

# Pension Sharing Orders

For members and their ex-spouses or ex-civil partners

(For Modular iSIPP/Private Client SIPP/iSIPP/Partnership SIPP/  
Wrap SIPP/IPS SIPP and IPS (2008) SIPP only)

## FEATURES

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# A: Important information

## For both parties

In order to proceed with giving effect to a pension sharing order, we require the court stamped Final Order of Divorce and the Pension Sharing Annex, together with the sealed Consent Order (or certified copies of them) before any action can be taken. We prefer to review a draft of the Pension Sharing Annex in advance. Following this review we will confirm if we can comply with the requirements (although any comments and feedback we may provide on the practicalities of complying with the requirements is not legal advice and should not be taken as such).

We have four months to organise the transfer of the pension credit due to the ex-spouse's/civil partner's chosen pension provider. This period starts from the date that we are in receipt of all of the above mentioned documents **and** the completed Pension Credit Transfer Request Form, which is available from our website [www.jameshay.co.uk](http://www.jameshay.co.uk) or on request.

On receipt of the court documents, we will inform both parties that the pension plan(s) that is/are subject to the Pension Sharing Annex and the Consent Order will be valued for pension sharing purposes on the tenth business day after our acknowledgment letter, unless both parties agree to a different date.

We must be advised within five business days of the date of our acknowledgement letter if another valuation date is to be considered. Please bear in mind that we will charge for time spent on arranging the pension credit as allowed by applicable legislation.

If the SIPP member has not taken benefits from all arrangements under the plan(s) at the time of the pension sharing order, the ex-spouse/civil partner may be entitled to an element of pension commencement lump sum with the pension credit when they come to draw benefits from their chosen provider on retirement.

The court may require the plan to be valued on a cash equivalent transfer value basis (i.e the value of the plan if all the assets were sold). The transfer value will only be provided upon receipt of the court or member's authority. However, the latest annual valuation produced for the member may provide sufficient information to guide all the relevant parties.

### **100% Pension Credit Order**

If upon receipt of the divorce documents the member is currently taking an income, we shall immediately arrange to cease paying income, unless the Court Order provides otherwise. Please bear in mind that we may not be able to stop a pension payment within ten business days of the month end, as the payroll details will have already been sent to the bank for processing.

In cases where the Court Order states that the member's ex-spouse/civil partner will receive 100% of the plan value, and the member is either taking partial benefits or has not started to take benefits, we shall require written confirmation from the member if they wish to keep the plan open after the pension credit payment has been made. This confirmation will need to be received within 28 days from the date of us acknowledging receipt of the court documents. Failure to do so could result in the plan attracting unnecessary charges which will be payable by the member.

If the member was taking full benefits from the plan it will automatically be closed once the pension credit payment has been made.

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## For the member

We require any disinvestment instructions that may be needed to be made as soon as possible (and in any event within ten business days of our receipt of your ex-spouse's/civil partner's Pension Credit Transfer Request Form) to ensure that the payment of the pension credit can be made promptly. Please note that disinvestment instructions must be received on the appropriate forms which may be found on the James Hay website. Please call our general enquiry number, 03455 212 414, if in any doubt.

## A: Important information continued

Unless advised otherwise, your disinvestment instructions will be held on file until we are in receipt of the Pension Credit Transfer Request Form completed by your ex-spouse/civil partner and their pension provider.

The amount of the pension credit is fixed at the valuation date and, subject to funds being available, will not change. However, due to fluctuations in the underlying value of the assets, when this pension credit is paid it may equate to a higher or lower percentage of the member's pension fund.

You may need to consider whether any investments may incur a surrender penalty or early redemption charge. Please note that James Hay Partnership does not accept responsibility for any charge or penalty in respect of disinvestments from a third party. Please also take into account any potential delays in disinvesting from investments that are difficult to sell or illiquid.

If we have not received any disinvestment instructions from the member regarding how to make sufficient funds available to meet the pension credit within the deadline instructed by the court, we will remind all parties that the responsibility to provide disinvestment instructions lies with the member.

