

A survival guide to

Pensions on divorce

Getting started

If you are facing the end of your marriage or civil partnership it is vital not to overlook pensions when working out your finances. We know that divorce is one of the most stressful, confusing and painful times people go through. Adding pensions into the mix can be daunting, but not dealing with pensions can be a huge mistake.

It is really important to consider pensions when you divorce so that you have an income when you stop working. People often avoid or overlook them because they seem complicated or too far in the future to think about now. We want to help you deal with the pensions in your case effectively, and with as little stress as possible.

It doesn't matter whether you are trying to negotiate between yourselves, taking part in mediation, or preparing for court – you need to understand pensions and how important they are in the bigger picture of sorting out your divorce.

This guide is for you if:

- you live in England or Wales, **and**
- you are or were married or in a civil partnership, **and**
- you are divorcing, or have divorced, or are ending or have ended a civil partnership, or are likely to be, **and**
- you and your ex are trying to agree how you will share out what you own between you.

This guide is **not** for you if you are separating from a partner, but you are not married or in a civil partnership with them. This is because the law for couples who live together without being married or in a civil partnership is completely different. You can find more information about this in [our guide for cohabiting couples who are separating](#).

This guide explains:

- The different types of pensions there are, and why these matter when you are divorcing.
- What the law says about pensions when you divorce.
- What you need to do to find out what your pensions are worth.
- When it is essential to get expert advice if you possibly can.
- What to do next when you have worked out what the pensions in your case are worth.
- How to come to an agreement, and then get that agreement turned into a court order.
- What to do if you cannot agree.
- How to find more help and advice to plan your future.

It was extremely stressful to start with. I wanted to get everything sorted straightaway and couldn't bear the uncertainty of where I would live or how things would work. It all got a bit easier when I accepted that it would take months before I would know what the future might look like. **Will**



If any of these situations apply to you it is very important to get professional advice before you make any decisions about the future. Depending on your situation you may need a specialist family lawyer, or a financial adviser who specialises in pensions, or both. For information about where to find advice, see the section [More help and advice](#).

When you see the word 'ex' in this guide we use it to mean your husband, wife or civil partner you are separating, or separated, from.

Most of the law is the same whether you are ending a marriage or a civil partnership. Where there is a difference, we'll make it clear. We talk about divorce through this guide, but all the rules apply to people who are ending their civil partnership too.

This guide does **not** cover:

- The law and processes around foreign pensions – these are pensions paid from pension schemes outside England and Wales.
- High value asset cases where there are millions of pounds at stake.
- Tax issues relating to pensions (a good place to start learning more about this is on the [MoneyHelper website – Tax and pensions](#))
- The law and processes around accessing your pension pot from age 55 (age 57 from 2028 for many people) – known as 'pensions freedoms' – in any detail.
- How insolvency problems can affect pensions. You can read more about this on the [MoneyHelper website – in the section called pension problems](#).

This is just one of our resources to help you work out your finances when you get divorced or end a civil partnership. Take a look at these too:

- [Pensions on divorce – what should you do? \(a short film\)](#)
- [A survival guide to sorting out your finances when you get divorced](#)
- [How to get a divorce or end a civil partnership without the help of a lawyer](#)
- [How to apply for a financial order without the help of a lawyer](#)
- [How to fill in your financial statement \(Form E\) – film](#)
- [A survival guide to family mediation](#)

Legal language

We try to explain any legal or technical language as we go along, but there is also a [What does it mean?](#) section at the end to help you.

What countries does this guide cover?

The information in this guide applies to England and Wales only.



Top tip!

Depending on where you are in your separation you might find it helpful to read this guide through from the start, up to the section called How the court deals with pensions when you divorce. Then after that, it may help to read each stage as you reach it. Or you might have found this guide at a different stage – if so, you can use the contents list to work out where you are in the process.

There is no need to rush through the guide – you can take it in chunks, at your own pace.

You may find it really helpful to read this guide alongside [A survival guide to sorting out your finances when you get divorced](#) as this will help you understand more about all the finances in your case.

Contents

Things to understand from the start	6
Pensions – the basics	11
How the court deals with pensions when you divorce	20
Stage 1 – finding out how much the pensions are worth	25
Stage 2 – sharing your pension information with your ex	32
Stage 3 – working out if you need expert help	35
Stage 4 – getting expert help on pensions	39
Stage 5 – working out your options when you know the value of the pensions	47
Stage 6 – reaching an agreement with your ex	53
Stage 7 – the next steps when you have an agreement, or what to do if you can't agree	57
More help and advice	66
What does it mean?	69
Sample letters	72
An overview of the pensions you or your ex may have	76
Checklist for collecting your pension valuations	78

Things to understand from the start

When people divorce it is natural to focus on the immediate problems – where you and any children are going to live, and what you are going to live on. Pensions can get forgotten. They can seem complicated, scary, or just dull. They may seem too far off in the future to worry about now when there are so many other things to think about. You may think that you couldn't possibly make a claim against your ex's pension because it is 'their' pension.

Here we explain why it is really important to think about pensions when you divorce, whoever's name the pension is in. We also explain some other useful things to understand from the start.

Why you need to think about pensions when you divorce

- Most importantly, you will need something to live off when you want to retire or can no longer work.
- If you overlook pensions, you could end up in financial difficulties when you are older.

- Pensions can be a very valuable part of what lawyers often call the 'matrimonial pot'. The matrimonial pot is made up of all the things of value that you own together or separately when you are married or in a civil partnership. Often people focus on the family home when they divorce. But, depending on where you live, you might be surprised to find that pensions can be worth more than the family home, especially if one person has worked for the police, armed forces, or other public service.
- When you divorce if you don't consider pensions properly you are unlikely to get a fair outcome – whether you decide to make a claim for your ex's pension or not.
- If you have taken a career break to raise children or care for others, you will have a smaller pension pot or even little or no pension at all. After you divorce you may find it hard to build up a big enough pension in the remaining years you have left to work.
- If you don't sort out pensions at the time of your divorce it can be difficult to sort them out later.

For a quick overview of the most important things to keep in mind about pensions when you divorce, take a look at our short film [Pensions on divorce – what should you do?](#)

The practicalities

- While there are a lot of things to think about when sorting out finances with your ex, the three key things to focus on are:
 - 1 somewhere for you, your children (if you have children) and your ex to live,
 - 2 your income and your ex's income up to retirement, **and**
 - 3 your income and your ex's income when you both retire.
- The sooner you (and your ex) start to look at pensions, and get any help you need, the better. If you leave it until the end, it **will** cause delay. You will need to get information from your pension provider. Some can take weeks or even months to reply to queries.
- Any agreement you reach on your finances with your ex, including about pensions, will need to be approved by the court for it to be legally binding on you both.

Is it true that my ex can claim against my pension fund? Can I claim against theirs?

Yes. A pension is just like any other thing of value or 'asset' in the marriage and a judge has specific powers to share pensions (the law calls this 'pension sharing'). Or the judge can order that some or all of the benefits paid from a pension are paid to the person who doesn't have a pension (the law calls this 'pension attachment').

Useful things to know from the start

- Pensions can be shared on divorce, just like other valuable things such as savings. The law calls these things of value 'assets'. The fact that a pension is held in just one person's name doesn't stop it from being shared when you get divorced if this is the fairest way to meet your or your ex's financial needs.
- Pensions can be the most valuable things to sort out, especially if you don't own your home. Just because it doesn't look like cash that you can have right now, it can still be really valuable – now or in the future. It is really important not to overlook pensions as an asset for your future.
- It is important not to make decisions about what should happen with other assets like the family home before you know what the pensions are worth, or worse still, overlook them altogether. If you overlook them, how will you manage when you can no longer work?

Things to understand from the start



- It might feel like the pensions in your case belong to your ex, but when you are married or in a civil partnership any and all pensions are part of the matrimonial pot, regardless of whose name is on the pension plan or when the pension was built up. A pension can only be in one person's name and often that person will see it as theirs and only theirs, especially if they built it up over a long career or before the relationship started. However, many families decide that one parent will take more responsibility for the care of the children while the other focuses on earning money or a career, giving that person more of an opportunity to build a pension. The law treats these different contributions to the family as equal. So, try not to view the pension as just your ex's, or just yours, but more as one part of the financial jigsaw that needs piecing together. This is how the court sees it, even if your ex tries to tell you otherwise.
- Sorting out your pensions when you divorce can take a long time. You have to know what the pensions in your case are worth first and getting this information takes time. It may seem like a real effort or a hassle to get it all sorted out. But as hard as it may be at times, it is really important to be patient and stick at it – your future self will thank you!
- When you get divorced and decide to sort out your finances, you must provide your ex (and the court if the case goes to court or you ask the court to approve your agreement) with all the details of your finances. You can't hide things of value that are just in your name, like a pension. If you do try and do this, the court could make orders against you. In addition, any final agreement or order could be cancelled if one person doesn't provide full details about their finances. That person can also be found in contempt of court. The punishment for contempt of court can be a fine, unpaid work or a prison sentence or all three.
- Pensions are complicated, and it can be especially tricky to work out how their values directly compare with each other, or with other non-pension assets, when it comes to agreeing who gets what when you divorce. A lawyer and a financial adviser who specialises in pensions will be able to advise you if you can afford it. We understand that you may be reading this guide because you can't afford to pay a lawyer. Or you may not want to. Through this guide we tell you when it would be really worthwhile to get professional advice, if you can possibly manage it.



- Sometimes people worry that getting advice from a professional will drag things out or be a waste of money. But a lawyer's job is to make sure you know your legal rights and responsibilities when it comes to sorting out your finances. And this includes pensions. A lawyer is not qualified or allowed to give you financial advice. Instead, a financial adviser, who specialises in pensions on divorce, can advise you on how to share out your pension. Getting professional help can mean things take a bit longer and it will cost some money. But getting the right professional advice can make a huge difference to how fair the outcome is and how financially secure you are when the divorce is over. Once you have got professional help, you can often reach an agreement more quickly. So, it is likely to be time and money well spent.

I built up my pension for ages before I got married. Surely that is mine to keep?

Just because you acquired some or even all your pension pot before you got married it doesn't mean it can't be shared on divorce, **if** that is the fairest way to deal with the case. And often people think that because a pension is just in their name it is theirs to keep if they divorce. But the law says that if either person's needs require it, the court can look at any of the things of value, called 'assets', that both people own together or separately, to come to a fair outcome.

Things to understand from the start

I paid money into a joint account with my husband for years. Money from that account was used for his pension. When we divorced it was seen as very much 'his' pension. He persuaded me it was nothing to do with me. I remember he said there was no way I was getting his pension – that he had worked all those years for it. He seemed so angry. I couldn't face rocking the boat even more. It felt like pushing it was going to use up the very last bit of energy I had. We didn't use solicitors and I had no idea I could actually get a share of it. Now I am retired I have very little to live off. I lost everything I paid in. I wish I had faced it all properly at the time.

Valerie



Marie-Anne's story



I very much had it in my head that my husband needed his pension and that I could manage ok on mine. He had given me a bit of an idea of what his was worth over the years, but he always dealt with the money side of things, so I didn't really have a proper idea of the up-to-date value.

And as I say, I was going to leave the pensions – I hadn't really thought about it properly if I am truly honest. If it hadn't been for my son nagging me, I would have just left it, I think. Anyway, my son really wanted me to find out what the pensions were worth when we were divorcing. My husband wouldn't give me or my son the details. He said it was his pension and what was I making such a fuss about when I had my own. I was worried about making him cross, but my son said I needed to look into it properly before I could know what I should do.

In the end a judge had to order my husband to show what his pensions were worth. Turns out he had one really good pension. It was worth a lot more than mine and he had kept quiet about how much it was worth. I was glad then, even though it had felt very hard confronting him about it. I would have lost out myself, thinking I was being kind to him. Without my son and the judge helping me, I wouldn't have the best decision. Now I am not too badly off but I would have really struggled if I hadn't got that court order. I see now that I didn't realise what was at stake. Really, he just wanted to fob me off till it was too late for me to do anything. Thank goodness I did something about it in time!



I had no idea that my wife or I could claim against the other one's pension when we got divorced. I wish I had – now I am struggling for money.

Tom

Pensions – the basics

Pensions can often seem bewildering and if you are not yet near retirement they can seem pretty far off – something to worry about another day. But it is really important to understand more about pensions *now* so you can work towards making yourself more financially secure when you are no longer working.

This section focusses on the different types of pensions you may have, to help you get a better understanding of them, before we move on to talk about the law on pensions and divorce.



To be honest, I don't really know what all the different pensions are – there are so many names – it confuses me. I just feel embarrassed and then I give up trying to understand! **Jacob**

It is normal to feel confused or embarrassed about what you do or don't know about pensions. This section of the guide takes you through the different types of pensions you or your ex may have so you can feel more confident.

What is a pension, exactly?

Put simply, a pension scheme is like a long-term savings account that helps you save money now for when you are older. When you want or need to retire, the pension gives you money to live off.

To start with, there are two types of pensions:

- the State Pension – provided by the government, which you contribute to through National Insurance payments, and
- private pensions – these include occupational or workplace pensions set up by your employer, and pensions you set up yourself.



State pension

Private pensions

Occupational
or workplace
pensions

pensions
you set up
yourself

As the State Pension only usually provides a basic level of income, the government wants to encourage people to pay into a private pension too. To encourage this type of saving for the future there are tax benefits to paying into these pensions. The government has also made it compulsory for employers to set up [workplace pensions](#) for their staff.

When you reach the age when you can claim your pension, there are often different options open to you about how to receive your money. You may be able to get a lump sum of money paid to you without paying tax on it. This is usually called a 'tax-free lump sum', and the amount you can get is usually capped at 25% of your total pension pot. You may also get a regular payment from your pension into your bank account to live off that will usually be taxable – in the way income is taxed when you work. This can be directly from your pension fund or from an insurance company that pays you an annuity. This is where the insurance company guarantees to pay you a regular amount of income for a set period or for your lifetime.

You can have more than one private pension and many people do, as they move from different jobs through their working life. There are lots of different types of pensions and one person may have more than one type. We talk about the different types of pensions you may come across next.

I feel embarrassed not understanding the options or what to do next. **Jennie**



State pensions

The state provides a pension so that people have a minimum standard of living when they stop working.

You can only get the State Pension when you reach what is known as State Pension age. Your State Pension age is linked to your date of birth and set by the government. It is quick and easy to check what your State Pension age is by looking at the [State Pension age calculator](#) on the GOV.UK website.

To get the State Pension you need to have a certain number of years where you have either paid National Insurance contributions via work, made voluntary National Insurance contributions, or claimed certain benefits that give you credits in the system. This includes Child Benefit. If you are in a situation where your ex has been earning over the limit for you as a family to get Child Benefit you still need to make a claim for it to get your National Insurance contribution years covered, you can just opt not to receive the payment.

You can find out more by going to the basic [State Pension eligibility](#) section on the GOV.UK website.

The 6th April 2016 was a very important date in the world of state pensions. On this date a new State Pension system was introduced in the UK. This means, depending on how old you were on that date, you are either in the old system or the new one. There are two different state pensions:

- the old State Pension (made up of the [basic State Pension](#) and the [Additional State Pension](#)), and
- the new State Pension.

First, [check your State Pension age](#) and then take a look at the table below to see which pension system you are in.

If you reached State Pension age before 6th April 2016	If you reached or will reach State Pension age on or after 6th April 2016
<p>You will get</p> <p>Old State Pension made up of:</p> <ul style="list-style-type: none"> ● basic State Pension ● Additional State Pension – not everyone gets this – it depends on the type of pension arrangements you had over your working lifetime 	<p>You will get</p> <p>New State Pension</p> <p>(which may have a protected payment included depending on how much Additional State Pension you had before 6th April 2016)</p>

How much you receive when you reach State Pension age depends on what National Insurance contributions you have made in the past, or on what National Insurance contributions you have been credited by claiming certain benefits. For more information about this take a look at [The state pension – what you might get](#) on the MoneyHelper website.

Top tip!

You can check your [National Insurance record](#) to see if there are any gaps in your contributions or credits. If you do have any gaps, you may be allowed to fill some of them by paying extra contributions.

If you can afford to fill any gaps, it is important to see if this will increase your State Pension, when you are entitled to it. If filling in any gaps will increase your State Pension it could be very cost-effective because the State Pension income is guaranteed and goes up each year, in line with national average earnings.

