

## Divorce and Pensions

On divorce, the parties are required to provide full financial disclosure which includes information regarding any pension provision.

Pensions can be valuable assets and are often overlooked by the parties when they informally have discussions about finances on separation, which tend to concentrate on income and capital, particularly the family home.

Fund values should be obtained in respect of pension funds, whether they are private or occupational, in payment or not in payment. If pensions are significant, it may be appropriate to instruct an Actuary to provide a report which will give detailed calculations which could include how to equalise pension income.

There are three ways in which a pension can be dealt with:

1. **Pension Sharing Order** – This is an Order made in Divorce or Partnership Dissolution Proceedings whereby a percentage of the pension is transferred to a Spouse. Where the pension fund is a public sector pension, the public sector pension will be reduced in proportion to the stated Order and the Spouse receiving the benefit will receive a pension credit and become a member of that public pension scheme in their own right. In respect of other pensions such as private pensions, there may be an option to transfer the pension credit to a new scheme and specialist pensions' advice from a financial advisor would usually be recommended.
2. **The value of the pension is offset against other assets** – Pension funds however are not treated the same as available capital and there is no set formula. Offsetting works by taking the value of one parties' pension provision and setting it off against other assets and the rest of the settlement is adjusted to reflect that one party has greater pension provision than the other. Difficulties can arise in deciding the value to place on the pension rights because pension funds are not directly comparable with other assets. It is often recognised that cash in hand is of greater value than future income payable over an extended period. Again this is a matter that can be addressed by an Actuary in their Report.
3. **Attachment Orders** – Attachment Orders will specify a percentage of the pension payment to be paid to a Spouse. This is similar to a maintenance payment directly from one persons' pension pot to their former Spouse or Civil Partner. Under this arrangement money from a tax free lump sum can also go to the former Spouse or Civil Partner. Percentages apply to pension rights earned after the divorce as well as before. Attachment Orders however cease on the death of either party or if the party receiving the payment re-marries. Attachment Orders unlike Pension Sharing Orders can be varied after divorce if the circumstances change. They are not usually recommended, primarily because they cease on re-marriage or death.

For further advice about financial settlements on divorce and separation, please contact Steven Barratt or Heather Weavill at Alison Fielden & Co on 01285 653 261. ([www.alisonfielden.co.uk](http://www.alisonfielden.co.uk))