### **Modular iSIPP/Private Client SIPP/iSIPP/ Wrap SIPP only**

If we have not received confirmation of which funds to sell within the confirmed time period we will, under normal circumstances, disinvest the required amount proportionately across all funds held, as far as we are able to. We would always prefer you to provide disinvestment instructions and will normally use our discretion only if there is a danger that the four month deadline may not be met.

### **Partnership SIPP, IPS SIPP and IPS (2008) SIPP**

As the member is a co-trustee of the SIPP, we are not normally able to make disinvestments without their instructions. If the member does not comply with the instructions provided by the court, then they will be in breach of the Court Order and may be subject to sanctions accordingly.

## For the member's ex-spouse/ ex-civil partner

We will transfer the pension credit to your chosen provider when your ex-spouse's/ex-civil partner's plan has the required funds available and we have received your completed Pension Credit Transfer Request Form.

We will send you a reminder if you have not provided this information within 28 days of us receiving the court documents. Legally, we must complete the pension credit process within four months of receipt of all relevant documentation. However, this is only possible with the co-operation of both parties. In addition, your ex-spouse/civil partner is entitled to manage their remaining pension portfolio without having to account for the element that is due to you.

The date we receive your written request to transfer your pension credit to your chosen pension provider in respect of 100% orders is the date we will start the process of surrendering the funds.

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## Other information to consider

### Property

If a commercial property is an asset of the pension plan, thought should be given as early as possible in the divorce proceedings as to whether it is practical for the court to agree to a pension sharing order because of potential liquidity considerations.

To ensure we are correctly valuing the plan for pension sharing purposes, we may require an up to date valuation of all commercial properties held in your SIPP.

Where the pension plan owns only part of the property and the property is the subject of the pension sharing order, the co-operation of the other part owners will be required in any buy-out to provide the necessary liquidity for the pension credit.

## A: Important information continued

It may not be possible to arrange the sale of the property without the consent of the other part owners.

Where a commercial property is held as an asset of the plan, any valuation fees that are due are paid initially from the member's trustee bank account.

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### General charges

The Court Order will direct us as to who should pay any fees incurred in connection with the proceedings, and under direction from HM Revenue and Customs (HMRC) these must be paid by the relevant pension fund. In the case of 100% orders, some of the fees may need to be paid from outside the fund. Charges are payable at the time of transfer.

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## B: Statutory information

### Plan details

#### **Modular iSIPP/Private Client SIPP/iSIPP/ Partnership SIPP and Wrap SIPP**

The underlying legal framework for James Hay SIPP is 'The James Hay Personal Pension Plan', and the Scheme has been set up under trust and registered as a Registered Pension Scheme by HM Revenue & Customs (HMRC). The HMRC Pension Scheme Tax Reference is 00616231RE.

James Hay Services Limited is the provider of the above Scheme and has appointed James Hay Pension Trustees Limited as Trustee of the Scheme and James Hay Administration Company Limited to administer the Scheme.

James Hay Pension Trustees Limited also acts as trustee and James Hay Administration Company Limited as provider and administrator for the Aviva Self Invested Personal Pension Plan FPP (formerly called the Friends Life SIPP) (HMRC Pension Scheme Tax Reference 00605421RY).

#### **IPS SIPP**

The IPS SIPP has been set up under trust and registered as a Registered Pension Scheme by HMRC. The HMRC Pension Scheme Tax Reference is 00605813RN.

The IPS Partnership Plc is the provider and administrator of the Scheme and has appointed PAL Trustees Limited as Trustee of the Scheme.

The member acts as the member co-trustee in respect of their plan held within the scheme.

#### **IPS 2008 SIPP**

The IPS (2008) SIPP has been set up under trust and registered as a Registered Pension Scheme by HMRC. The HMRC Pension Scheme Tax Reference is 00605815RT.

IPS Pensions Limited is the provider and administrator of the Scheme and has appointed Union Pension Trustees Limited as Trustee of the Scheme.

The member acts as the member co-trustee in respect of their plan held within the scheme.

For the Partnership SIPP, IPS SIPP and IPS (2008) SIPP, it is the responsibility of the member co-trustee to sign any investment instructions prior to the scheme trustee. This gives the member as co-trustee, co-ownership and joint control of their SIPP investments.