Private pensions

There are many different types of private pensions. Private pensions are not funded by the state. Instead, they are occupational or workplace pensions set up by your employer or they are pensions that you set up yourself.

While there are many different types of private pensions out there that are set up and managed in different ways, they generally fall into two broad types – defined contribution and defined benefit pensions. This difference is important when it comes to valuing pensions, which you need to do in the divorce process.

Private pensions	
Defined contribution pensions	Defined benefit pensions

We talk about these two different types of pensions next, starting with defined contribution pensions.

Defined contribution pensions

These are the most common types of private pension. They are also called money purchase schemes. The pension pot is ‘defined’ by the contributions you make to it. Its value is based on how much is paid in, how long it has been invested for and how well the investments perform. What you get when you retire is **not** set in advance.

You build up your own pension pot by you or your employer paying in money (usually each month) and that money is invested by the pension provider. The government encourages people to save by giving ‘tax relief’ on the money you pay into a pension. This means that you either pay no tax on the money that goes into the pension, or if your money goes into the pension after you have paid tax, your pension pot gets refunded the amount you lost to tax.

You can have this type of pension at work, known as a workplace pension, and you can also have this type of pension without having an employer – for example if you don’t work or are self-employed.

Whatever type of defined contribution pension you have, there is no guarantee how much you will get when you come to retire. It depends on:

- ✓ how much money has been paid in by you,
- ✓ how much money has been paid in by your employer (if any),
- ✓ any contractual guarantees – this means any promises in the agreement that the pension provider says you will get, like a minimum lump sum,
- ✓ the costs of the charges for running the scheme,
- ✓ how much tax relief you have received, and
- ✓ how well the investments perform.

As there is a range of different types of pensions that come under this category it is important to understand the particular features of your pension or pensions.

Next, we describe some of the more common types of defined contribution pensions.

Stakeholder pensions

You have a contract between you and the pension provider. Your employer can also contribute to the pension, but they don’t have to. You can pay into it if you are employed, self-employed or not working. This type of pension is designed to be accessible to many people and the government has made rules to limit the charges that can be imposed by the provider.

Personal pensions

You have a contract between you and the pension provider. You can pay into it if you are working, self-employed or not working. If you are employed your employer can also contribute to the pension but they don't have to. Personal pensions can give you more flexibility than Stakeholder pensions. For example, with a personal pension the rules are normally more flexible about when and how often you can take a tax-free lump sum or income from your pension.

In this category there are also Self-Invested Personal Pensions, known as SIPPS. This type of pension comes with wider investment powers than the usual personal pensions. You can make decisions about where to invest the fund, across a wider range of assets. To read more about this type of pension Go to [Self-invested personal pensions \(SIPPs\) on the MoneyHelper website.](#)

Workplace money purchase schemes

If you have an employer, usually the employer must add you to their workplace pension. You might hear this type of pension being called an occupational or company pension. The process of being added to your employer's pension is known as 'automatic enrolment'. This has been a legal requirement on employers since 2012. You can find useful information about this on the [Workplace pensions pages of the GOV.UK website.](#)

These pensions are organised by your employer. Often, they are run by external administration companies. Because of the way these pensions are run, you tend to have less say on the type of investments made, than with personal pensions.

Top Tip!

A good place to find out more about your type of private pension is at [MoneyHelper Pensions basics.](#) Take a look at any paperwork you have about your pensions. This paperwork can often make for tricky reading. If you find you can't make sense of it, you can contact an expert at [MoneyHelper](#) for free, independent guidance. [They offer help by phone, webchat or you can contact them via a form on their website.](#)

You might not be able to find your pensions paperwork. Let's face it – it doesn't make for particularly interesting bedtime reading and can easily get stowed away at the back of a cupboard or lost in a house move.

If you have a feeling you might have a pension pot through an old job but you just can't find the paperwork you can use the [GOV.UK Find your pension details service.](#)



Defined benefit pensions

Defined benefit pensions are workplace pensions, run by your employer. The pension pot is not 'defined' by what you pay in but by what benefits the pension promises to give you when you retire.

These pension plans are sometimes called 'final salary' or 'salary-related' pensions, but there are other types too, such as 'career average' schemes. Some company pensions come under this type of pensions. All public sector workplace pensions are defined benefit pensions.

The value of a defined benefit pension is based on:

- ✓ how long you've worked for your employer,
- ✓ your salary – sometimes your final salary, or an average of your salary over the whole time you worked for the employer, and
- ✓ the accrual rate – this is the proportion of your salary you'll get as an annual retirement income and is set by your employer.

The accrual rate is usually written as a fraction of your pensionable pay. So, for example, if the final salary accrual rate set by your employer is 1/60th, you will get 1/60th of your final salary as a pension for each year that you have worked.

The level of benefit you will get when you retire is set in advance, so the risk lies with your employer. If the pension fund has a shortfall your employer must make up the difference. That means, with this type of pension, you are protected from the ups and downs of the financial markets. If your employer gets into financial problems and cannot pay you your pension, the [Pension Protection Fund](#) may step in to pay your pension. But you might get less than you were promised by your employer.

Defined benefit pensions often have other benefits. Some examples are:

- ✓ Death-in-service payments to spouses, partners or dependants if you die before reaching the pension age of the scheme.
- ✓ A pension if you have to retire early through ill health.
- ✓ The option to take a tax-free lump sum when you retire with a reduced pension.
- ✓ Reduced pension if you retire early, (this can't usually be done before the age of 55, increasing to 57 from April 2028, for many people).
- ✓ An increase in payments each year from when you start getting your pension – this is called 'index-linking' – to keep up with the costs of living as they rise.

Fewer employers provide this type of pension now because of the risks and costs involved for them to make sure you get the amount of pension benefit promised.

Public sector pensions

Public sector workplace pensions come under the category of defined benefit pensions. There are various public sector pension schemes with different rules. For example, pensions from work in the Armed Forces, the Civil Service, the NHS, teaching, the police and firefighters and local government are all defined benefit pension schemes but the benefits from each type can vary. The age at which you can retire and start receiving a public sector pension varies depending on the type of pension you have and when you joined the pension scheme. It is a good idea to look into this if you or your ex have one of these pensions.

Public sector pensions have changed in recent years but the benefits that come with public sector pensions remain very generous compared to many defined contribution pensions.

The government made significant changes to public sector pensions in 2014 and 2015. The changes made it less financially appealing for people to retire early – encouraging people with public sector pensions to work until State Pension Age.

The government decided to bring in these changes in a gradual way to reduce the impact the most on people about to retire. This meant that some younger people felt their older colleagues were getting better pension benefits than them.

A case went to court, now known as the McCloud case. The court decided that bringing in the changes in a gradual way was unfair to some groups including younger people. If you were in a public sector pension on or before 1st April 2012 and you carried on in the same public sector pension for all or even just some of the time between 1st April 2015 and 31st March 2022, there are now built-in protections so that the changes don't unfairly affect the pension you built up between 2015 and 2022.

Be aware, however that the rules are complicated, particularly if you have had a gap in your public sector employment.

If these changes affect you, you may have options to choose between when you retire. This means that the value of your pension pot before retirement is potentially even harder to value than a non-public sector defined benefit pension. So, if you or your ex are in this position you are likely to need expert help in working out a fair settlement on pensions when you divorce.

I wish I'd had more info. I was in a civil partnership with a police officer who had a very good pension, but it all went wrong for us 10 years ago. To other people now I'd say, "make sure you concentrate on what your own pension will be – don't just let the other person keep all their pension, without looking into it properly. **Christopher**

Pensions – the basics



Pension freedoms

You may have heard about something called pension freedoms. Since 2015 people with defined contribution pensions now have more flexibility around how they can access their pension money and what they do with it once they reach the 'normal minimum pension age' which is currently age 55. The 'normal minimum pension age' is the earliest age you can take your pension without facing extra tax charges. If you suffer from serious ill-health, you may be able to take it earlier, but this varies and depends on your pension provider's rules.

In the future the normal minimum pension age will go up to 57. This change is due on 6th April 2028, for people who were born after 6th April 1973.

If you have a defined benefit pension you can, in some situations, move your pension pot to a defined contribution pension scheme so you can access the pension with greater flexibility. If the pension is worth £30K or more, you can only do this after getting advice from a suitably qualified financial adviser.

If one of you is nearing the age of 55 or is over 55 whilst you are going through this process it is very important to be aware of the options available due to these new pension freedoms. There are pros and cons of making use of pension freedoms that you should consider carefully and get advice on from a regulated financial adviser before making any big decisions. You might hear a financial adviser talk about 'crystalising' your pension. Put simply, this means starting to take some or all of your pension.

Beware if your ex is the one with the option of taking their pension at 55 while you are going through the divorce process. There is a risk that they could withdraw their pension money and spend it before an order is made for the pension to be shared with you. If you might be in this situation, it is important to speak to a lawyer who specialises in family law as soon as possible for advice on how to protect your position. To find one take a look at the section called [More help and advice](#).



Unusual pensions

There are some pensions that don't fit quite so neatly into the two broad types we have been talking about. Next, we explain a little about more unusual pensions that you may have. Some pensions get called 'hybrid' pensions as they are a mix of defined contribution and defined benefit pensions.

Small Self-administered Schemes (SSAS)

These are small pension schemes often set up for senior or key staff members at small companies. The benefit of these schemes is that they are very flexible, and you can do a lot more with them compared to more standard pensions. This can mean they get rather complicated to deal with during a divorce. For more information on these a good place to start is the [MoneyHelper section on SSAS](#).

Pension annuities

A pension annuity is an annual payment at a set or 'guaranteed' income for a fixed period, say for 10 years, or for the rest of your life. When you decide to start taking your pension, you can use some, or all, of your pension savings to buy an annuity, and a financial adviser can help you get the best deal on the open market. This gives you certainty in terms of your monthly income. Some older pensions have a benefit attached called a 'Guaranteed Annuity Rate'. This usually gives you a much higher income than you could get now on the open market and so these guarantees can be very valuable.

Section 32. transfer plans

These are private pension plans that are set up to have a previous occupational pension transferred into them. The new scheme promises to give you all the benefits you would have had under the old pension. This can often include something called a Guaranteed Minimum Pension which can be really valuable.

An overview of the pensions you and your ex may have

You need to work out whether the pensions in your case are defined contribution or defined benefit pensions because this can be really important for valuing them – we talk more about why later. If you need more help to work out what type of pensions you or your ex has, you can find [a table at the end of this guide that gives you an overview](#).



How the court deals with pensions when you divorce

How the court deals with pensions when you divorce

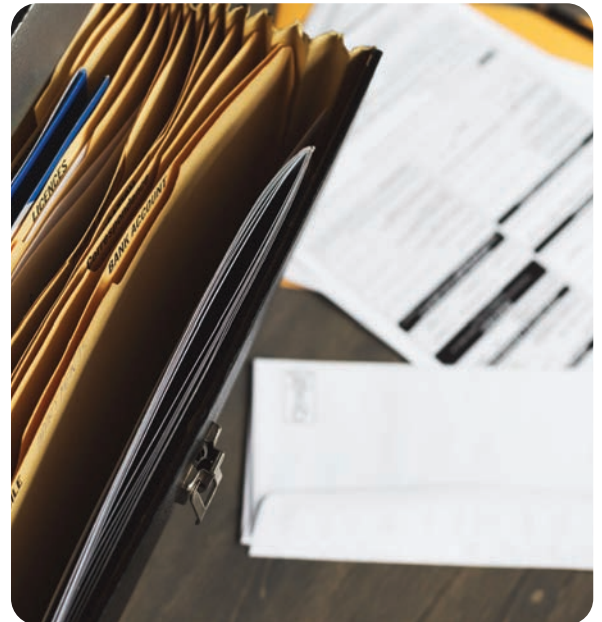
Whether it is right to share out your pensions and how to share them will depend very much on the particular circumstances of your case. Pensions are just one part of the jigsaw when working out an agreement with your ex about your finances when you divorce.

To reach a fair agreement which sorts out your finances, including pensions, then you need to understand what the law says.

The family court's powers

A judge has the power to share out all your income, property, pensions and savings (the law calls these things of value 'assets') in a way that meets the needs of your children (who are under 18) first, and then you and your ex.

The overall aim is to get a fair outcome for you and your ex. But be aware that to get to this, it doesn't always mean that everything is shared out equally – 50/50. What someone might think of as fair when it comes to sharing the assets may well be very different to how the law views it. For example, if you built up a decent pension before you married you might think it only fair that you keep that when you divorce. This is often called 'ring fencing' by lawyers. But, in most cases the court will take into account **all** the assets to meet the needs of the children (who are under 18), your ex and you, no matter when or how they were built up. This can also include assets built up shortly after you have separated but before you have finalised your agreement or had a final financial order from the court. Be aware, though, that if you delay for years this can impact on what the court thinks is a fair outcome for you both.



It is common for the court to take this approach unless it was a very short marriage with no children or a big money case with millions of pounds of assets to sort out. There is no set number of years that makes a marriage 'short' but marriages that last less than five to six years are usually considered short by the court.

The court also takes into account any time you spent living together before you got married when looking at the 'length of the marriage', as long as the marriage flowed seamlessly from your time living together – that is to say, there were no breaks where you lived apart before getting married.

How the court deals with the finances in a case depends on all the circumstances, such as your different needs, health, differences in age and how long you have been married (and how long you lived together without a break before you got married). If there are children (under 18), the law puts their needs first and then looks to what will give a fair outcome for the adults.

To understand more about what the law says on how finances should be dealt with on divorce take a look at our guide on [how to divide the home and money when you divorce](#).

When it comes to pensions, there are three broad ways they can be dealt with on divorce. We will look at each of these next. Which of the three ways turns out to be the best for you will depend on three things:

- 1 the type and value of the pensions,
- 2 the other assets and income you both have, and
- 3 what your needs are.

Pension sharing (sometimes called pension splitting)

When you divorce, a judge has the power to make an order to share out your pension savings between you. This order is called a pension sharing order. A pension can only be shared if a final divorce order has been made by a judge. A pension sharing order tells the providers of a pension fund to transfer a percentage of the value (anything up to 100%) to whichever one of you is to benefit from the order. Any private pension (this includes occupational or workplace pensions) can be shared in this way and limited parts of the state pension can also be shared in this way (we talk more about this in the next section).

The pension share can sometimes stay with the same pension provider, but put into your name, but more often than not, it has to be transferred to a different scheme in your own name. This can be an existing pension or a new one that you choose. This means that you can then decide separately what you want to do with your pension pot in the future – it is your own pension. This is not then affected by your ex dying or you re-marrying in the future.

The name of this order might make you think that the income you get from the pensions will be divided equally between you and your ex, but this may not be the case. And even if the pension pot is shared out equally this doesn't necessarily mean that the income you get when you retire will be the same as your ex's. This is due to lots of different factors for example, any age difference between you and how the pension investment performs before you start receiving the pension payments. It is important to be aware that a pension sharing order in itself can cause the value of the pensions that you both receive to go down. We give an example of how this happens in Clara and Thomas' story on [page 49](#).

Offsetting

Many couples work out an agreement that involves something that lawyers call 'offsetting'. This means you trade a right to receive a pension benefit now or in the future for an asset you can have now. The most common example of this is where your ex might keep most or all their pension fund, and as a trade-off you get a bigger share, or all of the family home.

Offsetting can be done without a court order, or it can be part of an agreement that is approved by the court. It is **not** a good idea to do it without a court order though, because without a final order either one of you could still apply to court for a different order about finances in the future. Without a court order, recording either what you agree or what the judge decides about your finances, you are both left exposed to the possibility of a claim made by the other at a future date. It is not a good idea to reach an agreement that includes an offsetting arrangement without any expert advice – more on this later in the section called [Stage 3 – working out if you need expert help](#).

How the court deals with pensions when you divorce

Many couples who are divorcing choose offsetting to reach an agreement on finances. Often it is the only option available, if, for example, the main carer of the young children of the family needs to stay in the family home and there are few other assets, other than the pension pot. But the approach isn't as straightforward as it may seem and can lead to really unfair outcomes.

Problems with offsetting

The problem with this approach is that the value of a pension fund (a right to get an income and/or capital in the future) is very hard to compare with a totally different type of asset such as the family home. So, working out if the agreement is fair is really tricky.

If you do decide to trade your right to a share of the pension pot for the family home you may think you are getting a good outcome but actually the pension pot can be worth a lot more than the family home, depending on where you live and what benefits are attached to the pensions. If you are or were the main carer of the children, it can feel especially hard to let go of the family home, but it is important to weigh up what you will need at the end of the divorce. You may not actually need a family-sized house, but you will need an income when you can't work. If the pension is worth a lot more than the family home, a fair outcome might be that the person who keeps the home also gets a share of the pension but a smaller share than 50%.

