legal and financial rights as those who are married or in a civil partnership when it comes to separating. If you've been part of an unmarried, cohabiting couple for a while and have decided to separate from your partner, your RPS pension cannot be shared with them.

If you wanted to provide for your ex-partner, you can nominate them to receive a lump sum of money if you die before you start claiming your pension. By nominating, you let the Trustee of the Scheme know who you'd like a lump sum to go to in the event of your death in service. Log into your [myRPS account](#) to complete or update your nominations.

## **Protecting your RPS pension with a prenuptial agreement**

You can potentially protect your rail pension by effecting a valid prenuptial agreement.

A prenuptial agreement (or 'prenup') is a legal document drawn up between partners before their marriage. It outlines how each of their assets, including their pensions, will be divided in the event of a divorce. Prenups are mainly popular with couples marrying in later in life and with those entering into a second marriage where they may have children from a previous marriage. They may decide to protect their assets including their pension with a prenuptial agreement to potentially avoid losing part of it in a divorce settlement.

## **How to contact us**

Visit [railwayspensions.co.uk](https://railwayspensions.co.uk)

Contact the Helpline at [csu@railpen.com](mailto:csu@railpen.com) or telephone 0800 012 1117, Monday to Friday, 08:30am till 5pm.

Speak to your employer.



## Where to go for more information on the topic of divorce and dissolution of a civil partnership

[relate.org.uk](https://relate.org.uk)

Relate offers advice, relationship counselling, sex therapy, workshops, mediation, consultations, and support face to face, by phone and through the website.

[citizensadvice.org.uk](https://citizensadvice.org.uk)

The Citizens Advice service helps people resolve their legal, money and other problems by providing free information and advice from over 3,000 locations.

[gov.uk](https://gov.uk)

Gov.uk brings together a range of public service information and services online.

[moneyhelper.org.uk](https://moneyhelper.org.uk)

MoneyHelper is a government-backed service and offers useful information and guidance the pension splitting options available and the divorce process.

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### Disclaimer

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Although every effort has been made to ensure that the information given in this leaflet is accurate, none of the information given can give you legal rights to benefits that differ from those provided in the pension trust and rules.

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