



# PENSIONS ON DIVORCE

## WHO IS THIS FACTSHEET FOR?

This factsheet is for Shell Overseas Pension Fund (SOCPF) members who are going through the process of a divorce it provides information on how SOCPF benefits are treated if a Court order requires a benefit to be paid to an ex-spouse.

## PENSIONS AND DIVORCE

In September 2013, the SOCPF regulations were amended to allow a Court order issued either by a UK or overseas court to be implemented against a member's SOCPF pension.

Prior to September 2013, any Court order, including orders relating to divorce, would have resulted in anti-charging provisions taking effect and subsequently moving a member's pension into a separate discretionary trust.

There are three main options that can be applied to your pension - Pension Sharing, Attachment (Earmarking) and Offsetting. Court orders directing the treatment of pension rights will be different in each case. This summary cannot cover every possible order or circumstance. However, a few points are worth noting in the SOCPF context to avoid misunderstanding and unrealistic expectations:

- No sharing or earmarking of SOCPF benefits can be implemented by the Trustee until an appropriate Court order is received by the Trustee Services Unit.
- The Trustee cannot act upon informal agreements.
- You may need to engage a solicitor to deal with the divorce. Once formal divorce proceedings start, your solicitor will need to deal with Trustee Services Unit directly.

## JARGON

### Pension sharing

The Pension is split at the time of divorce. A percentage share is either transferred into a pension in the ex-spouses own name, which could be one that they already have or a new arrangement, or, they receive a benefit directly from the pension scheme.

### Attachment (Earmarking)

The ex-spouse receives an agreed amount of pension income or lump sum (or both) when it starts being paid to the member. This means the ex-spouse cannot receive pension payments before the member has started taking his or her pension. In Scotland, this is called a pensions lump sum order.

### Pension offsetting

The member would keep their pension and the ex-spouse would receive other assets of similar value to compensate, for example, the matrimonial home.

This factsheet provides a summary of the benefits available from the SOCPF. Benefits can only be paid in accordance with the Trust Deed and Regulations and relevant law at that time.

## PENSIONS AND DIVORCE (CONTINUED...)

During the divorce proceedings, assumptions may be made about what can be paid in the future by the SOCPF. These assumptions would not form part of a Pension Sharing Order itself but might raise expectations of the parties involved. For example, a Court might suggest that you should nominate your ex-spouse for an adult dependant's pension on your death. This is not permitted under the Trust deed and regulations governing the SOCPF. An adult dependant's pension may not even be payable under the deed and rules, if for example you remarry and are survived by your new legal spouse (who would receive a pension). It should also be noted that even where an adult dependant's pension is potentially payable it is only payable where there is evidence of financial dependency of the ex-spouse upon you at the time of your death.

## HOW IS A PENSION SHARING ORDER CALCULATED?

A Pension Sharing Order is usually expressed as a percentage of the member's 'cash equivalent' pension rights.

### Active member

- If you are an active SOCPF member, the pension debit is, essentially, a negative deferred pension calculated at the time of divorce but applied when your employed membership ceases. In deferment, your pension debit is re-valued up to retirement in line with cost of living increases. When your pension comes into payment, it is reduced by the re-valued amount of the debit. The principle underlying the statutory revaluation is that it takes account of inflation but avoids linking the pension debit to future increases in your pensionable salary.

### Deferred member

- If you are a deferred SOCPF member your pension is reduced by the amount of the pension debit as part of implementing the sharing order. In deferment, the pension debit is re-valued up to retirement in line with statutory revaluation. When your pension comes into payment, it is reduced by the re-valued amount of the debit.

### Pensioner member

- If you are already receiving your pension any debit will be valued using the cash equivalent value of your pension in payment.

The SOCPF Trustee does not currently apply charges to divorcing parties. However Trustees are allowed to charge for additional costs incurred; this would either be in cash form or a deduction from your pension entitlement. We will inform you of any charges in advance.

Once a Pension Sharing Order has been implemented, the SOCPF Trustee will offer your ex-spouse a Cash Equivalent Transfer Value (CETV). This amount can be transferred to another pension arrangement in their own name.

However, the arrangement must be willing and able to accept the credit from the SOCPF; please note that the SOCPF is not a Qualifying Recognised Overseas Pension Scheme, so some UK pension schemes will not be able to accept a transfer from the SOCPF.

## WHAT DO I NEED TO DO?

If you are in the process of starting divorce proceedings you should request a Cash Equivalent Transfer Value (CETV) from the Pension Administration Team at the address below to provide to your solicitor.

If your divorce is going to take place in a non-UK court, please let the Pension Administration Team know as soon as possible. The Pension Administration Team will be able to guide you through the process and let you know if a Court order can be applied to your SOCPF benefit. Please note the Trustee cannot implement any order unless it is satisfied that the divorce is legally effective.

You can find further general information about UK pensions and divorce at The Pensions Advisory Service website [www.pensionsadvisoryservice.org.uk/life-events/divorce](http://www.pensionsadvisoryservice.org.uk/life-events/divorce)

## CONTACT DETAILS

If you have any queries about the information in this factsheet, please contact the Pensions Administration Team

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