If you agree you will keep the family home and, in exchange, agree not to make a claim on your ex's pension, you can find yourself with little or no income when you are retired unless you can build a decent pension up after the divorce. For many people this will be hard to do in the time left between divorcing and retiring.

If you are the one with the larger pension and agree for your ex to keep the family home, you may not have enough capital to buy a new home for you and any children.

There are tax implications to any offsetting agreement too. If you are keeping your pension the income you get from it when you retire will be taxed, just like income you get from working is taxed. If you keep savings or even the house, you will not pay any tax on it (although the interest on savings is taxed like income). This is another reason why a pension pot with a CE value of £200,000 is not worth the same as say £200,000 of savings or even a house worth a similar amount.

If you find that offsetting is an approach that you want or need to take, you may well need expert advice on how to go about it so that you understand what rights you are potentially losing. If you are the person agreeing not to make a claim on your ex's pension you risk giving up a source of steady income that you may well need when you retire. If you go for this option you need to get help on how to plan your finances for later life, if you can possibly afford it. We talk more about this in the section called [Stage 3 – working out if you need expert help](#).

Unless there are millions of pounds at stake in your divorce, the bigger the pension pot, the more likely it is that a pension sharing order will be a fairer outcome overall, especially if any of the pensions are defined benefit pensions. But, to make a good decision on this you do need to try and get expert help.

If you reach an agreement that involves offsetting it is important to apply to the court for a judge to approve it. This will give you a legally binding agreement, known as a consent order, that you can both rely on. You can read more about how to do this in the section called [Stage 7 – the next steps when you have an agreement, or what to do if you can't agree](#).

Pension attachment orders (these used to be called pension earmarking)

Another order that the judge can make is a pension attachment order. Under this order a percentage of your pension that you get, each week or month, is paid directly to your ex, or a percentage of theirs is paid to you. A percentage of any tax-free lump sum you receive from your pension can also be paid to your ex, or the other way round. The same approach can be used when it comes to any death in service benefits too, so that if you die in service, a percentage of that benefit is paid to your ex, or a percentage of theirs is paid to you.

These orders have downsides though. The person receiving the benefit has to wait until the other person is receiving their pension before they can receive anything. And it is really important to understand that, with this order, the pension payments end when the person who owns the pension dies or if the person receiving the pension payments re-marries. Also, either person can ask the court to change the order at a later date, so they give you much less certainty. Because of these issues this type of order is very rarely made nowadays.



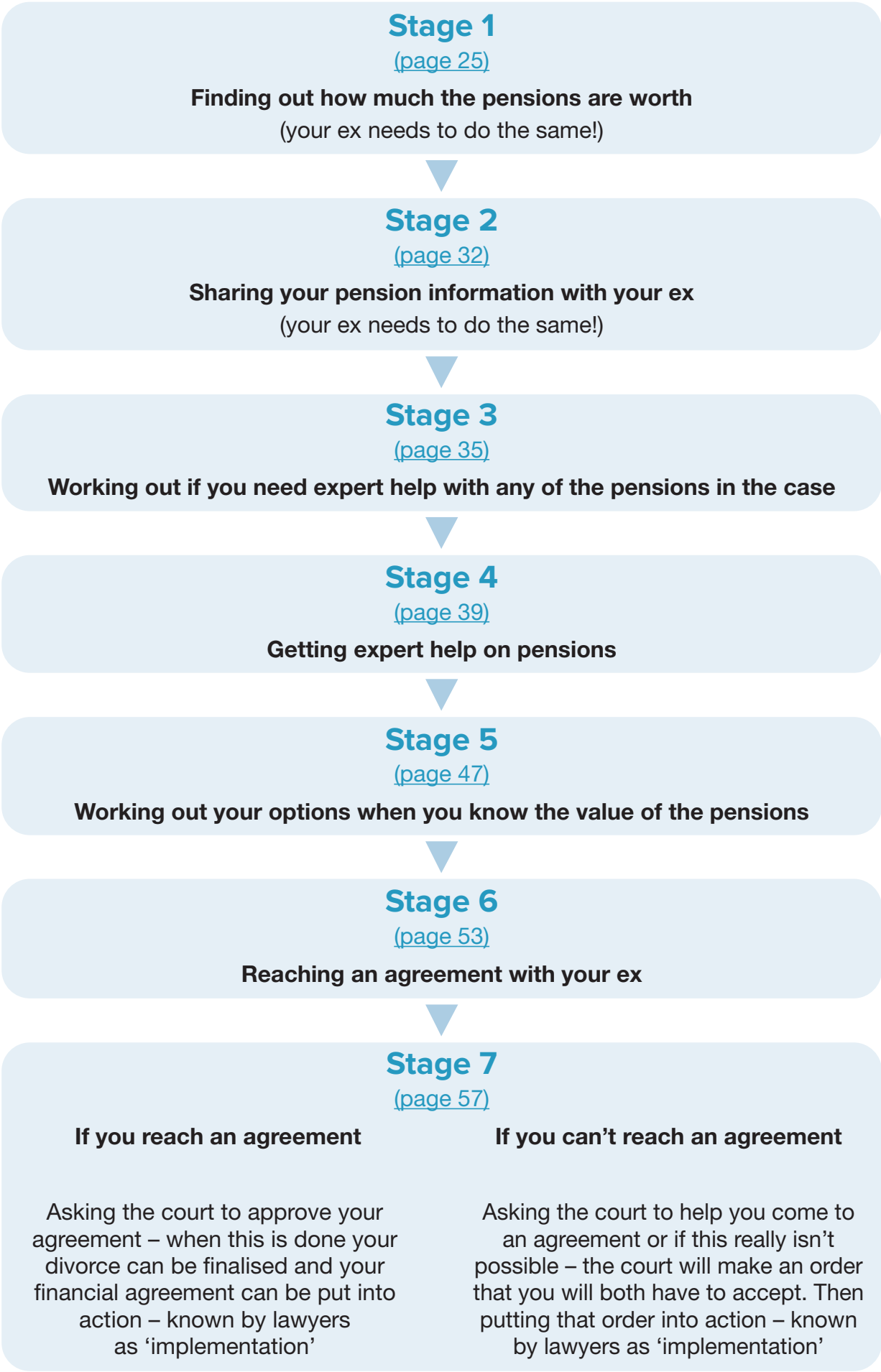
How the court deals with pensions when you divorce

The next steps

The best approach to take out of these three options of pension sharing, offsetting or pension attachment, will depend on the particular circumstances you and your ex find yourselves in. Most people will either end up with a pension sharing order or they will agree to use the offsetting approach. The most important thing to do is to make sure you take any pensions into account when you are discussing or negotiating your financial agreement.

To come to a fair outcome in the end there is a process to go through. We have broken this down into stages to make it clearer. You can use the table on the next page to work out where you are in the process and then follow the steps at the right pace for you.

How the court deals with pensions when you divorce



Stage 1 – finding out how much the pensions are worth

You need to keep checking your pension instead of just leaving it till you need it and then you suddenly see it's worth nothing. If I'd reviewed as I was going along – well, I wouldn't be where I am now – in a low place. You need a realistic idea of what you're going to get. **Lewis**

Finding out how much the pensions are worth

You can't reach a fair outcome at the end of your divorce if you don't have a proper sense of the value of all the pensions involved – yours and your ex's. It can be surprising how much pensions are worth, both as a total fund (how much it says it is worth in your annual pension statement) and in terms of the income they will give you or lump sum payments that you may get when you retire.

Most of us do not have an accurate idea of how much our pension savings are worth. You need to find out the value of your State Pension and any private pension savings that you have. This includes occupational or workplace pensions and pensions you have set up yourself. Your ex needs to do the same.

Don't panic if you don't know how to do this. You are not alone! This section will take you through what you (and your ex) need to do.

Try not to worry if your ex refuses to get evidence about their pensions and trying to mediate doesn't work. If you need to, you can ask the court to order them to provide all their pension information to you and the judge. We talk more about what to do if your ex won't communicate with you in [Stage 2 – sharing your pension information with your ex](#).

If you have really tried to agree things but haven't managed it, you can look at [Stage 7 – the next steps when you have an agreement, or what to do if you can't agree](#). For more help, be sure to look at our guide on [going to court to get a financial settlement as part of your divorce](#).



Valuing state pensions

If you reached [state pension age](#) **before** 6th April 2016 you will probably have rights to the basic State Pension, and you may also have rights to an Additional State Pension.

If you reached state pension age **on or after** 6th April 2016 you will probably have rights to the new State Pension, and you may also have rights to something called the Protected Payment. This is an extra pension

payment because you had a very high amount of Additional State Pension before the changes to the State Pension system came in.

Use this table to work out which State Pension you will get and then see how to get a valuation or forecast for the state pension you are entitled to. You need to get a valuation or forecast for **each** type of State Pension you are entitled to.

Finding out how much the pensions are worth

Date you reached, or will reach, State Pension age	What State Pension you get	How to get a valuation or forecast
<p>You reached State Pension age before 6th April 2016</p>	<p>Old State Pension made up of:</p> <ul style="list-style-type: none"> • basic State Pension • Additional State Pension – not everyone gets this. It depends on the type of pension arrangements you had over your working lifetime. 	<p>Basic State Pension:</p> <p>You will need your most recent statement from the Pension Service. These are sent out once a year in around February or March. If you can't find your most recent statement you can ask for a new copy from the Pension Service.</p> <p>Additional State Pension:</p> <p>If you are not sure whether or not you are entitled to this fill in the form just to check:</p> <p>You need to fill in Form BR20 (available on the GOV.UK website – search 'state pension valuation on divorce or dissolution') and send it to the Pension Centre in Wolverhampton (full postal addresses are provided on the forms).</p>

Date you reached, or will reach, State Pension age	What State Pension you get	How to get a valuation or forecast
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you reached State Pension age on or after 6th April 2016

New State Pension (which may have a Protected Payment included depending on how much Additional State Pension you had before 6th April 2016)

New State Pension:
 If you are getting this now – you can look at your annual statement to see how much you get each week.
 If you have not yet reached State Pension age you need to apply for a State Pension forecast. The quickest way to do this is to use the [GOV.UK online service – Check your State Pension forecast](#) If you prefer, you can find the BR19 form on this section of GOV.UK too and return it by post. Be aware, applying by post will mean it takes longer to get a reply.

Protected payment:
 If you are not sure you are entitled to the protected payment fill out the form just to check:
 You need to fill in [Form BR20](#) (available on the GOV.UK website - search ‘state pension valuation on divorce or dissolution’) and send it to the Pension Centre in Wolverhampton (full postal addresses are provided on the forms).

Finding out how much the pensions are worth

The law on sharing state pensions

Most state pensions cannot be shared between you and your ex when you divorce. But it is still really important that both you and your ex get valuations or forecasts of **all** your state pension entitlements. This is because you will benefit from them in the future and so they can still be taken into account when looking at who needs what, when the divorce is finalised.

The state pensions that can be shared (with a court order) are:

- ✓ the Additional State Pension, and
- ✓ the Protected Payment element of the new State Pension.

The only ways that the Additional State Pension can be shared on divorce are:

- ✓ if the person who is entitled to it reached State Pension age **before** 6th April 2016, or
- ✓ if the application for the divorce was sent to the court and put on their system **before** 6th April 2016.

The basic State Pension cannot be shared on divorce. But if you are in the old State Pension system you might be able to do something to increase your payments. We explain what this is next. If you know you are in the new State Pension you can skip this bit.

Increasing your old State Pension payments once you are divorced

Once you have your final divorce order you can apply for something called 'substitution' if:

- ✓ you are in the old State Pension system (that is you reached State Pension age **before** 6th April 2016), and
- ✓ you have a lower basic State Pension than your ex, (or, if they are in the new State Pension, a lower basic State Pension than they had up to 6th April 2016) because you paid less National Insurance.

You can apply to the Pensions Service to ask for your ex's extra National Insurance contributions to be treated as though they were yours too. This is called 'substitution'. The really good thing about this is it can increase your State Pension payments but doesn't change your ex's at all. You may not know if your ex has a higher basic State Pension than you, but if your ex mainly worked through the marriage and if you had care responsibilities or did part time work, your ex is likely to have a higher basic State Pension.

To claim a substitution, you need to write to the Pensions Service and ask for your basic State Pension to be increased and your National Insurance contribution record to be substituted with your ex's record. You need to send:

- a certified copy of your final divorce order,
- your National Insurance number,
- your ex's National Insurance number.

Finding out how much the pensions are worth

Beware that your request may be rejected, by mistake. This is because this option isn't well known about, even at the Department for Work and Pensions. If your request is rejected, send it back with a polite letter of complaint and ask for someone more senior to look into it.

You should apply as soon as possible and ideally within three months of the date of your final divorce order, to make sure your claim is backdated to the date of your divorce. If you leave it a while before claiming it can normally only be backdated three months and so you could lose some money.

Valuing private pensions

The starting point for valuing all private pensions for the purposes of divorce is something called the 'cash equivalent transfer value'. This type of valuation has other names too – you may hear it called the 'cash equivalent value' (CEV), the 'cash equivalent' (CE) or the 'transfer value'. We are going to call it the cash equivalent.

The cash equivalent is the amount of money which the managers of your pension would have to pay into a new pension if you wanted to move to a new pension provider. It is a way of valuing your pension rights. It is a way of measuring how much the pension pot is worth at the time you ask for the valuation, not what you will get as an income when you retire.

The cash equivalent is the starting point for valuing pensions for the purposes of divorce and the court must have the cash equivalent information for all the pensions in your case if you ask for a court order – whether the order is by agreement or not. But the cash equivalent doesn't tell you anything about what income you will get when you retire or what other benefits the pension may give you.

You are only entitled to get one cash equivalent valuation each year free of charge for each workplace pension you have. If the pension is being paid it is likely you will have to pay for a cash equivalent valuation. There could also be a charge if you are within one year of your pension scheme's retirement date. Valuations of defined contribution pensions, such as personal pensions, are normally free and provided quickly by the pension provider.

Finding out how much the pensions are worth



How to find out what your private pensions are worth

Step 1

Make a list of all your pensions. If you have had several jobs in the past, you may have lost track of some or even all of your pension paperwork. Don't panic. You can go to [GOV.UK Find pension contact details](#) to use their online service to track down your pensions. If you prefer, there are also details on this webpage on how to call the Pension Tracing Service or where to write to for more help.

Step 2

Ask your pension providers for a **cash equivalent for divorce purposes** for **each** of your private pensions. Be aware that a pension summary, pension entitlement letter or annual statement are not the same as a cash equivalent and so will not be enough. To do this you need to use a Pension Inquiry form known as the [Form P](#) for **each** of your pensions. Search online for 'Form P' you will find it on the GOV.UK website. Your ex needs to use the same form to get information about their pensions. If you have an annuity and it is being paid to you now, you still need a valuation of this from the company that pays it to you.

Step 3

If you have a defined benefit pension you also need to ask for a benefit statement for **each** pension – to see what all the benefits are, that come with your pension. There may be additional benefits such as a set income when you retire or a death in service pay-out. Your ex needs to ask for a benefit statement for each defined benefit pension too. There is a sample letter to help you when writing to your pension providers in the section at the end called Sample letters.

Step 4

Ask your pension provider for a 'full divorce transfer pack'. This is a pack of information you will need later in the process if you ask the court to make an order about the pensions in your case. The information included in this should get sent to you when you ask for the documents in Step 2 and Step 3 but sometimes it isn't.

This is quite a to-do list. Try not to panic. Keep a record of the information about your different pensions as it comes in – by post or email or within an online account. We have created a checklist to record your pension information that you may find helpful to use or adapt – [you can find it at the end of this guide](#).

Finding out how much the pensions are worth

Our top tips on getting your cash equivalent and pension benefit statement

- ✓ Pension providers don't always respond quickly so you need to ask for this information **as soon as possible**. It can take many weeks or even months to receive it all. This can be very frustrating but don't give up – this is crucial information you both need.
- ✓ Pension providers can take around three months to give you the cash equivalent documentation. Keep a record of the date you ask for the information and then follow up (to check it has been received and is being dealt with). Be firm but always polite!
- ✓ If you send your request by post, make sure you keep a copy. If you send it by email, make sure you don't accidentally clear out your sent box. If you have to do your request online take photos or screenshots of what you say so you have a record.
- ✓ When you do get the information you have requested, keep your paperwork tidy in a folder, so you can find it when you need it.



