



Why Instruct a Pensions Expert?

Often in divorces, pensions are the second largest asset behind the matrimonial home, and sometimes the largest. It is important for both parties that they understand the real values of the pensions and the options they have with the pensions.

Valuations

Divorcing parties are obliged to obtain the Cash Equivalent Value (CEV) of their pension in Financial Remedy proceedings, but this does not give the whole picture:

- £10,000 of CEV in a public sector final salary pension will give the party a far greater income than £10,000 of CEV in an insurance company private pension.
- A pension promise of say £10,000 pa in one scheme may have a different CEV from another scheme offering an identical pension promise of £10,000 pa.

An expert will be able to look through these incomparable values, and suggest ways in which like can be compared with like.

Equality of CEV or Equality of Income

Many people see pensions as unlike any other asset. It is not comparable with a bank account or share portfolio or home – all of which have a realisable capital value. Instead a pension is a future income stream.

Given that a pension is a future income stream, divorcing parties often want their future incomes to be equal – not the notional capital value (the CEV). If equality of future income is required, then usually it is necessary to instruct an expert to do the necessary calculations.

Which pensions to share

Often the parties will have a number of pensions, and there is a choice as to which pension should be shared. Choosing the wrong pension to share could result in both parties having considerably less pension per annum in their retirement.

Alternatives to pension sharing

Pension sharing is not the only option available to parties to address an imbalance in pension assets upon divorce. Other remedies such as offsetting and (less frequently) Attachment orders do exist. Valuing pensions for offsetting, especially if they are final salary pension schemes can be very difficult, and the expert should be able to help the parties understand these options, and how to value pensions for offsetting.

Other Issues

- An expert will often identify issues which have been overlooked by others, such as the fact that one party's pension may not benefit from annual increases, whereas the other party's pension increases each year in line with inflation.
- Some insurance company private pensions have "hidden values" such as guaranteed annuity rates, which if missed could lead to a distortion in the settlement, or if a pension sharing order is made over such a policy, a destruction of real value.



Other Issues

- Some schemes are extremely complicated – such as the Uniformed Services (Armed Forces, Police, and Fire) and a lack of understanding of the benefits in such a scheme, or how a pension sharing order will be implemented, could lead to serious unforeseen issues.
- Some schemes will allow the beneficiary of the pension sharing order a choice – either to retain the pension credit awarded within the scheme, or to transfer the credit into a scheme of their own choosing. Where such a choice exists, it is important that the ramifications are understood.
- In some cases it is suggested that pensions accrued either before marriage or cohabitation, or accrued post separation will need to be ignored. This is a trickier job than many realise, and to do the necessary calculations in an equitable way often requires the input of a pension expert.

In Conclusion

There is an emergence of firms specialising in negligence claims where pensions have not been considered adequately in divorce cases. There is a very good reason for this – pensions are incredibly complex, and their value is often not appreciated. Whilst parties may be reluctant to spend money to get expert advice, the cost of such advice can pale into insignificance against the cost of getting it wrong.

In addition, the instruction of a Single Joint Expert can save an awful lot of time and money in debate and argument.