



# Pensions on divorce



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### Points to consider when dealing with pension assets

Pensions may be one of the most valuable assets that has to be considered when resolving financial matters, generally second only to the value of the family home. Whilst valuing a family home can be quite straightforward, pensions can be extremely difficult to ascribe a value to. Expert consideration may be required to help consider how the pensions are dealt with in the overall division of assets. The aim is to ensure that pensions are dealt with fairly and to avoid discrimination between the parties. This requires pensions to be dealt with as a separate asset category to say, property or investments, due to the difficulty in ascribing a value to them. Their complexity, however, is not an excuse to ignore pensions, as to do so could be to the detriment of one party.

The first step is look at the pensions that both parties may have, to include their entitlement to Additional State Pensions. When a pension company provides a value of a pension scheme, the initial information provided does not always include the benefits that are attached to that scheme. Therefore, further enquiries will need to be made of the pension company to ensure that all relevant information is obtained regarding the value of the pension, the associated benefits and the rules of the pension scheme. Each pension scheme will have different rules about how a pension may be divided, so it is important to ensure you have all the relevant information at hand. It may be necessary to instruct an independent pension expert to help determine the true value of the pension scheme and to help calculate the division of the pension fund(s), especially since different types of pension schemes may produce very different types of income in retirement.

There are a number of options available when it comes to dividing a pension. One option is to divide the pension by means of a Pension Sharing Order. This is where a percentage of one party's pension is transferred to the other party. That transfer could be to an entirely separate pension fund that the recipient has chosen, or to the same pension scheme as your former partner. The rules for each pension scheme will determine which options are available to you. Independent financial advice should be obtained to help determine the most suitable pension scheme for you.

A second option is when a proportion of a pension is paid to a former partner, when the pension is being paid out. This is called a Pension Attachment Order. Although such Orders are rarely made, they may nevertheless be relevant in certain circumstances and careful consideration will need to be given to determine the appropriateness of such an order.

One final method of dealing with pensions upon divorce, is called off-setting. This method is quite commonplace, although it means that the pension is no longer considered within its own asset category, but rather it is considered together with other assets, for example property. This method provides an alternative to sharing a pension, where one party wishes to retain more of the other assets and for their former partner to keep their entire pension fund. This may occur for example where one party wants to remain in the family home. Some future retirement security, however, may be sacrificed for immediate capital security, which is not always fair. Trying to calculate a fair 'trade' between available capital now and a future pension is extremely difficult not least because both assets are so different in their nature. Again, expert pension advice may be required in order to ensure that the agreement reached is a fair one.



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Although parties may reach an agreement about how to resolve the issue of pensions, a Court Order will be required if pensions are to be shared, whether by way of a Pension Sharing Order or a Pension Attachment Order.

We can provide you with the necessary advice regarding your options in respect of pensions and instruct expert pension advisors and independent financial advisors to help ensure that a fair division is agreed.

