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Breaking up is hard to do

Managing the financial impact of divorce

When long-term relationships split up, there are a host of implications for mortgages, savings, tax and Wills requiring careful consideration to avoid hardship.

If you are contemplating divorce, are in the middle of divorce proceedings or dissolving a civil registered partnership, it's important to understand how the current economic and financial situation could affect you?

The coronavirus (COVID 19) pandemic impact on financial markets highlights the importance of obtaining expert professional advice when it comes to dealing with pension assets on divorce. Many couples may have a number of pension assets between them. Understanding the different types of scheme and how their values might be affected by stock market fluctuations is crucial.

DIFFERENT TYPES OF SCHEME

Some defined benefit pensions such as public sector or final salary schemes guarantee a certain level of income on retirement. Usually, this is based on years of service and the final salary of the pension member. Conversely, the capital value and therefore income for private money purchase

pensions are linked directly to the performance of the investments.

Even if at the given date the fund value or cash equivalent of the two types of pension arrangements are the same, the value of the underlying benefits and the reliability of the income stream may differ considerably.

PENSION SHARING ON DIVORCE

Two decades on from the introduction of pension sharing on divorce, the issue remains a hugely complex area that can spark highly emotive battles with no guarantee of equality. Pension Sharing Orders determine how pension assets are divided between the parties, have to be expressed as a percentage of the fund being divided, rather than a monetary figure, so the amount paid to the recipients pension fund can differ quite significantly in value to what was originally intended.

If you are close to retirement age and were planning to draw down on the pension part of the settlement in the near future, hoping the

proposed share would produce a certain level of income, you may need to consider thinking again. One option is to consider a nominal maintenance order to hedge against anticipated income not meeting your needs.

MOST COMMON REASON GIVEN

Unreasonable behaviour was the most common reason given for opposite-sex couples divorcing in England and Wales published in the latest divorce statistics by Office for National Statistics (ONS)^[1] with 49% of wives and 35% of husbands petitioning on these grounds.

It was also the most common reason for same-sex couples divorcing, accounting for 63% of divorces among women and 70% among men.

WHAT ARE THE DIFFERENT OPTIONS TO CONSIDER?

When couples divorce it is important they note that there are different options for how they divide pension assets between them, including:



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- **Offsetting:** where the pension assets can be offset against other assets of the divorcing parties. For example, one party may wish to stay in the marital home in lieu of receiving part of their ex-spouse's pension rights.
- **Pension sharing orders:** where pension assets are divided at the time of divorce and there is a clean financial break.
- **Pensions attachments orders:** where the pension provider of one party pays an agreed amount direct to the former spouse when the pension rights come into payment. This does not represent a clean financial break between the couple and risks the loss of future income for the former spouse if the person with the pension rights dies before retiring or the former spouse remarries.

RESOLVING ASSOCIATED MARRIAGE FINANCES

The COVID-19 pandemic has thrown many of us into a difficult period of uncertainty and has had a profound impact on every aspect of our lives. This has presented particular challenges for separating couples who wish to resolve the finances associated with their marriage especially where there are pensions to be considered within their settlement.

There has been a reduction in the stock market so any pension plan which has invested

in shares may have decreased in value. Add to this a reduction in interest rates, which has decreased the gilt rate making it more expensive to purchase annuities. This has resulted in an increase to Cash Equivalent Transfer Values (CETVs) for defined benefit schemes (usually final salary pensions).

Anyone going through a marital breakup can be forgiven for wanting to temporarily set aside thoughts about Wills, trusts and retirement for another time. However, it's a chapter in life when people involved need to deal with both their emotional and financial well-being. ■

HELPING YOU MAKE THE RIGHT DECISIONS

Untangling finances during divorce is complex and decisions made at the time can have huge and long-lasting consequences for you and your finances. We understand that divorce can be extremely stressful particularly where money matters are concerned. To talk to us about your particular situation, please contact us.

Source data:

[1] <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/divorce/bulletins/divorcesinenglandandwales/2019>

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