Finding out how much the pensions are worth

When you get your cash equivalent valuations and your statement of benefits for your defined benefit pension, if you have one, you need to read it all carefully. The statement of benefits will set out what, if any, extra benefits come with your pension. These extra benefits can make your pension (or your ex's) **a lot** more valuable.

If you struggle to work out what it means, the best place to get help to start with is [MoneyHelper pensions guidance](#). You can contact them in lots of different ways – depending on what suits you best.

The statement of benefits document is not easy to understand, and it is likely you will need expert help if you have a defined benefit pension. We talk more about this in [Stage 3 – working out if you need expert help](#) and [Stage 4 – getting expert help on pensions](#).

Depending on what type of pension you and your ex have, the cash equivalent information might sometimes be enough for you to negotiate with your ex and reach an agreement. To work this out though you need to know what your ex has in terms of pensions.

Stage 2 – sharing your pension information with your ex

Make sure you have the following for all your pensions:

- **cash equivalent valuations,**
- **benefits statement for any defined benefit pension you may have, and**
- **State Pension valuations and statements/forecasts.**

When you have all these documents you need to give copies of them to your ex.

They need to get this information together for their pensions too and then you need to agree to show each other that information. If one of you has a lawyer this will be done via them. If you agree to go to mediation the paperwork can be shared through that process. If you don't go to mediation or have a lawyer involved, you will need to agree a date and method of exchanging your financial information yourselves.

If a case like yours ends up in court, the court requires that each of you fill in a long form, called Form E, about all your finances, not just pensions. This isn't an easy form to do without some help. We have made a [film](#) about how to fill it in and also a guide – [How to apply for a financial order without the help of a lawyer](#) – that takes you through the form, step by step.

If you don't end up in court you don't have to fill in the Form E but you might find it helpful to anyway, as it shows you what level of detail is needed and gives some structure and order to the sharing of financial information. You can agree well in advance a date by when you are going to have your forms filled in and ready to give a copy to the other.

When you have swapped your information about your pensions with your ex, you are ready to work out (or get help to work out) if the information is complete and if what you have is enough or if you need expert advice on the pensions in your case. We talk about this in [Stage 3 – working out if you need expert help](#).

What to do if you don't think your ex has given you details of all their pensions

If you think your ex hasn't given you details of all their pensions or you really aren't sure what pensions they have, you can try and make a list of all the companies or organisations they have worked for. Then you can check to see if you have been given details of a pension for each. Before 2012 there was no requirement for employers to put their staff into a pension scheme, but it is definitely worth asking your ex, or their lawyer if they have one, if you think important information is missing.

Sharing your pension information with your ex



Sharing
your
pension
information
with your ex

What to do if your ex won't communicate with you on finances

- If you struggle to communicate with your ex or they simply ignore you then you are probably going to need help from someone else. Go to [Stage 7 – the next steps when you have an agreement, or what to do if you can't agree](#) and the bit called What to do if you can't reach agreement with your ex, for more help.
- You might also find some of the letters in the section called [Sample letters](#) helpful to use as a starting point when communicating with your ex. It may already feel like you have really tried to do this, but if you don't have some sort of record of what you have said (text, email, or letter) then it will be hard to prove you have made an effort, if you need to later on. So, it is good to set out your position on reaching an agreement in an email or letter. Remember to keep copies!

Domestic abuse and divorce

If your ex has been abusive to you in the past or is still being abusive it may well not be safe for you to deal directly with them about your finances, or any other issues for that matter. If they know you want to try and sort finances out but are refusing to cooperate this could be a way of them still trying to control the situation and, by doing so, control you. To stay safe, it is likely you will need to get expert help from a specialist family lawyer who has experience of dealing with cases where domestic abuse is involved.

Recognising different types of domestic abuse

Domestic abuse is not only about one person being physically violent to the other. It happens when one person controls the other in a family or intimate relationship. There are many different types of abuse. Abuse can take place in your home but also online, in different ways. Abuse can be:

- emotional,
- psychological,
- economic, including financial,
- physical and
- sexual.

It can happen at any time and can often get worse when you split up, when your ex may try hard to keep controlling you. It can include behaviour by your ex to deliberately hide financial information and assets from you, in your divorce. To learn more about what economic abuse can look like have a look at the [Surviving Economic Abuse](#) website.

Have a look at the section called [More help and advice](#), if you think your ex has been or is being abusive to you.

If you are on a low income and can get evidence of the abuse you have experienced, you may be able to get legal aid to cover the costs of a solicitor. There are various rules about who can get legal aid so it is a good idea to [Check if you can get legal aid](#) on the GOV.UK website and read more about this in our short guide called [How to get legal aid for a family case](#).

Sharing your pension information with your ex

Maureen's story



I was really nervous about bringing up pensions with my husband when we separated. It was never easy to talk about money with him – it used to make him angry if I spoke up about it at all. I felt like I was walking on eggshells whenever anything like that came up.

I just knew he would be furious about me saying I might need some of his pension because he had worked to build it up, and I hadn't.

My friend said even though I was nervous and even a bit scared I needed to do something about it. We sorted it out eventually through a solicitor. She was really supportive and encouraged me to get some help from a local domestic abuse charity.

Having the solicitor to speak to him for me made me feel less intimidated. He wasn't at all happy, but when I realised I had the law on my side I felt a lot better.

Stage 3 – working out if you need expert help

The next question is whether or not you need expert help to work out if the cash equivalent valuations give a proper picture of the value of the pensions in your case. You will need to weigh up the costs of doing this with the benefits you will get from expert advice. This section looks at when it is likely to be very tricky to work things out by yourself and so will be worth getting expert help. Then in [Stage 4 – getting expert help on pensions](#) we explain more about what sort of expert you might need and how to find one.

There are several situations when the cash equivalent valuations do not give a realistic value of your (or your ex's) pension, particularly if they are defined benefit pensions. For a reminder on the different types of pensions you may have, take another look at [Pensions – the basics](#).

If you do not understand the value of the benefits that come with your or your ex's pension you may work out an agreement that is not fair. You may well do yourself out of getting a proper share of the real assets involved. This could mean you are a lot worse off when you stop working.

The table below explains when you may or will need more than just the cash equivalent valuations to get a proper sense of the value of the pensions in your case. If you find yourself in any of these situations it is likely that the money you need to spend to get expert help will be money very well spent down the line. In fact, the cost of not getting help and getting it wrong can be enormous – in terms of actual money – tens or even hundreds of thousands of pounds.

Working out if you need expert help

Situation 1

Pensions add up to more than cash equivalent valuation of £100,000

If the cash equivalent valuations for all your and your ex's pensions add up to more than £100,000, particularly if any are defined benefit pensions, you may need expert help.

Even if all the pensions are defined contribution pensions, if they add up to £100,000 or more **and** there is a significant age gap between you and your ex, you may well need expert help.

But beware – even if the cash equivalent figures add up to **less** than £100,000 but there are extra benefits to one or more of the pensions you may need an expert to help. Or if the cash equivalent figures add up to less than £100,000 but actually make up a large percentage of the overall assets in the case it may be useful to get expert help.

You could start to get some help by contacting [MoneyHelper](#). You can find details of their various services in the section called [More help and advice](#).

Situation 2

One (or more) defined benefit pension

Roughly speaking, if the cash equivalent of a defined benefit pension is between £100-200k you may well need a report. If it is over £200k you will need an expert report.

If any of the pensions in your case is a uniformed public sector pension (such as the Police, Fire Service or Armed Forces) then you will probably need an expert to help work out how it should be shared, whatever its value.

You could miss out on a lot if you just accept, at face value, a cash equivalent valuation of a defined benefit pension from your ex. To see how this works look at Mike and Bridgette's story on [page 38](#).

Situation 3

Defined contribution pensions with extra benefits

Some older defined contribution pensions actually have some benefits attached to them which make them more like defined benefit pensions.

Examples of such benefits are built in guarantees, like a guaranteed lump sum when you retire. Some have a guaranteed annuity rate. This means that you are guaranteed a set rate on an annuity from that pension provider, which is higher than you could buy on the open market now. Guaranteed annuity rates can be extremely valuable and significantly change the value of the pension.

If any of the pensions in your case have extra benefits like this, you may need to get an expert to help.

Working out if you need expert help



<p>Situation 4</p> <p>There is a significant age gap between you</p>	<p>If there is a significant age gap between you and your ex, then it is more likely you will need expert help to work out how the pensions should be shared. This is because the younger of the two of you may not retire for many years and so the pension value will need to stay invested to meet the younger person's needs but at the same time the older of the two of you is more likely to need income from a pension now or in the near future. An expert can explain how to work this out, so it is fair to both of you.</p>
<p>Situation 5</p> <p>Offsetting</p>	<p>If you are seriously thinking about the offsetting approach (where one of you keeps your pension and the other gets a greater share of another asset such as the family home) it is likely you will need an expert to help value the pension, especially if the pension is a defined benefit pension. This is because the cash equivalent figures just can't tell you if, for example, keeping the family house now is a good trade-off for maybe ending up with no or very little pension later.</p> <p>Pensions and other assets such as a house are such different things – often described as trying to compare apples and pears. Only an expert can tell you how you might compare the values of these different kinds of assets.</p> <p>An offsetting example</p> <p>Gemma and Rachel own a family home worth around £400,000 and Gemma has an NHS pension with a cash equivalent value of £400,000. It might seem fair for Gemma to keep her pension and for Rachel to have the family home. But, in reality the true value of the NHS pension (measured by how much it would cost to buy those benefits on the open market with help from an expert) could be closer to £600k. So, this offset would not be a fair outcome for Rachel.</p>
<p>Situation 6</p> <p>Serious medical condition</p>	<p>If one of you has a serious medical condition, diagnosed by a medical professional, which will probably impact on how long you are likely to live, you may be able to get a higher pension payment because it might be paid out over a shorter time than if you were in good health. You are both likely to need help from an expert on this because it could impact on the division of the pensions.</p>
<p>Situation 7</p> <p>When there is a choice of pensions to share</p>	<p>If you and your ex are in a position where there is a choice of pensions to share you are likely to need an expert to help with this. It might be better to share one type of pension, rather than another one. This is because some pensions can lose significant value when they are shared.</p>

Working out if you need expert help

If any of these situations listed above apply to you, a good place to start for some free guidance is [MoneyHelper](#) to book a free pensions and divorce appointment.

Mike and Bridgette – a case study

This is not a real case, but it shows a typical situation. We hope it helps to show why just using the cash equivalent valuations in some situations may not lead to a fair outcome. Be aware that this is just giving you an example of the pensions in Mike and Bridgette's divorce. Pensions are just one part of the jigsaw when sorting out a final agreement on finances.

Bridgette is 55 years old and has an NHS pension (defined benefit pension), with a recent cash equivalent valuation of £156,300. Under her pension scheme she is entitled to a pension when she retires of £7,500 each year (she will never get less than this amount each year) and lump sum of £22,500, which she can get when she is 60.

Mike is 58 years old and has a Self-Invested Personal Pension (defined contribution pension), with a recent cash equivalent valuation of £200,000.

If just the cash equivalent valuations are used Mike has a cash equivalent valuation of £43,700 more than Bridgette. So, it seems that to get to a fair outcome there may need to be a pension sharing order made in favour of Bridgette. Or maybe offsetting could take place, so that if Mike keeps all his pension Bridgette gets a bigger share of a different asset, such as any savings.

But actually, if Mike takes a lump sum of £22,500 from his pension to match that of Bridgette's, his pension when he gets to 60 will be £5,200 each year compared with Bridgette's £7,500 each year.

In this case, the cash equivalent valuations don't give the full picture because the income from a defined benefit pension can be very different to that of a defined contribution pension even when the cash equivalent valuations are similar. If this couple just used the cash equivalent valuations, Bridgette would have got some of Mike's pension when in fact her pension has more benefits and it is potentially Mike who should have a share of her pension or a greater share of another financial asset, not the other way round.

When one person (or both) has a defined benefit pension you need an expert to help work out what income both people will get when they retire so you can see what will end up being a fair outcome overall.

If you or your ex has a uniformed or other public sector pension it is important to try and find an expert who has experience of advising on these types of pensions when it comes to divorce.

Working out
if you need
expert help

Stage 4 – getting expert help on pensions

If you find yourself in any of the situations set out in [Stage 3](#) you really will need to get help, if you possibly can afford to, from an expert who can assess what all the pensions in the case are really worth.

There are different names for someone who can give this kind of advice. The one we are going to use in this guide is a Pensions on Divorce Expert, or PODE for short.

There are other experts, legal and financial, that it may be very helpful to speak with too. While there may be an ideal way of having different professionals on hand to help, the approach that will work best depends on the circumstances of your case and, of course, on what you can afford.

In this next section we explain more about:

- ✓ the different professionals that can help,
- ✓ when it may be ideal to use them, if you can afford it,
- ✓ how to find them, and
- ✓ the costs and time frames of using a Pensions on Divorce Expert.

The different professionals who can help you

Lawyers

The word ‘lawyer’ is often used to describe someone who is legally qualified and trained to advise and represent you if you have a legal problem. There are three main types of regulated lawyers you could go to for legal advice about your divorce.

These are solicitors, legal executives and barristers. If you want to, you can find out more about these different legal professionals in [A survival guide to going to court when the other side has a lawyer and you don't](#).

If you can afford it, it would be really sensible to get legal advice about where you stand in terms of the finances in your divorce, as early on as possible before you make any big decisions.

A lawyer can advise you on the pensions situation in your case and recommend a Pensions on Divorce Expert to you, if they think it would be a good use of money – mainly if you find yourself in any of the situations explained in [Stage 3 – working out if you need expert help](#). If you agree to this and can afford it, it is common for the lawyer to instruct the Pensions on Divorce Expert for you – to ask them all the right questions to get a report that helps you (and your ex) find out the value of the pensions, for the purposes of your divorce, and how they could be split to give a fair outcome.

If you and your ex decide to ask a Pensions on Divorce Expert to help, it is usual for there to be just one expert, known as a ‘Single Joint Expert’ who writes a report for both of you (and the court, if you are going through the court process). Having just one expert who looks at the case in the round keeps the expense down and reduces the chance of conflict and delay that could increase with two different experts involved. It is usual for you to agree with your ex on which expert to use and to share the costs equally.

There are a lot of rules about how this has to be done. They can be found in [Part 25 of the Family Procedure Rules 2010](#) and in [Practice Direction 25D](#). Most importantly, the expert must be instructed by both of you.

Getting expert help on pensions

The expert you use must be impartial when acting for both of you – they must not take one person’s side over the other. Another important rule is that all communications with the expert, however they take place, must be open and clear, to both you and your ex.

If you do use a Single Joint Expert, you should:

- Always communicate in writing if possible – by email or letter so that there is a clear record of what is said.
- Include your ex or their lawyer in every communication you have with the expert. This could be by adding them to email exchanges or if you send a letter, make sure you send a copy to your ex or their lawyer. Avoid phone calls.
- Be polite when you contact the expert, for example by using their surname rather than first name.
- Make sure you discuss any new questions or requests for the expert with your ex, or their lawyer, first before bringing them up with the expert.
- Avoid telling the expert about any discussions you have that your ex’s lawyer calls ‘without prejudice’ discussions. These are negotiations or communications that are protected so that whatever you or your ex might say or do about reaching an agreement cannot be used to your disadvantage later in a court hearing. They are confidential and should not be shared with the expert.

It is also really important to understand that if you decide, by yourself, without a lawyer or without agreement with your ex, to ask a Pensions on Divorce Expert to do a report you will not be allowed to use it in court unless the court gives you permission.



You may manage to reach an agreement with your ex without needing the help of the court, even though the court will eventually have to approve your final agreement. But it is important to understand that if you do end up going to court, you will need the court’s permission to use the expert’s report within the case, otherwise it might be ignored. If the court does agree to you having an expert report in the case but finds that the expert hasn’t followed the court rules properly when preparing the report, you may have to use and pay for a different expert altogether.

When the report is done, if you can afford it, it then makes sense to get further advice from the lawyer on what would be a reasonable and fair outcome in terms of an overall agreement about finances.

You can get legal advice from any of the three different types of legal professionals listed above but often the starting point would be either a solicitor or legal executive. Barristers are usually instructed by solicitors or legal executives once a case is up and running. But some barristers now take cases direct from members of the public without a solicitor being involved. This is called ‘direct access’ or ‘public access.’