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### Pension options for pension credit

The ex-spouse/civil partner is entitled to:

- Open a separate SIPP with James Hay Partnership if required (standard James Hay Partnership charges will apply), or

## B: Statutory information continued

- Transfer out to another Registered Pension Scheme or to a Qualifying Recognised Overseas Pension Scheme.

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### Benefits available for pension credit

If the ex-spouse/civil partner opens a SIPP with us, the benefits available are detailed in the relevant Technical Guide. A copy can be obtained from our website [www.jameshay.co.uk](http://www.jameshay.co.uk), or on request.

If the ex-spouse/civil partner transfers to another pension scheme, they will need to contact the appropriate pension provider for further details.

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### Transfer out of pension credit

Upon receipt of the Pension Credit Transfer Request Form completed by the ex-spouse/civil partner and the receiving scheme, and sufficient monies to

fulfil the terms of the pension sharing order, we will transfer the funds representing the pension credit, provided the receiving pension scheme is able to accept the transfer.

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### Death benefits for pension credit

If the ex-spouse/civil partner dies after the Court Order has come into force, but before the pension credit has been completed, we will act as if the ex-spouse/civil partner had survived and opened a plan with us, and that the pension credit had been completed prior to death.

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## C: Schedule of charges

### Not applicable to IPS SIPP and IPS (2008) SIPP

Under legislation, a scheme administrator can recover costs in relation to implementation of a pension sharing order. Charges are payable at the time of transfer. If the transfer does not proceed but an ad-hoc valuation was requested, our standard fee for this service will be charged.

### Schedule of charges for pension sharing

In order to recover the costs involved in setting up a pension credit for the ex-spouse/civil partner and transferring it to a new pension plan or arrangement, we will apply an hourly charge of £150 plus VAT on a time/cost basis, which is applied in 15 minute increments (i.e. £37.50 plus VAT per 15 minutes).

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### Finally

We appreciate that this can be a difficult time for both of you. Therefore, to ensure a swift conclusion to the pension credit transfer for all parties, please contact us if you have questions about any aspect of the pension sharing order and the transfer process.

