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THE PENSIONS EXPERTS

REPORT

For
Family Court at Court Name
Re Case Number: Case Ref

In respect of

Husband's Full Name's
&
Wife's Full Name's

PENSION RIGHTS
AND
PENSION SHARING OPTIONS
Prepared by

Heather Dunne ACII FPFS
Chartered Financial Planner

Dated

Date of Report

The Pensions Experts Ltd, registered in England and Wales, Company Number 11518193
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Results

This report undertakes to assess the proportion of benefit which should be transferred from Wife's Full Name (Wife) to Husband's Full Name (Husband), as of Date of Calculations, to arrive at an equal split of pension. This considers all current sources of benefit, including the State Pension.

The following table brings together results, designed to achieve Parity of Income as instructed, based on both total (Full) benefits and those accrued since they commenced cohabiting on Cohabitation commenced, as instructed, until the date of separation (Cohabitation finished).

Summary of Results - Parity of Income		
Application of Pension Sharing Order for Parity of Income Based on benefits due at Normal Retirement Age		
Pension	**Full**	**Period of Cohabitation**
Her pension one full name	PSO%	PSO%
Her pension two full name	Nil	Nil
Application of Pension Sharing Order for Parity of Income Based on benefits due at Equivalence Age of 67		
Pension	**Full**	**Period of Cohabitation**
Her pension one full name	PSO%	PSO%
Her pension two full name	Nil	Nil
These figures should be quoted on the Pension Sharing Order submitted to the scheme		
Associated Fees for Application of Pension Sharing Order		
Total PSO Fees including VAT (PSO Fee+ VAT for Her pension one full name) To be split equally between both parties		**Half PSO Fee each**

The next table, overleaf, sets out the alternative Offsetting Value required, as of Date of Calculations, to achieve Parity of Income:

Offsetting Value of PSO to achieve Parity of Income			
	Full	**Period of Cohabitation**	**Recipient**
Parity of Income at relevant Normal Retirement Age	Offset Sum	Offset Sum	Husband
Parity of Income at Required Equivalence Age (67)	Offset Sum	Offset Sum	Husband

I have set out below a summary table drawing together the Income following the application of the Pension Sharing Order aiming for Parity of Income, as of Date of Calculations:

Husband's Full Name & Wife's Full Name Income After Pension Sharing Order - Parity of Income				
Wife Parity at	**Normal Retirement Age**		**Age 67**	
	Full Benefits	**Period of Cohabitation**	**Full Benefits**	**Period of Cohabitation**
Her pension one full name	Income	Income	Income	Income
Her pension two full name	Income	Income	Income	Income
State Pension	Income	Income	Income	Income
Total	**Income**	**Income**	**Income**	**Income**
Husband Parity at	**Normal Retirement Age**		**Age 67**	
	Full Benefits	**Period of Cohabitation**	**Full Benefits**	**Period of Cohabitation**
His pension one full name	Income	Income	Income	Income
His pension two	Income	Income	Income	Income
His pension three	Income	Income	Income	Income
Pension Credit	Income	Income	Income	Income
State Pension	Income	Income	Income	Income
Total	**Income**	**Income**	**Income**	**Income**

Please note the period of cohabitation figures, are the full figures, adjusted in relation to period of cohabitation, hence the deduction and impact of pension credit are smaller than the figures based on full benefits.

These figures are drawn together here for the ease of the parties, their representatives, and the court. They should not be relied upon without an understanding of the underlying issues as explained herein.

Recommendation

In my view the Pension Sharing Order of PSO% should be applied to Wife's Her pension one full name, because:

- That is the largest benefit and so only one of Wife' Pensions is affected.
- That has already been adjusted due to the impact of the McCloud Remedy.
- The Her pension one full name is Defined Benefit and offers Husband the facility to become a Pension Credit Member. That allows him to benefit from the same level of security and format of benefits as Wife.
- Wife is not accruing benefits in Her pension one full name changing the value between report and implementation. It is for that reason I have excluded the Her pension two full name.
- The value of the Her pension two full name benefits is not large enough to match the sum due. Utilising that portion of the benefit first requires two Pension Sharing Orders with associated additional legal and administrative costs.
- If the Pension Sharing Order were to be split, it would be essential to revisit the figures at the point of implementation, because Wife is still accruing benefits in the Her pension two full name. So, 100% of that will be a larger sum, and the reduction due on Her pension one full name should be reduced accordingly. In view of the delay between court order and implementation, this would create a larger debt to Wife and so be inequitable.
- If the Pension Sharing Order is applied first to the Her pension two full name, Husband acquires a much larger benefit than Wife loses. That results in an equitable post Pension Sharing Order income.
- This is based on Parity of Income; income in retirement is the purpose of a pension.
- This relies on when the benefits are due, as against some other arbitrary age.

Contents

Underlying Calculations

This report is intended for use by Husband's Full Name & Wife's Full Name, their solicitors, legal representatives, advisers, and the Court; to assist the parties to achieve a pension settlement for divorce purposes. This is not legal opinion and should be treated as having the equivalent of "without prejudice" status.

The information on the pension rights and the options available have been described in plain English where possible.

1. Instructions

I have received a joint instruction from the solicitors representing Husband's Full Name & Wife's Full Name.