You can find out more about direct access and if it is something that might work for you at the [Direct Access Portal](#) supported by the Bar Council. You may find a barrister through this route who is happy to look at your case and advise you on whether you need a Pensions on Divorce Expert to do a report and what might be a fair outcome in your case.

Another option to help you reduce costs at the start and to help you work out your options is to look into lawyers who may volunteer their time in your local area. For more on this take a look at the section called [More help and advice](#).

Some family lawyers offer a particular approach to sorting out family law problems. This is called the collaborative process. To use this approach, you and your ex need to agree to both find your own collaboratively trained lawyer and the four of you all meet together to work things out. This can mean the negotiations are quicker than when using a lawyer in a more traditional way. You can find more information on this approach on the [Resolution website](#).

If you decide to use a lawyer, be sure to check out our top tips for finding a good one.

Our top tips for finding a good lawyer

- ✓ You can search for a specialist lawyer near you who has been accredited by the Law Society. This means they have a significant amount of experience and expertise and have passed a Law Society assessment. There are two accreditations that family lawyers can have – the family law accreditation and family law advanced accreditation. On the [Law Society Find a solicitor page](#) you can click on ‘More search options’ on the right at the bottom of the pink box. This gives more options to choose from. Here you can tick the accreditation box for ‘Family’ or ‘Family – advanced’, or both. When you have found some accredited family lawyers near you it is a good idea to look at their website to see if they talk about dealing with pensions. Phone around and say that you think you may need to use a Pension on Divorce Expert and ask them who they work with.
- ✓ You can also look for a specialist family lawyer by searching for an accredited member of [Resolution](#). Resolution members must commit to helping you work out your legal problem in a non-confrontational way. A green tick next to the lawyer’s name tells you that they offer legal aid. Go to the ‘Find a professional’ page then click on ‘advanced search’. Click on ‘Type of Resolution accreditation’ and then choose ‘Complex lower income financial remedies’ and ‘Pensions’.
- ✓ Shop around – the fees lawyers charge can vary a lot from firm to firm.
- ✓ Be clear about what you have to pay and when.
- ✓ Try and choose a firm of solicitors that have the [Law Society Lexcel quality mark](#). This means the Law Society has given the firm an award to say the firm gives clients a good service.
- ✓ If you are on a tight budget, then make sure you only use your lawyer’s time when you really need it. Making sure you are well prepared and organised for each time you speak with or see your lawyer will keep the costs down. For more helpful tips on seeing a lawyer take a look at [How to prepare for seeing a solicitor or adviser](#).

Getting expert help on pensions

If you can't afford legal advice or you don't want to spend what money you do have in that way, be sure to take a look at our other guides on working through the divorce process and sorting out your finances on divorce. You can find all of these and more in our [Help with family problems](#) section.

Pensions on Divorce Experts – what they are and how to find one

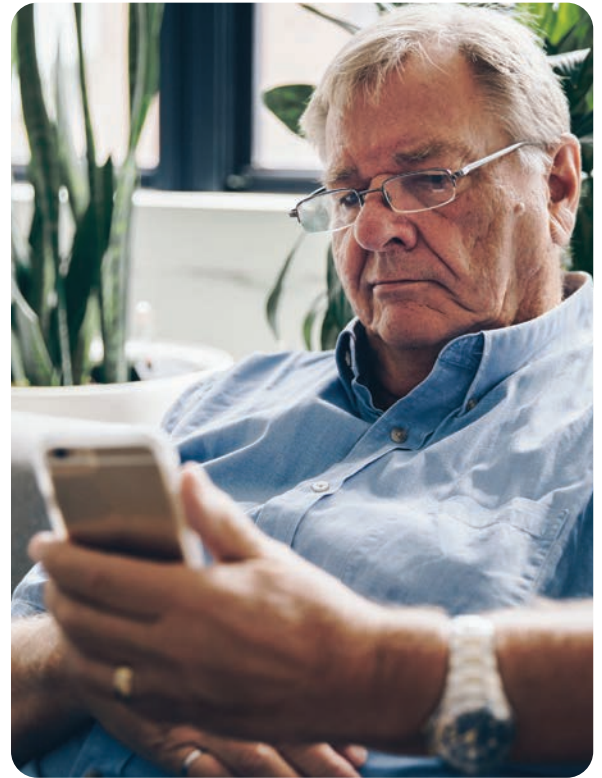
While a lawyer who specialises in divorce and finances can advise you on the law, they cannot give you financial advice.

Someone who is financially qualified and has experience in pensions on divorce can examine the pensions and if needs be, do a report on how they could be split. These people include:

- ✓ financial advisers or planners
- ✓ actuaries.

But these experts are only Pensions on Divorce Experts as well if they are experienced in the area of pensions on divorce. Currently, there is no specific qualification that someone can get to become a Pensions on Divorce Expert. To try and deal with this, a group of judges, lawyers and Pensions on Divorce Experts called the Pension Advisory Group has written a long list of things a Pensions on Divorce Expert should be able to do if they are going to charge you for writing a report. The list is called a Self-certification of expertise. You can find it in the [Pension Advisory Group's Guide to the Treatment of Pensions on Divorce, Appendix D](#).

If you get advice from a lawyer, they are likely to recommend a Pensions on Divorce Expert who they work with. If you go to mediation, it may be that the mediator can recommend one. If you decide to use an arbitrator (more about this in the next section) they can help you choose a Pensions on Divorce



Expert or decide on one for you, in a similar way to a court would, if you and your ex can't agree.

If you don't get a recommendation and decide to find a Pensions on Divorce Expert yourself because you are in one of the situations set out in [Stage 3 – working out if you need expert help](#), a good place to start is the [Resolution](#) website.

Some of the financial professionals who are Resolution members have a special accreditation from Resolution to say they are specialists in pensions and divorce. If you want to look for someone with this accreditation in pensions go to the [Find a law professional](#) page and click on 'Advanced search'. Click on 'Financial professional' in the drop-down box called 'Service offering'. Then click 'Search'. This search will bring up all financial professionals, but where they have passed the specialist accreditation in pensions and divorce it will show 'Resolution accredited specialist' at the bottom of their profile.

Do be aware that there are many good Pensions on Divorce Experts who don't have this accreditation.

Getting expert help on pensions

Then, it is important to call around and ask some basic essential questions to work out if that professional has experience in dealing with pensions on divorce. Take a close look at their website and see what sort of work they say they do. If they say they deal with pensions on divorce and it says this somewhere prominent (rather than tucked away at the bottom of a long list), then this may be a good sign. It would be sensible to get a few quotes – just like you might if you wanted some building work done. This will help you work out the difference between a realistic cost for doing the work and something that is too good to be true.

So, there are different ways to find a Pension on Divorce Expert:

- ✓ through a specialist family lawyer,
- ✓ through a mediator,
- ✓ through an arbitrator,
- ✓ through your own research.

Be aware that there aren't many financial professionals who are so specialised in pensions that they can call themselves Pensions on Divorce Experts. This means that they tend to take work across England and Wales, with communications by phone, email, and video call. If you search using your postcode you may find that they are all rather far away. Don't let this put you off. It's possible you may not need to meet them in person often or even at all.

What to ask a financial professional to work out if they are the right Pensions on Divorce Expert for you

- ✓ Do they specialise in pensions on divorce?
- ✓ Do they prepare reports commenting on the values of pensions for divorce cases? If so, how regularly?
- ✓ If they are going to prepare a report for you will they provide you with a Self-Certification of expertise (found in the [Pension Advisory Group guide on pensions](#)) to show they are experienced and competent?
- ✓ If they don't write reports, can they still help you? Sometimes, you may not actually need a formal report, but informal help from a financial expert could still be invaluable in understanding your situation.
- ✓ Is all the work involved included in a set fee and if so, how much will the report cost? If not, what are the other charges?
- ✓ How long is it likely to take for them to prepare the report and when can they start?
- ✓ Do they have professional indemnity insurance or some other financial arrangements in place to ensure the costs of a claim can be met and what does it cover?
- ✓ Are they regulated by any professional body? This is by no means essential but can be reassuring.

Getting expert help on pensions

What to ask the Pensions on Divorce Expert

It is likely you will need help to work out what to ask the Pensions on Divorce Expert. This is because unless you happen to know **a lot** about pensions yourself you are unlikely to know what to ask. This will add to the costs but remember that in the situations set out in [Stage 3 – working out if you need expert help](#) this is likely to be money well spent – the cost of getting it wrong can be eye-watering.

Some Pensions on Divorce Experts are likely to say that you cannot ask them to produce a report yourself. Instead, they will ask that you go through a lawyer who will prepare the case and write a letter, often called a letter of instruction, explaining what the report needs to cover. This is because to provide a good quality report, which will be useful for you both, the report writer needs to be very clear on what is being asked of them.

Another option is to consult a Pensions on Divorce Expert about whether you need a report. And if they think you do, they will help you prepare the letter to another expert so that nothing important is missed out or that the costs aren't increased by unnecessary questions. They may even work with both of you to prepare the letter, which could save you money.

Many Pensions on Divorce Experts will do a report for you without another professional being involved to help with the letter. They will need you to give them information though and be as clear as possible about what you want them to report on. If you want to get a better idea of what might go in the letter to the Pensions on Divorce Expert, you can look at a sample letter in the [Pension Advisory Group's Guide to the treatment of pensions on divorce – Appendix E](#).

The costs of using a Pensions on Divorce Expert

The cost of paying for a Pensions on Divorce Expert to look at pension assets can put people off. But if you find yourself in one of the situations outlined in [Stage 3 – working out if you need expert help](#) it is likely you will need one. Without one, it will be very hard to negotiate and agree on the percentage of the pension that should be shared, if any.

Some financial advisers who specialise in pensions on divorce may be willing to quickly review your situation to decide whether you need to start incurring fees and some might agree to you paying for their work once the case is finished.

If you need help with understanding your pension position generally to start with, a Pensions on Divorce Expert may well give you advice on what to do next and charge you for their time, by the hour. As a rough guide, charges range from £250 – 350 per hour. You may then need to add on VAT at 20%, depending on whether the expert you choose is VAT registered.



Getting expert help on pensions

Paula's story



I was trying to sort things out with my husband. We had the house, and he had a decent pension from being senior at the council for years.

He got a solicitor who said the house was worth about £350,000 and the pension paperwork said that was worth about £420,000. So, he said I could keep the house and he would keep his pension. This seemed decent enough and I really didn't want a big drawn-out fight. Anyway, a friend made me think about it some more, going on about how good a council pension would be, better than the figure he told me and that I needed some help.

Eventually a solicitor told me I needed to speak to this financial adviser she worked with who knew about pensions. I barely had any money and had to borrow it from my sister. I only did it because the solicitor said I really had to, or I would regret it. She said if I could only pay for her or the pensions chap, I needed to pay him. So, I did. He helped me to understand it a lot more – he set out the figures and everything and explained that really the pension was worth over £800,000 because of all the extra benefits. In the end the court said that I could keep the house and I got a third of the pension to live off. It was unbelievable. I would have accepted just the house, you know. As I just had no clue about the value of his pension.

Getting
expert help
on pensions

The costs vary depending on the individual expert, and how complicated your case is and how many questions you ask the expert. As a rough guide, costs generally range from £1,750 – 3,000 for a full report. You then need to add on VAT at 20%, if the expert you choose is VAT registered. Be aware that costs can be higher than this with larger or more complex pensions.

Usually one expert, known as a ‘Single Joint Expert’ is asked to provide a report to both of you (and the court, if you are going through the court process). Often, when this happens the costs will be shared between you in some way. You will need to decide how the costs will be covered before you ask the expert to do the report.

If you find yourself in one of the situations in [Stage 3 – working out if you need expert help](#) and you can only manage to find money for a lawyer or a Pensions on Divorce Expert, you will need to decide whether that money will be best spent on getting help from the Pensions on Divorce Expert or a lawyer. If you are not sure what to do, it would be sensible to get a bit of advice from a family lawyer first and make sure you mention what pensions you and your ex have.



How long it takes

For a Pensions on Divorce Expert to write a report for both you and your ex, they need to get lots of information from all your pension providers. To do this they have to send a letter to all the pension providers, that you sign, that says you authorise the pension provider to give all that information over to the Pension on Divorce Expert. Unfortunately, it can often take a few months for the pension providers to send over all the information.

As a rough guide, once the Pension on Divorce Expert has all the information they need from the pension providers, they can often do their report in around four weeks, depending on how busy they are and how long it is taking the pension providers to answer their questions. In total, it could take around six months.

While this can seem to be a long and complicated process it is really important to do it properly to get a fair outcome.

The sooner you (and your ex) start to look at pensions and get help the better – if you leave it until the end, getting a report will cause more delay to the divorce.

Sorting out pensions properly will generally mean the divorce process takes longer, but it really will be worth spending some time and money on this now to reduce the risk of financial hardship when you are retired.

I feel as if I can make – with help – a decision that’s going to be the best decision for me. **Jon**

Stage 5 – working out your options when you know the value of the pensions

There is no denying that pensions can get complicated. If you can afford to, try and get a lawyer to advise you on what to do next once you have a proper sense of the value of the pensions in your case. If you cannot afford legal advice throughout your whole case, it is still worthwhile getting some at certain key points – sometimes this is called ‘pay as you go’ or ‘fixed fee’ work. This would be a good point to get advice from a lawyer – on how to divide up the pension pot in the case.

If you are not in a position to get legal advice at this point you need to work your way through this next stage – weighing up the options on how to divide up the pensions in the case.

There are four common ways of dividing up pension funds, particularly after a long marriage. We explain these options next.

Option 1

Option 1 is to divide the pensions according to the income they will produce. If you are older and/or you have significant pension funds, then it is important to think about what both your income needs will be when you retire.

If you have both retired already, or are close to retirement, work out a budget showing your needs compared with your resources. This should tell you what income needs you each have. You can then share the pension funds in the proportions which will provide enough

income to each of you to cover your retirement income needs. If there is insufficient income to meet those needs, there is rarely any reason why the shortage should fall disproportionately on only one of you.

By this stage of your life, any children you have are probably no longer financially dependent on you. This is likely to mean that your needs in retirement will be similar. So, unless there is reason not to, for example because yours was a short marriage, then a judge’s approach is often to divide the pension funds to equalise income in retirement. To do this it is likely that a [pension sharing order](#) will be needed. This is because it is highly unlikely you and your ex will both have pension pots that are worth the same. All the pensions in the case will be considered, even really small ones, to work out what will be fair in terms of a pension sharing order. So, a court order will be needed to tell one pension provider to share some of one person’s pension with the other person. (Even if the cash equivalent values are close to each other, each pension may have different benefits attached. That means the income may well be quite different).

If neither of you are close to retirement, it will probably be difficult to predict with any certainty what your financial positions and needs will be when you do retire. Again, the court will often assume that you are likely to have similar needs and so will normally share out the pensions to equalise retirement income.

Working out your options when you know the value of the pensions

How to work out what income a pension will give you

Defined contribution pensions

Your annual statement for your defined contribution pension gives you an estimate of what you may get as an income when you retire. But this is based on a lot of assumptions that will certainly change. Also, defined contribution pension pot values go up and down according to how the investments perform over the years. To fully understand the statement and the amount of income you may get at retirement you will need some advice from a financial adviser.

If you are trying to compare the income across different types of pensions you will need a Pensions on Divorce Expert to help you. This is because the different benefits will affect what income is produced when the pension is paid out. For example, if you had two pensions giving the exact same income but one came with a benefit where each year the payments increased to recognise increases in the costs of living, that would be a more generous pension income over time.

Defined benefit pensions

Your annual statement for your defined benefit pension gives you an estimate of what you will get as an income when you retire. But you will also need to consider the statement of benefits as defined benefit pensions often come with extra benefits as well. Really, you are likely to need a Pensions on Divorce Expert to help you work out what the statement of benefits means.

How to work out what income a pension sharing order will give you

It is very hard to work out what income you would actually get from a pension sharing order without getting an expert to help, regardless of the type of pensions involved.

When a pension sharing order is made the court requires the cash equivalent valuation of the pension to be shared and describes the share going to the other person as a percentage of the cash equivalent. You might expect that a 50% share of your ex's pension pot would give you the same income in retirement. Unfortunately, it is far from being that simple. This is mainly because the person receiving the share usually has to set up a new pension pot and cannot usually buy a new pension that is as good as the original pension. This is especially the case if the pension is a defined benefit pension.