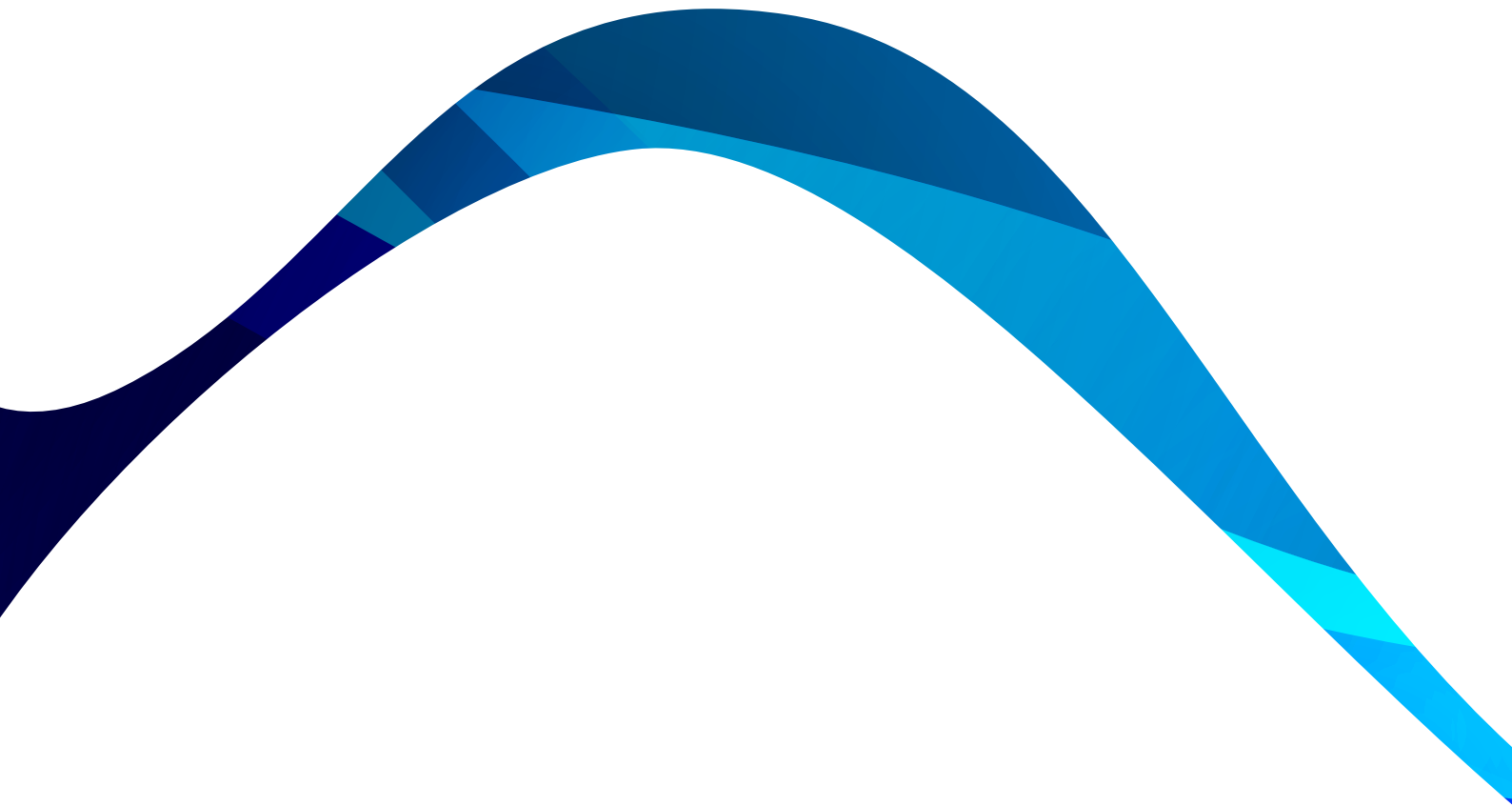
### Notes

**The scheme administrator will deduct the charges from the original SIPP member's designated account, unless the Court Order allows the charges to be deducted from both parties.**

**We estimate that the setting up of a pension credit will take five hours, but reserve the right to make further charges if the case is protracted.**

**If the pension credit is transferred to a new James Hay SIPP then the standard James Hay SIPP charges for administering the pension plan will apply, but the charges for setting up the plan will be waived. However, we reserve the right to make a charge if the case becomes protracted.**

**Important Information:** This factsheet is issued by us for use in connection with products provided by James Hay Partnership. James Hay Partnership does not accept any liability if the information provided in this document is used for any other purpose. This factsheet is based on our understanding of current UK legislation and HMRC practice at the date this document was produced. The tax treatment depends on the individual circumstances and may be subject to change in the future.



We are able to provide literature in alternative formats. For a Braille, large print, audio or E-text version of this document call us on 03455 212 414 (or via the Typetalk service on 18001 03455 212 414).

James Hay Partnership is the trading name of James Hay Partnership Management Limited (JHPM) (registered in England number 02538532); James Hay Services Limited (JHS) (registered in Jersey number 77318); IPS Pensions Limited (IPS) (registered in England number 2601833); James Hay Administration Company Limited (JHAC) (registered in England number 4068398); James Hay Pension Trustees Limited (JHPT) (registered in England number 1435887); James Hay Wrap Managers Limited (JHWM) (registered in England number 4773695); James Hay Wrap Nominee Company Limited (JHWNC) (registered in England number 7259308); PAL Trustees Limited (PAL) (registered in England number 1666419); Sarum Trustees Limited (SarumTL) (registered in England number 1003681); The IPS Partnership Plc (IPS Plc) (registered in England number 1458445); Union Pension Trustees Limited (UPT) (registered in England number 2634371). JHS has its registered office at Aztec Group House, 11-15 Seaton Place, St Helier, Jersey, JE4 0QH. JHPM, IPS, JHAC, JHPT, JHWM, JHWNC, PAL, SarumTL, IPS Plc, and UPT have their registered office at Dunn's House, St Paul's Road, Salisbury, SP2 7BF. JHAC, JHWM, IPS and IPS Plc are authorised and regulated by the Financial Conduct Authority. (3/21)