Pensions & divorce

by Hazel Brown, Carbon Financial Partners Limited

During a divorce it is relatively easy to value and divide assets like property, savings and investments, but what about pensions? Pension funds can be very valuable, but what are the options for using them or claiming a share?

In Scotland, normally only those pension rights built up during the period of the marriage or civil partnership will be regarded as marital assets.

Pension offsetting is probably the simplest and least expensive means of reaching settlement. This allows the pension fund to be set against the value of other assets and provides a 'clean break'. Pension funds can, however, be inaccessible so, whilst this can be simple, it may not be practical or acceptable to both parties.

Pension earmarking requires part of the retirement pension to be paid to the former spouse, or civil partner, when the member retires or dies, which means no money has to change hands at the point of divorce. The disadvantages are that there is no 'clean break': the pension member keeps control of the investment and timing of when the pension is paid.

Pension Sharing allows pension rights to be divided at the time of the divorce. Part of the member's pension rights are awarded to the former spouse or civil partner as a pension credit. This provides pension benefits in their own right, independent of the member's benefits. This provides a 'clean break' between the parties, each has independent pension benefits under their own control and these rights are unaffected by the other's subsequent death or remarriage.

Make sure you know what charges your spouse's pension scheme will levy for implementing the sharing order. You may be able to pay these from your share of any pension credit.

The value of the pension is normally referred to as a cash equivalent transfer value (CETV).

Money purchase or defined contribution schemes are easily valued – a phone call to the scheme provider and you should have a valuation on the phone or within days. Caution is required where penalties apply; these can often be avoided by taking advice about the best time to request the transfer.

Final salary or defined benefits schemes (offered by large employers) are much more complex and, where the fund is substantial, it may be a good idea to have an actuary provide an independent valuation.

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