If you think that dividing up the pension pots in your case to work out the income is the approach you need to take, you will need to get help from a Pensions on Divorce Expert. For a reminder on how to do this take another look at [Stage 4 – getting expert help on pensions](#).

Working out your options when you know the value of the pensions

Clara and Thomas – a case study

This is not a real case, but it shows a typical situation. We hope it helps to show that dividing the pension pot equally using the cash equivalent valuation will not always mean you both get the same income when you get your pension.

Thomas is age 65 and receiving his defined benefit pension of £30,000 each year. His ex, Clara, is age 60 and has no private pensions of her own. They want to share the income equally when they finalise their divorce. They know from a friend who had been through it all before that they can ask the court to share out the pension pot equally between them. Thomas gets his pension provider to send him a valuation. The cash equivalent valuation is £700,000. Thomas and Clara expect that Thomas' income will go down to £15,000 each year and Clara's will go up by £15,000 when she gets the pension all set up.

They decide it isn't too complicated and they agree on what should happen, so they don't get advice from a lawyer or a financial adviser. They apply to the court and the judge approves their agreement.

Thomas' pension is reduced to £15,000 each year, as they expected. When the pension provider implements the order, Clara gets a pension credit of £350,000 (exactly half of the cash equivalent valuation of Thomas' pension pot). She gets help from a financial adviser about where to place the money to get the best income. She wants something safe, and the financial adviser recommends that the safest option is to buy an annuity which gives a guaranteed income for life. However, she is horrified to find out that her £350,000 can only buy an annuity income of £8,600 each year, which is not much more than half of Thomas' income.

After the making of the pension sharing order, Thomas' original pension income of £30,000 each year is now only paying £23,600 each year between them. Once the pension sharing order is implemented by the pension provider it cannot be undone.

Both Thomas and Clara now wish they had taken some advice before deciding what to do with Thomas' pension.

Working out
your options
when you
know the
value of the
pensions

Option 2

Option 2 is to divide the pensions according to the cash equivalent valuations. The court may take this approach if:

- the marriage is short (there is no set length of time to say what a short marriage is, but usually one that lasts less than around five to six years is viewed as being short), or
- you and your ex are under 40 years old, or
- you are a similar age, and all the pensions are defined contribution pensions with no underlying guarantees, or
- the pension pot is not large enough to justify the costs of an expert working out the division needed to equalise your incomes in retirement.

In these situations, the court may sometimes just divide the capital value of the pensions, using the cash equivalent figures, and not look at what that means in terms of income for you both when you retire.

Sometimes in a short marriage the cash equivalent of the pension pot will not be divided in half. Instead, one person might get a bigger share to recognise the pension they built before the marriage. This tends to only happen when the marriage is short and there aren't any young children. Overall, the court is always looking for an outcome that it views as fair. We talk more about this in the section below called [Dividing pension funds unequally](#).

You should only consider this option if you are sure that you do not find yourself in any of the situations set out in [Stage 3 – working out if you need expert help](#). In those situations just using the cash equivalent valuations will probably **not** result in a fair outcome. Usually, it is only a suitable approach if all the pensions are defined contribution pensions with no added benefits at all and it can be difficult to know if this is the situation you are in without getting advice. You should not take this option if either of you has a defined benefit pension – this includes public sector pensions.



Working out your options when you know the value of the pensions

Option 3

Option 3 is to share the pensions using a capital value that is different to the cash equivalent value. You definitely need an expert to do this. Sometimes an expert does this when there are defined benefit pensions involved and where they are asked to by the people in the case or the court. But this option can lead to unintended consequences for both you and your ex.

The capital value worked out by the expert can sometimes end up being higher than the cash equivalent value of the pension pot. You might think that this higher value would then be used to work out your or your ex's share but actually only the cash equivalent value can be shared when it comes to the pension sharing order. The expert's calculation of the capital value has to be translated into a figure which is a percentage of the cash equivalent value. This can be confusing. Because of this, this option is less common than option one (above), where an expert works out how to divide the pension pot to give you and your ex the same income when you retire.

Option 4

The final option is offsetting the pension pot against other financial assets. This is where you agree that one of you keeps their pension funds, or a larger share of the funds, in return for the other having other assets or a larger share of them. So, for example, if you are the parent with the main care of the children, you could keep the family home while your ex keeps the pension funds. This is one way of balancing the division of the assets between you.

However, you need to approach offsetting with a great deal of care. Comparing the value of one pension fund with another or with other types of assets is not straightforward. Also, if you

are the person giving up a claim to a share of a pension fund, you run the risk of being short of income in retirement. If you are the person keeping the pension, you may have difficulty in meeting your housing needs and those of your children if they are going to stay regularly or live with you part of the week.

If you are in late middle age, it would be sensible to think very carefully about fighting to stay in the family home, that may now be too big for your needs, if this means you will lose out on a valuable share of the pension pot.

The option of offsetting falls into our list of situations where you may well need to get help from a Pensions on Divorce Expert. Take another look at [Stage 3 – working out if you need expert help](#) for a reminder of this and [Stage 4 – getting expert help on pensions](#) for more on Pensions on Divorce Experts.



Dividing pension funds unequally

So far, we have explained that often the approach taken by the judge will be to equalise pensions – either in terms of the income you will both have when you retire or in terms of the capital value when a pension sharing order is made.

However, there may be reasons for dividing your pension funds unequally, such as:

- One of you has a greater income need in retirement (for example, because of health issues).
- Yours has been a short marriage (around five to six years or less), with no children and one of you has brought in a larger share of the pension funds.

Working out your options when you know the value of the pensions

- One of you has been or is the primary carer of the children and this has impacted/will continue to impact on both your ability to earn money outside the home and make pension contributions.
- One or both of you will have other non-pension income available to you in retirement (for example, rental income).

There may be other reasons that are not included in this list that apply to your situation. Do remember that pensions are only one bit of the jigsaw when sorting out your finances. To read more about how the court deals with finances on divorce take a look at [A survival guide to sorting out your finances when you get divorced](#), and especially the section called What the law says.

Pension sharing orders and welfare benefits

Be aware that if you get welfare benefits because you are on a low income and you then agree a pension sharing order, the income you then receive, thanks to the court order, could mean your welfare benefits are reduced or even stopped. The longer you can manage to live without claiming your pension share, the longer your benefits will not be affected. Once you get to State Pension age you will however need to start claiming the pension share and this could affect your benefits. It is likely that some of your welfare benefits will stop then anyway.

If you can afford to speak to a financial adviser, they can help you with this as getting this wrong could be a costly mistake to make. If you can't afford to see a financial adviser, a good place to start getting help on this is through a free appointment with [MoneyHelper's pensions on divorce advisers](#).

Unfortunately, when we got divorced neither of us got any legal advice and we agreed the property issue between ourselves. However, nothing was said about pensions. I am now wondering what my rights are if any?

It depends. If you have no court order about your finances when you divorced, if you have not re-married and if your ex-husband, wife or civil partner is still alive, you may be able to apply to the court for a financial order. The more time that has passed since you divorced the harder it may be to do this. To start with, it would be a good idea to get some legal advice from a family law specialist. To find one take a look at the section called [More help and advice](#).



Working out your options when you know the value of the pensions

Stage 6 – reaching an agreement with your ex

This guide focuses on pensions but remember that pensions are just one part of the overall jigsaw. All your income, pensions and any other assets such as savings and property, need to be looked at. You need to reach an agreement about what should happen to all of these and look at the whole picture as it will be for each of you when your divorce is finalised.

You can come to an agreement:

- 1** between yourselves, or
- 2** in mediation or another form of dispute resolution process,

3 using lawyers to negotiate on your behalf, or

4 a combination of all these.

However you do it, you will both need to compromise. It might feel like reaching an agreement is impossible right now. But even if you do go to court, it is important to understand from the outset that very few cases end up going to what is known as a final hearing where the judge decides what should happen for you. Instead, you are encouraged to reach an agreement and compromise at every stage.



Reaching an agreement with your ex

How mediation can help

Mediation can be very helpful for many separating couples. Mediation is voluntary and has to be safe for everyone involved.

The best way to find out if mediation might work for you is to attend a Mediation Information and Assessment Meeting (known as a MIAM) with a [Family Mediation Council Accredited Mediator](#).

Be aware that if there was or still is any form of domestic abuse or control in your relationship mediation may well not be suitable. A mediator can help you work this out if you are not sure.

A mediator can give you both general guidance on the law and what a court is likely to consider fair. But a mediator cannot give you legal advice and so they cannot tell you if the agreement you are reaching is the fairest outcome for **you**. So, it is usually wise to check any potential agreement with a lawyer if you can possibly afford it.

If you cannot agree things with your ex and you want to ask the court to decide how to share out your assets, then you will have to attend a Mediation Information and Assessment Meeting (MIAM). This meeting enables you to find out more about how mediation works, including whether it is right for you, how long it is likely to take and how much it is likely to cost. A MIAM is not mediation. It is a meeting which happens before any mediation sessions, between just you and the mediator, where you find out about how mediation can help.

If you end up applying to court about your finances the judge will expect you to have tried mediation or another type of help to sort out your dispute. Lawyers call this 'non-court dispute resolution' or NCDR for short. [Our guide to family mediation explains more about NCDR](#). It is important to know that the judge can put your application on hold until you have tried mediation or other help out of court to sort out your finances. If the judge thinks you haven't tried to resolve your problem out of court, and you don't have a good reason for this you can be ordered by the court to pay extra costs.

In some situations, you do not have to attend a MIAM before you send your application to the court, for example, if you have suffered domestic violence or abuse. For a list of all the situations that make you exempt from going to a MIAM see p7 of [the court application for a financial order](#).

If you do decide to try mediation or another type of dispute resolution process do be aware that the person involved is unlikely to be an expert in pensions. This means that you cannot rely on them alone to help you understand what you might be keeping or giving up in relation to any agreement on finances where pensions are involved. A mediator can explain to you how lawyers and pension experts can be involved in the mediation process, if you can afford to use them.

Reaching an agreement with your ex

No matter how you work out an agreement, you must provide your ex (and the court if the case goes to court) with all the details of your finances. This is a very important rule in the family court and is called 'full and frank disclosure'. You can't hide, for example, things of value that are just in your name, like a pension. It is not possible to reach a fair outcome if either, or even both of you, don't fully share information about your finances. The full and frank disclosure rule applies to serious or life limiting health problems and new relationships too. The court takes this very seriously.

If it can be shown that one person has failed to follow the rules the court can:

- make orders against you such as costs orders where you are made to pay your ex's costs of going to court,
- cancel any final orders made if one person hasn't provided full details about their finances, and
- that person can also be found in contempt of court. The punishment for contempt of court can be a fine, unpaid work or a prison sentence or all three.

To read more about these different ways of reaching an agreement take a look at the section called Ways of sorting out your finances in [A survival guide to sorting out your finances when you get divorced](#). The next few sections of that guide then tell you about what the law says, to help you have a better understanding of what a fair outcome overall might look like in your case, with some examples.

If you do decide to work out an agreement yourselves or with the help of a mediator, it is sensible to both take a bit of legal advice first, to know what you should be aiming for. Take a look at [More help and advice](#) for details of how to find a lawyer who specialises in family law and in pensions in particular.

Do we have to go to court?

No. It is usually better if you can reach an agreement together about how to share your assets, perhaps with the help and advice of solicitors and/or a mediator. Using a solicitor doesn't mean you have to go to court, but it is important to remember that to sort out your finances properly with a legally binding agreement you need to put the agreement into the form of a draft consent order for the judge to approve. [Stage 7 – the next steps when you have an agreement, or what to do if you can't agree](#) explains more about this.

Another option is arbitration. This is a way of resolving a dispute outside a formal court room but with the help of a qualified arbitrator who makes a decision that you are bound by. The process can be quicker than going through the court process as you decide who the arbitrator will be and agree the timetable yourselves. You can also narrow down the issues you want the arbitrator to look at which may make it cheaper than a longer drawn-out court process. There is a [helpful guide](#) all about this approach on the [Institute of Family Law Arbitrators](#) website.

Reaching an agreement with your ex

Lee's story



When we had our son, my wife had to go back to her teaching job full time. As I was able to reduce my hours, we agreed I would do most of the weekday childcare. Over the years this of course had an impact on my pension pot. My wife was able to really grow her pension, while mine didn't really increase much at all.

Later on, we separated. My wife was very clear that her pension was 'her pension' – she had no intention of sharing it with me. She said she had worked hard to build it up and it was in her name, not mine. She seemed furious at my suggestion that I might need some of it to live off when I stopped working altogether. She didn't or wouldn't see that my caring for our son for all those years had impacted on my chance of getting well-paid, full-time work once he was older.

To start with I was very angry but when I calmed down and got some advice from a solicitor, I realised there was something I could do about it. Often you hear people say the law always helps the wife when couples divorce. But actually, the law makes sure the person who hasn't had a chance to build up a pension isn't just left with nothing in retirement. This can often be the wife, but it wasn't for us.

Stage 7 – the next steps when you have an agreement, or what to do if you can't agree

What to do next depends on if you have managed to reach an agreement with your ex on how to settle finances, or not.

If you have an agreement, read this bit on what to do next. If you haven't managed to reach an agreement skip to the bit called [What to do if you can't agree](#).

What to do next if you have reached an agreement with your ex

If you have managed to reach an agreement with your ex about your finances the next step is to finalise it through the court. To do this your agreement needs to be turned into what is known as a 'consent order'.



Consent orders

A consent order turns what you have agreed between you into a court order. Your agreement without a consent order is informal, not final, and usually not legally binding on you. This means it cannot be enforced by the court (although in some situations the court may be willing to turn a clear agreement into a consent order if one person was unreasonably trying to get out of it).

For your agreement to be made into a court order, it has to be written down in a particular format and sent to the judge to consider and approve. You usually don't have to go to court yourself for the judge to do this.

When a consent order is made the court can make sure that what you have agreed actually happens. And, if the consent order is done properly (by a family lawyer), neither person should be able to ask the court to make a different financial order in the future.

Without a consent order, (or a final order made by the court at a final hearing), it is always possible for either you or your ex to apply to the court for something different to what you originally agreed, even long after you are divorced. This right is only lost when you remarry (although an exception to this rule is that the court can make pension sharing or attachment orders even when someone has re-married).

The next steps when you have an agreement, or what to do if you can't agree

If you have agreed that you want to share a pension, then you will always have to get a consent order the pension provider has to receive an order from the court before they can share the fund.

So, it is important to put any agreement you reach into a draft consent order for the court to approve if you want to:

- ✓ make your agreement legally binding on both of you,
- ✓ be able to enforce the order, if for example your ex does not do what they agreed to do such as pay you maintenance or a lump sum,
- ✓ get an order that enables a pension to be shared between you, and
- ✓ bring to an end the right that you both potentially have to ask the court for a financial order at a later date.

Assuming the court approves your agreement, you will then have a legally binding order that you can both rely on. Depending on what it says in your consent order one or both of you will probably have a few more tasks to do – for example, you may need to get the family home on the market for sale or ask a pension provider to action a pension sharing order. Lawyers use the word ‘implementation’ to describe the stage when you take steps to put the consent order into action.

Next, we explain:

- ✓ how to prepare and apply for a consent order,
- ✓ when to apply for your final divorce order,
- ✓ how to make sure any pension sharing order actually happens or is ‘implemented’, and
- ✓ the impact of a pension sharing order.

How to prepare and apply for a consent order

Step 1 – applying for your divorce

Before you can apply for a consent order to finalise your financial agreement one of you needs to apply to the court for a divorce. Or if you agree, you can make a joint application with your ex. There are various stages to getting a divorce. The court can only look at your application for a consent order when you have reached the conditional order stage of the divorce (or dissolution if you are ending a civil partnership). This takes some time so if you haven’t applied for a divorce yet, you need to start there. For more on this take a look at our guide [How to get a divorce or end a civil partnership](#).

To get a consent order, you must apply to the court by sending in the draft consent order and other paperwork the court needs. Preparing even a simple draft consent order that will be accepted by a judge is not an easy task at all. You may well need some, or even a lot of, help from a lawyer.

It is also sensible to get legal advice on what you have actually agreed with your ex. It might be that there are things that you have not thought of, or are not aware of, that leaves one of you worse off.

Without input from a lawyer on the fairness of the agreement there is a risk that a judge will look at the agreement and decide that it does not result in a fair outcome overall and will not approve it. If the judge refuses to make the order you have asked for, they will send it back to you and ask you to change it. Or the judge may make the order without knowing that there were other important things missed out. This could cause you problems down the line.

It’s better to be well-informed before you spend time, money and energy applying to court. If you do need to start again you will probably need legal advice on how to reach an agreement the court will approve. This will take time and money.

The next steps when you have an agreement, or what to do if you can’t agree

You can find out more about getting expert legal advice on your agreement and help drafting a consent order in the section called Consent orders in our guide [How to apply for a financial order without the help of a lawyer](#).

Step 2 – things to sort out if you are going to ask the court to make a pension sharing order

If your agreement with your ex includes asking the court to make a pension sharing order, there are forms you need to fill in and send to the court. There are important things you need to do **before** you can complete these forms.

If your agreement with your ex does not include asking the court to make a pension sharing order you can skip this bit and go on to step 3.

Working out where the value of your pension sharing order will go

When the court makes a pension sharing order, that order gets sent to the pension fund manager and they have to make sure the pension share actually happens. This is known as ‘implementing’ the pension sharing order. Various things must be arranged in advance for this to work. These are:

- 1 Where is the money, known as the ‘pension credit’, from the pension going to go?
- 2 How are the charges (if there are any) for the work carried out by the pension provider going to be paid?

If you are going to benefit from the pension sharing order where money, also known as ‘pension credit’, is taken from your ex’s pension, you need to work out where this is actually going to go.

One option is where the pension provider creates a pension for you within their scheme that is separate from your ex’s pension. This is known as an ‘internal transfer’. But, most pension providers, unless they are public sector pension schemes, will not do this – instead they say you need to transfer it to a pension scheme of your own. This is known as an ‘external transfer’. If you already have a pension scheme you may be able to get the money transferred to that pension scheme, if it is suitable. But if you don’t, you will need to set up a new pension scheme. It is a good idea to get independent financial advice on choosing a new pension scheme. This is because you are making a financial investment. When you do this the value of whatever you invest, in this situation a pension pot, can go up but it can also go down and essentially that means you can lose money. A lawyer cannot give you financial advice.



You might find that the pension provider offers you the choice of an ‘internal’ or ‘external’ transfer. And you will need to decide if you want your share of the pension to stay with your ex’s pension provider or if you want to move it to a different one. Deciding which will give you the best outcome financially is very difficult without advice from a financial adviser who specialises in pensions on divorce.

When you have worked out where your share of the pension is going to go you need to get it all set up so that you have the actual details of the new pension fund. You need to give these details to your ex’s pension scheme so that they can implement the pension sharing order and transfer the money to your chosen pension scheme. If it is an internal transfer, they keep the money in their scheme but in your name.

The next steps when you have an agreement, or what to do if you can’t agree



Many pension providers charge a fee for the work they have to do to make the pension share happen – this is known as ‘implementing’ the pension sharing order. You will see what charges the pension provider charges in their answers to your Form P and in their transfer value divorce pack. The fees vary a lot, from no fee at all to around £4,000.

You need to discuss how you will divide these charges between you and your ex. Usually these fees are divided equally between you. It is a good idea to find out from the pension provider how much the charges are in advance, so that you and/or your ex are ready with the money when you need to pay. The person receiving the pension share can often have their share of the fees deducted from their pension share before it is transferred to their new pension.

Sometimes paying this fee is the very last thing that has to be done in the divorce process. Some people can be difficult about paying the money, to hold up the process and to upset the person who will benefit from the pension sharing order. This can be a way of trying to control the other person right until the end of the marriage.

If you think your ex may behave in this way it is possible to ask that they give something called an ‘undertaking’ to the court. An undertaking is a formal promise to the court which can be enforced like a court order. A person who breaches an undertaking can be found to be in contempt of court and punished with a fine or a prison sentence or both. In this situation if you are worried your ex might hold things up, they could give an undertaking to do all that is necessary to ensure that the pension sharing order is implemented.

Step 3 – paperwork you need to agree on and complete

- Draft consent order – this document needs to be written up in the format that the court will accept. You will need the help of a lawyer to do this. When you and your ex have agreed the final version you both need to sign it.
- [Statement of information for a consent order \(D81 form\)](#) – this is a document that sets out both your financial circumstances. You need to fill this in very carefully using accurate figures from your paperwork about your income, property, savings and pensions etc. The figures that go in this form are the figures about your financial situation at the time you fill it in and then you are asked to put in figures about how your financial situation will be after the order is made. You just need to put in figures about your situation and then your ex will put in their figures. Or the other way round. When each of you has filled this in you need to sign to say you have seen the other person’s financial information. You also need to sign the statement of truth in the form, to confirm that the information you have provided is complete and true. Again, this form isn’t straightforward so it can be money well spent to have a specialist family lawyer help with this.

The next steps when you have an agreement, or what to do if you can’t agree

- [Pension sharing annex](#) or [pension attachment annex](#) – this is an extra form that tells the court about the details for making the pension order actually happen. This form then gets sent to the pension provider so that they have all the details they need to make the pension order go ahead. This form isn't straightforward either so it can be money well spent to have a specialist family lawyer help with this.
- It is sensible to send a copy of the consent order you want approved and the pension sharing annex to the pension provider **before** you send your application to the court in case they object for some reason or have other issues. It is not helpful to find this out after you have applied to court! In the unlikely event that you are applying for a pension attachment order you **must** send a copy of the consent order and the annex to the pension provider first. If there is enough time, try and get a response before you apply to the court. Chase the pension provider until you get a reply.
- [Form A](#) – this is the form that tells the court you want to apply for a consent order. (There are lots of pages in this form about going to mediation but don't worry if you haven't – you do not need to when you are applying to the court for a consent order.) To apply for a consent order one of you needs to take the lead and become the 'applicant' – even though you have reached an agreement you cannot apply together.

Step 4 – preparing your application for a consent order and sending it to the court

When you have heard back from the pension provider that they have no objections to your draft consent order you can take the next step of finalising all the paperwork and sending it to the court.

To ask the judge to look at and approve your draft consent order you need to prepare and send the following to the court:

- ✓ Draft consent order – signed by both of you, plus two copies.
- ✓ Statement of information for a consent order ([D81 form](#)).
- ✓ [Form A](#) – this is the form that tells the court you want to apply for a consent order.
- ✓ Pension sharing annex – [Form P1](#) – if you are asking the court to make a pension sharing order or [Form P2](#) if you are asking the court to make a pension attachment order.
- ✓ [The court fee](#) – £53, or the [help with court fees form](#) if you are on a low income.

If you can afford to get any help from a specialist family lawyer with these documents, it will be worthwhile. It is not a simple process, and they can help guide you through it. You may find a lawyer who is happy to do bits of the work and suggest where you can save costs by doing the less complicated bits yourself.

Even if you end up doing most of it yourself, it would be a really good idea to get it all checked over by a lawyer before you send it to court. That way you can be sure that the draft consent order sets out what you need it to, so that you don't end up in a financial position that you were not expecting. Also, a lawyer can pick up on any errors so the application is less likely to be rejected by the judge – which will of course save you time and stress in the long run.

The next steps when you have an agreement, or what to do if you can't agree

When all the documents are ready make a copy for your own records. Then you need to send all the paperwork and the fee (or help with court fees form) to the court. You can find the address details at the end of the Form A application.

Top tips!

- ✓ Keep copies of all the documents you send to the court.
- ✓ Make a note of the date when you send your documents to the court so that if you need to contact them you can be sure of when you sent it all in.
- ✓ Put key dates in your calendar or reminders in your phone so you stay on track.

What happens next

The court will put your application on their system and then a judge will look at it – this could take around a few weeks, but it could take a lot longer depending on how busy the court is.

If the judge has all the necessary information they need and agrees that the draft consent order will give you both a fair outcome, they will approve it. Then the court will send copies of the order to you and your ex.

Top tips!

- ✓ Take copies of the order - you will need to send a copy to other people, such as a pension or mortgage provider.
- ✓ Keep the order and the copies in a safe place.

If the judge refuses to approve the consent order you will probably need to get legal advice on how to change it in line with whatever comments the judge made when they rejected it. Take a look at the section called [More help and advice](#) on how to find a good lawyer.

When to apply for the final divorce order

The next step is to apply for the final divorce order, or your final order if you are ending your civil partnership. You can find out more about this in [How to get a divorce or end a civil partnership without the help of a lawyer](#).

After the ups and downs you have been through, and after all the time it has taken you to get here, you will probably be keen to apply for the final divorce order as soon as you can. But there is a very good reason to hold off for 28 days after the date that the court approves the consent order. We explain why next.

The pension sharing order only becomes legally binding or as the law calls it – ‘it takes effect’ – after the final divorce order is made, whenever that is.

The pension sharing order takes effect on whichever is the **later** of these two dates:

- 1 the date the final divorce order is made, or
- 2 7 days after the time given to appeal the order, runs out. Usually, the time in which to appeal is 21 days, so in total this is 28 days from the date of the consent order.

If you apply for the final divorce order straight away after the consent order is made, your divorce will probably be finalised before the pension sharing order takes effect. This would mean you would no longer be married. If the person with the pension dies unexpectedly in this time, before the 28 days have passed, you are unlikely

The next steps when you have an agreement, or what to do if you can't agree

to be entitled to receive potentially very valuable death benefits under the pension as the pension holder's husband, wife or civil partner. But also, the rights you are entitled to under the pension sharing order will not now take effect. This means you lose out completely on the pensions in the case.

So, to avoid this unlikely but potentially catastrophic situation, it is usually best to wait 28 days from the date the judge approved the order, before applying for your final divorce order. Then the pension sharing order takes effect as soon as the final divorce order is made. It can be a good idea to include a section in the consent order that records that you both undertake not to apply for the final divorce order until 28 days after the date the order is made. If just one of you applied for the divorce in the first place (rather than you applying together) it is a good idea for that person to give an undertaking that they will do everything needed to apply for the final divorce order as quickly as possible after the 28 days have passed. For a reminder on what an undertaking is, take a look at the section called [What does it mean?](#)

Making sure the pension sharing order is implemented

When you have the approved consent order and the final divorce order you can ask the pension provider to get on with the task of making the pension share happen, known as 'implementing' the pension sharing order. The pension provider will not start on the task until they have been sent **everything** they need.

They will definitely need the following (but may ask for other things too):

- ✓ a copy of the consent order,
- ✓ a copy of the pension sharing annex,

- ✓ a copy of the final divorce order,
- ✓ payment of their charges (if there are any or a signed letter to confirm they can deduct your share of the charges from the transfer value before it is sent to your chosen pension scheme, if this is an option), and
- ✓ the details of the new pension scheme that is going to receive the share of the pension.

It is a good idea to get all this paperwork to the pension provider as soon as you can, as they then have four months from the date of receiving all of documents they require, to implement the order.

If you are the person who is going to benefit from the pension share it is usual for you to send all the paperwork to the pension provider and make sure they have received payment from whoever is due to pay their fees. It is a good idea to send the documents as soon as possible after you receive them. So, for example, send the pension provider the copy of the consent order as soon as you can and then send the final divorce order later. This lets the pension provider know that an order has been made and that you are now due to benefit from the pension as well, not just your ex.

The impact of the pension sharing order

Situation 1 – if you are the person receiving the benefit of the pension sharing order

Unfortunately, it is not immediately clear how much you will receive, either as capital in a new pension pot or as income if you have already retired. During the negotiations, or court case if you don't manage to agree things, you will have had the Cash Equivalent values of whatever pensions there are between you.

The next steps when you have an agreement, or what to do if you can't agree

When it comes to the end of the process, when the pension provider finishes all the work involved to get one pension made into two, they will calculate a new value that is different to the one used in negotiations. This is because they can only share out what actually exists in the pension pot when the divorce is finalised and the pension sharing order takes effect. Sometimes, because pensions are investments and subject to changes in the financial markets, the value used when you were negotiating an agreement might have gone down by the time the pension sharing order takes effect. If it does go down, there will be less to share between you. Although, if it has gone up there will be more to share out.

Situation 2 – if you are the person whose pension pot is being shared

If you are older and already receiving your pension at the time a pension sharing order is made this will have an impact on your monthly income. You need to be aware that from the time that the order takes effect (the date of the final divorce order or 28 days after final financial order, whichever is later) you are only entitled to a certain share of your original pension, which will eventually be reduced by the percentage in the final financial order. In this time, you will receive your usual amount each month, but your ex is legally entitled to some of it because of the pension sharing order. When the order is finally implemented by the pension provider you will see a reduction in your payments, but it will normally take months (and sometimes even years) before this happens. So, you need to be prepared for the pension provider to ask you to repay the overpaid monthly payments back to the date the order came into effect. Lawyers call this 'clawback'.

If you think you might be in this situation it would be very helpful to get advice on whether it is going to be a significant amount of your monthly income for that period so that you can be ready, as far as possible. Not only will your monthly payments reduce when the order is finally implemented, but there could be a further reduction for a year or two while the pension provider recovers the overpayments.

Top tip!

Implementing the pension sharing order is quite a complicated process and sometimes pension providers actually make mistakes when transferring the pension share to a new pension scheme. So, if you can find the money to get advice from a financial adviser familiar with this process to help you through it and to check that the order has been properly put into action, it is likely to be money well spent.



The next steps when you have an agreement, or what to do if you can't agree

Making a Will



If you have a Will you need to change it when your divorce is finalised – that is the date of your final divorce order.

This is because, when it comes to your Will, it is as though your ex died on that date. Anything you have left to your ex in your Will won't go to them. Instead of your estate passing to your ex it could pass in line with the [intestacy rules](#). This means your estate may not go to a new partner (unless you have entered into a new marriage or civil partnership).

If you don't have a Will it is really important to make one so that when you die what you own goes to the person or people you want it to, who may not be the same people as under the [intestacy rules](#).

If talking about making a Will has made you wonder what will happen to your pension(s) when you die, start by going to [MoneyHelper – What happens to my pensions when I die?](#)

What to do if you can't agree

There are certain situations when you may have to apply to court. If your ex is refusing to communicate with you directly, or is refusing to give you information, you will need to try mediation or contact your ex with the help of a lawyer who specialises in family law.

If neither of these approaches work, for example because your ex is being generally uncooperative or extremely slow, then your only option will be to apply to court if you want to finalise your divorce and sort out finances. Your ex may be in touch with you, but you might be worried they are not telling you everything about their finances. This can happen even when you have a lawyer to help. You may find you need the court's help to make your ex provide all their financial information. If you are worried that your ex is spending too much money on purpose to stop you from getting a fair share or hiding assets in some way, you need to urgently get advice from a lawyer on how you may be able to stop this. See the section called [More help and advice](#).

It can feel daunting to start talking about court with your ex if you don't communicate easily or even at all. There are two sample letters at the end of this guide that you might want to adapt and send or email to your ex to bring up the issues in a calm but firm way.

If you think you may need to apply to court start by taking a look at our guide called [How to apply for a financial order without the help of a lawyer](#). The guide takes you through the whole process step by step.

The next steps when you have an agreement, or what to do if you can't agree

More help and advice

For more help on pensions generally, the place to go is the MoneyHelper website and look at their '[Pensions and retirement](#)' section. They have a lot of useful free information. If you want to talk to an independent adviser for free you can call one of their helplines. You can also get a [free appointment to just talk about pensions on divorce](#) from one of their pension specialists.

They also offer web chat. If you want to write to them, you can ask a question through their [online enquiry form](#).

The helplines are open from 9am to 5pm, Monday to Friday (except public holidays):

- Pensions Helpline: **0800 011 3797**
- Self-employed Helpline: **0345 602 7021**
- Overseas Helpline: **+44207 932 5780**

Web chat is available Monday to Friday 9am – 5pm (closed on bank holidays)

If you are aged 50 or over, you can get [free and independent guidance from Pension Wise](#) about decisions around your pension if it is a defined contribution pension. They cannot help if you have a defined benefit pension. They offer a free 45–60-minute appointment with a pension specialist. You can book an appointment on their [website](#) or by calling **0800 138 3944** between 8am – 6.30pm, Monday to Friday. You will then get an email to confirm your booking.

If you found our guide useful but you want more information on how to deal with pensions on divorce you can find more details in a report published by the Pension Advisory group called [A Guide to the Treatment of Pensions on Divorce \(Second edition\)](#). The Pension Advisory Group's report is written for people working in this area, such as judges, lawyers and Pensions on Divorce Experts. Our guide is based on their report.

If you think you may need to **complain about a pension scheme** provided by your employer or a pension you have set up, you can contact [The Pensions Ombudsman](#). They offer a free and independent service. You can phone them for help on 0800 917 4487, Monday to Friday, 10am – 2pm or email enquiries@pensions-ombudsman.org.uk

For help on finances more generally the [MoneyHelper](#) website has useful sections on money and pensions and money and divorce. They also provide [free and impartial money guidance](#) by phone, webchat, Whatsapp or an online enquiry form. Call their helpline on **0800 138 7777** (Typetalk: 18001 0800 915 4622), Monday to Friday, 8am to 6pm. Their webchat service is available Monday to Friday, 8am to 6pm. Both services are closed on Saturday, Sunday and Bank Holidays.

For help with benefits, the charity [Turn2us](#) offer support around working out what benefits to claim or grants you may be able to get if you are struggling financially. They have an online benefits calculator and grants search option. If you struggle with using these services online, they also have a helpline.

For free initial legal help [LawWorks](#) might be a good place to start. LawWorks supports a network of over 280 free legal advice clinics that provide initial advice to individuals on various areas of law. Use their [search](#) to see if there is a clinic near you that offers family law advice. Another option might be a law centre where lawyers sometimes give free legal advice on family law issues. Use the [Law Centre Network](#) search option to see if there is a law centre near you.

For help finding a family lawyer a good place to start is [Resolution](#) where you can find lawyers by searching using your postcode. Resolution members must commit to helping you work out your legal problem in a non-confrontational way. A green tick next to the lawyer's name tells you that they offer legal aid. You can find an accredited lawyer who is a specialist in finances on divorce by going to the 'Find a law professional' page. Then, click on 'advanced search'. Click on Type of Resolution accreditation' and choose 'Complex lower income financial remedies' and 'Pensions'.

You can also search for a specialist lawyer near you who has been accredited by the Law Society. This means they have a significant amount of experience and expertise and have passed a Law Society assessment. On the [Law Society Find a solicitor page](#) you can click on 'More search options' on the right at the bottom of the box. This gives more options to choose from. Here you can tick the accreditation box for 'Family' or 'Family – advanced', or both.

Some family law specialists do extra training in an approach to solving legal problems called the collaborative approach. If you use this approach, each of you agrees to use a collaboratively trained lawyer and have meetings together to try and solve the issues without going to court. You can search for a collaboratively trained lawyer on the [Resolution website](#) by choosing 'Collaborative practitioner' in the Service offering box.

For help finding a Pensions on Divorce Expert (or PODE) a good place to start is the Resolution website. Search for a 'financial professional' in the section called 'service offering' on the [Find a law professional](#) page. Then use an online search engine to learn more about what the professionals you have found on the Resolution website offer as part of their service.

If you are looking for a family mediator you could ask friends and family for a recommendation or your solicitor, if you have one. It is a good idea to check any recommendations using the family mediator finder service on the [Family Mediation Council](#) website. It is fine to phone around, ask how much they charge and compare prices. For more useful information on mediation as a process take a look at [our guide to family mediation](#).

If you and your ex decide that you want to involve an arbitrator to decide parts of the case that you cannot agree on, you can **get help finding an arbitrator** on the [Institute of Family Law Arbitrators website](#).

If your case ends up in court a good place to start looking for more information is our [Going to the family court](#) page. This brings together all our resources and has information on where to go for practical help, legal advice and representation at court. If you end up going to court without a lawyer we have a guide that you may find useful – [A survival guide to going to court when the other side has a lawyer and you don't](#). We also have a film to help you prepare – [Representing yourself in the family court](#).

More help
and advice

If your ex has been or is being abusive to you there are lots of places you can find out more information and get support. Always dial 999 in an emergency. For support or to discuss your options you can call the [National Domestic Violence Helpline](#) on **0808 2000 247** or in Wales, [Live Fear Free](#) on **0808 80 10 800**.

Both helplines are for anyone who is experiencing, or has experienced domestic abuse, or for anyone who is worried about domestic abuse happening to a friend, family member or colleague. It is free, confidential and the number will not show up on a BT telephone bill.

If you are a man and you or your children are affected by domestic violence or abuse, you can contact the [Men's Advice Line](#) on **0808 801 0327**.

[Galop](#) runs a national helpline for lesbian, gay, bisexual and trans people experiencing domestic abuse. You can contact them on **0800 999 5428**.

You can find more information and support from:

- [Refuge](#)
- [Women's Aid](#)
- [Welsh Women's Aid](#)
- [Surviving Economic Abuse](#)



More help
and advice

What does it mean?

Accrual rate – this is the proportion of your salary you'll get as an annual retirement income and is set by your employer. The accrual rate is usually written as a fraction of your pensionable pay. So, for example, if the accrual rate is 1/80th, you will get 1/80th of your pensionable pay as a pension for each year that you have worked.

Actuary – there are different types of actuaries. Actuaries that specialise in pensions use their mathematical skills to work out what benefits a pension has and what that will mean in years to come for you in terms of your income and other financial benefits. If they specialise in pensions on divorce, then they can also advise on what the different options for dealing with pensions would mean for you and your ex.

Additional State Pension – this is part of the pension provided by the government to people who reached state retirement age on or before 6th April 2016. Not everyone gets this – it depends on the type of pension arrangements you had over your working lifetime and if you were employed (self-employed people were not entitled to this pension).

Annuity – this is a pension plan that provides a regular income in retirement. This regular income can be for the rest of your life or for a set number of years. The amount you get is set in advance and can either remain level or increase in a number of different ways.

Basic State Pension – this is the pension provided by the government to people reaching state pension retirement age on or before 6th April 2016. The amount you get is based on your National Insurance contributions made before 6th April 2016.

Cash equivalent (CE) – this is sometimes also called the cash equivalent transfer value (CETV) or the cash equivalent value (CEV). This is the capital value given to your pension pot by your pension provider. Be aware that it does not give you any idea as to the other benefits that may come with the pension, and which could in reality make your or your ex's pension much more valuable in retirement.

Defined benefit pension – defined benefit pensions are workplace pensions, run by your employer. These pension plans are sometimes called 'final salary' or 'salary-related' pensions, but there are other types too. The value is based on how long you've worked for your employer and your salary. The amount you will get on retirement is set or 'defined' by the rules of the particular scheme. Public sector and uniformed services pensions are defined benefit pensions.

(continued)

What does
it mean?

Defined contribution pension – these are the most common type of private pension. The pension pot is based on how much is paid in, how long it has been invested for and how well the investments perform. What you get when you retire is **not** set in advance.

Financial order – a ‘financial order’ or ‘financial remedy order’ is what the law calls a court order that sets out how the finances you both have should be sorted out either during the divorce or when your divorce is finalised.

Financial planner / financial adviser – this is someone who can help you by advising you widely about all your financial needs.

Guaranteed Annuity Rate (GAR) – older private pensions (typically before 1990) sometimes came with a promised or ‘guaranteed’ rate of income that you would get on retirement. This is usually a very valuable benefit to have.

Independent financial adviser (IFA) – this is a financial adviser who works independently and so can advise you on all the different financial products or options available rather than just the ones from certain providers.

New State Pension – the pension you get from the government if you reached state pension age on or after 6th April 2016. The amount you get depends on your National Insurance contributions.

Offsetting – this can happen when a couple are sorting out their finances on divorce. It is the word used to explain the approach where one person gives up their right to a future income from a pension in exchange for current capital, often the family home.

Pension attachment order – this is an order that the court can make when a couple divorce, where a percentage of your pension lump sum, death in service benefits or income is paid to your ex when you retire. Or if you have the benefit of this kind of order, a percentage of your ex’s pension will be paid to you, when your ex retires.

Pension credit – if a pension sharing order is made in your favour, this is the money or capital that gets taken from your ex’s pension and put in a pension for you.

Pension debit – if a pension sharing order is made in favour of your ex, this is the money or capital that gets taken from your pension and goes into a pension for your ex.

(continued)

What does
it mean?

Pension freedoms – these rules enable people to access **some** of their defined contribution pension pot in cash from the age of 55 if they want to, rather than waiting till they get older and have it as an income. On 6th April 2028 the earliest age you can do this at will go up to 57. This change applies to people who were born after 6th April 1973.

Pensions on Divorce Expert (PODE) – a Pensions on Divorce Expert can examine the pensions you both have and report on what their values are and whether it is appropriate to compare the various values with each other on a like-for-like basis. These people include financial advisers, financial planners, and actuaries. But they are only Pensions on Divorce Experts as well **if** they are experienced in pensions on divorce. There is no specific qualification that someone can get to become a Pensions on Divorce Expert. So, lots of experience of this type of work is key.

Pension sharing order – this is an order that the court can make when a couple divorce, which shares out your pension savings between you. A pension sharing order tells the providers of a pension fund to transfer a percentage of the cash equivalent (anything up to 100%) to whichever one of you is to benefit from the order. The share of the pensions savings is put into a new pension pot for the person who is to benefit from the order.

Protected Payment – this is in addition to the new State Pension, for people reaching State Pension age on or after 6th April 2016. You are only entitled to it if you had a significant Additional State Pension before 6th April 2016. A calculation was used to work out how much you could carry over into the new system. That amount is then ‘protected’.

Substitution – if you reached State Pension Age on or before 5th April 2016 and your ex had better National Insurance contributions than you (perhaps because you didn’t work outside of the home for many years) you can apply to substitute your ex’s record for your own if their record is higher. This can increase your basic State Pension payments without reducing your ex’s.

Undertaking – this is a formal promise to the court which can be enforced like a court order. A person who breaches an undertaking can be found to be in contempt of court and punished with a fine or a prison sentence or both.

What does
it mean?

Sample letters

Sample letter to send to the Pensions Service to ask that your National Insurance record be substituted with your ex's record, so you get a better record.

[add in your full postal address here]

[add the date here]

Pensions Service

[add the full address here]

Dear Sir or Madam

Re: National Insurance record substitution request

I am writing to request that my National Insurance record be substituted with my ex [husband/wife/civil partner's record. My National Insurance number is [add in your National Insurance number].

Their details are as follows:

- [Add in your ex's full name]
- [Add in your ex's date of birth]
- [Add in your ex's National Insurance number]
- [Add in your ex's address or other contact details]

Please find enclosed a certified copy of my final divorce order.

I look forward to hearing from you in relation to the above.

Yours faithfully
[add your full name]

A sample letter to send to your pension provider(s) if you have a defined benefit pension, to get information about the value of the pension

[add your full postal address here]

[add the date here]

[add your pension provider's full postal address here]

Dear Sir or Madam

Re. Pension plan number [add the plan details here]

I am in the process of separating from my [husband/wife/civil partner]. I enclose my Form P. I would be grateful if this could be completed and returned to me as soon as possible with the following:

1. The current cash equivalent valuation for divorce purposes of my pension
2. Full divorce transfer pack
3. A statement of all my pension benefits

I look forward to hearing from you and thank you for your assistance.

Yours faithfully

[add your name]

Sample
letters

A sample of a letter to send to your ex if they are not responding to you about sorting out finances

[add the date here]

Dear [add in name of your ex]

I have tried to make contact with you several times [give details, such as by email on x date, by phone, by text], but you have not replied.

We need to find a way of sorting out our finances. This is part of the divorce process. I would like to try mediation, but you have not replied to the mediation service about going to a meeting with them.

As nothing is moving forward at the moment, I cannot see what to do other than to ask a solicitor to get in touch with you. I would have liked to work this out between us really, but that doesn't seem to be happening.

If I don't hear from you by phone, text or email in the next week, I plan to go and see a solicitor.

Best wishes,

[your name]

Sample letter – to your ex if they have refused to communicate, go to mediation and have ignored a letter from a lawyer

[add the date here]

Dear [add in name of your ex]

I have tried to come to an agreement with you about our finances in different ways:

1. [Give details such as: I got in touch with you many times to suggest that we work it out between us. You didn't reply].
2. [Give details such as: I then tried mediation, but you did not reply to the mediation service to set up a meeting].
3. [Give details such as: I saw a solicitor who wrote and emailed a letter to you about what I think we should do next. You didn't reply].

The solicitor explained that the divorce can go through without us sorting out the finances at the same time, but everything around the house, the pensions and the outstanding debts will still be there hanging over us. I want this all sorted out so that when we divorce, we can really go our separate ways. I would like to avoid any possible financial mess or uncertainty.

The only way now that I can see to move things along is by going to court. I really don't want to do this, but I cannot see another way to sort things out properly – [for us and the kids – if you have children].

If I don't hear from you in a week, I will make an application to the court so a judge can help us to work through the process and get this all sorted out. The court will give us a timetable to work to so that we can draw a line under this and move on. You will get the information in the post from the court.

Best wishes,

[your name]

Sample
letters

An overview of the pensions you or your ex may have

We talk about pensions basics in this guide. This table gives you an overview and some more types of pensions that you or your ex may have so that you can work out where your pension fits when it comes to valuing the ‘pension pot’.

Look at your pension paperwork and use the table to help you work out whether your pension is a defined contribution or defined benefit pension.

Don't be afraid to call your pension provider and ask them if you are not sure.

If you can't see pensions listed here that you need to take into account in your divorce you can find more helpful information at [MoneyHelper Pensions basics](#).

State Pensions		Private pensions		
If you reached State Pension age before 6th April 2016	If you reached or will reach State Pension age on or after 6th April 2016	Defined contribution pensions		Defined benefit pensions
		Pensions you set up	Workplace pensions	Workplace pensions
<ul style="list-style-type: none"> • Basic State Pension • Additional State Pension: <ul style="list-style-type: none"> - Second State Pension (S2P) - SERPS - Graduated Retirement Benefit 	<ul style="list-style-type: none"> • New State Pension (may also include Protected Payments based on National Insurance contributions made before 2016) 	<ul style="list-style-type: none"> • Personal Pension Plan • Self-invested Personal Pension (SIPP) • Stakeholder Pension Plan • Retirement Annuity Contract (RAC, sometime referred to as a s226 plan) • Section 32 buyout plan 	<ul style="list-style-type: none"> • Workplace pension scheme • Group Stakeholder Pension Plan • Group Personal Pension Plan • Group Money Purchase scheme • Small Self-Administered Scheme (SSAS) • Executive Pension Scheme • Group buyout plan 	including most public sector schemes: <ul style="list-style-type: none"> • Final Salary schemes • Career average schemes • Schemes with underlying salary-related guarantees, e.g. GMP underpin

An overview of the pensions you or your ex may have

Pensions in payment – these are pensions you or your ex are getting now

Personal pensions:	Annuities:	Defined benefit:
<ul style="list-style-type: none">• Flexi-Access Drawdown plan• Uncrystallised Fund Pension Lump Sum• Capped drawdown plan• Investment-linked Annuity	<ul style="list-style-type: none">• Lifetime Annuity• Fixed-term Annuity	<ul style="list-style-type: none">• Scheme pension



An overview
of the
pensions
you or your
ex may have

Checklist for collecting all your pension valuations

State pensions – see section called [Stage 1](#) for a reminder on how to find out which of these you have and how to get valuations

Type of state pension	Valuation/statement/forecast
Basic State Pension	
Additional State Pension	
New State Pension	
Protected Payment	

Private pensions – see section called [Stage 1](#) for a reminder on how to find out what pensions you have and how to get valuations

Name	Type	Cash equivalent	Have you received a full transfer value pack?	Is it a defined benefit pension? If yes, have you received the benefit statement?

Checklist for collecting your pension valuations

Disclaimer

The information in this guide applies to the law in England and Wales only. The information in this guide is correct at the date of publication. The law is complicated and does change. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

Can you help us?

We hope you found this guide helpful. Can you support this guide with a donation? To donate just go to www.advicenow.org.uk/donate.

If you would like this guide in another format
please email guides@lawforlife.org.uk



This guide was updated by Law for Life's [Advicenow](#) team, in collaboration with the [Pension Advisory Group](#) and the University of Bristol School of Law, thanks to funding from the [Nuffield Foundation](#).

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This guide is endorsed by the President of the Family Division, Sir Andrew McFarlane, and by the Family Justice Council.

Law for Life – May 2024

If we've helped you, please help us

Please [tell us about your problem](#). Knowing more about our users and what you found useful helps us get funding to keep our website going. We also want to hear if there is anything you didn't like or couldn't find so that we can be even more useful. It is OK to skip questions – but please press '**submit**' at the end as otherwise we don't get your response. Thank you!