I have set out the details of both Husband's Full Name & Wife's Full Name's legal representation in the table below:

Legal Representation		
Party	Husband's Full Name	Wife's Full Name
Legal Representative	Solicitor	Solicitor
Firm	Firm name	Firm name
Email	Email address	Email address

For ease I will refer to Husband's Full Name as Husband and Wife's Full Name as Wife throughout the remainder of this report.

The Letter of Instruction sets out the following requirements:

- The appropriate Pension Sharing Order to achieve Parity of Income at Normal Retirement Age and at the age of 67.
- Based on total value and that accrued during the Period of Cohabitation. Husband and Wife started cohabiting on Cohabitation commenced and separated on Cohabitation finished.
- An estimate of the potential income available to both parties after application of the proposed Pension Sharing Order.
- The alternative Offsetting Value to achieve the same aim of Parity of Income for both parties.

- Provide two sets of figures, one based on total accrual and the other allowing for the benefits earned during the Period of Cohabitation (Cohabitation commenced to Cohabitation finished).
- Assess the Cash Equivalent Value of Wife's Her pension one full name and Her pension two full name.

In undertaking these instructions, I have:

- Discussed methods of evaluating Her pension one full name and Her pension two full name and explained the best option. The resulting value is utilised in the subsequent calculations.
- I have also considered the relevance and impact of the McCloud Remedy.

All of these computations are based on:

- Existing pension provision
- State Pension Benefits
- Adjustments for Health
- Relevant allowances for Age differential
- Period of Cohabitation (Cohabitation commenced to Cohabitation finished)
- Assumptions outlined in Appendix One.

2. Data Ascertained

This is a brief summary of the details obtained. If any of the information detailed is incorrect, please let me know as soon as possible, because it may undermine the validity of the calculations and accuracy of the report.

2.1 Personal Data

I have set out below details of the Personal Data used in this report:

Personal Data used in this report	
Date of Cohabitation	Cohabitation commenced
Date of Marriage	Date of Marriage
Date of Separation	Cohabitation finished
Husband Date of Birth (age)	DOB (current age His Age)
Wife Date of Birth (age)	DOB (current age Her Age)

a. Apportionment

I have been instructed to consider accrual during the Period of Cohabitation and so undertaken an apportionment of pension accrued by Husband and Wife between Cohabitation commenced and Cohabitation finished as against the total benefits held in each plan. That has been undertaken on a simple straight line basis against dates of service or contribution as relevant to each plan.

b. Husband and Wife's Health

I have been advised that neither party has any health issues that they believe will impact on their longevity. In these circumstances, no adjustment is required with respect to mortality.

2.2 Pension Data

I have obtained details of both Husband and Wife's pensions from a variety of sources.

- I reviewed the details provided within the Letter of Instruction.
- I examined any other pension documentation supplied with the Letter of Instruction.

- I studied any paperwork provided subsequently by the instructing solicitors.
- I obtained details from my own library of pensions, which I have built up over many years.
- I researched additional information via the relevant provider or scheme website.
- I submitted a request to the pension provider for specific details not covered.
- I analysed the responses from the providers.
- I collated that information on an excel spreadsheet, which I designed for this purpose.

I have not listed each and every piece of documentation but can provide that information on request.

Where necessary I queried details which appeared inconsistent until I was satisfied the information provided was accurate and complete. If I have any remaining concerns, they are set out in Section 3 together with my other explanations about the individual pensions.

2.3 State Pensions

The table below summarises the State Pension information ascertained:

State Pension Forecasts		
Individual	**Husband**	**Wife**
Date of Forecast	Date of SPF	Date of SPF
Age Due	SPA	SPA
Already accrued	State Accrued	State Accrued
Potential Maximum Pension	Max State	Max State
Additional NIC Required	NI due	NI due

3. Value of Existing Pensions

I am not aware of any other pension rights than those described here. If any are discovered after preparation of the report, revisions to the computations will be required, for which an appropriate fee will be charged.

3.1 Husband's Benefits

I have been advised Husband has pension benefits as follows:

- His pension one full name, referred to as His pension one.
- His pension two Personal Pension, termed His pension two.
- His pension three, which I will call His pension three.
- State Pension Benefit – due at age 67.

Husband accrued some of the His pension one whilst they were together. The His pension three was arranged whilst they were cohabiting, and he has accrued the His pension two since they separated.

The tables below and overleaf set out the values of Husband's benefits:

Husband's Total Pension Provision					
Pension	**Type of Plan**	**Normal Retirement Age**	**As at Date**	**Cash Equivalent Value**	**Capital Value**
His pension one	DC[1]	67	Date	CEV	CEV
His pension two	DC[1]	65	Date	CEV	CEV
His pension three	DC[1]	65	Date	CEV	CEV
State	State	67	Date of SPF	N/A	Capital Value
TOTAL Values				**Total CEV**	**Total CapV**

1. DC = Defined Contribution

Husband's Pension Provision - Adjusted for Period of Cohabitation					
Pension	**Type of Plan**	**Normal Retirement Age**	**As at Date**	**Cash Equivalent Value**	**Capital Value**
His pension one	DC[1]	67	Date	Part CEV	Part CEV
His pension two	DC[1]	65	Date	Nil	Nil
His pension three	DC[1]	65	Date	CEV	CEV
State	State	67	Date of SPF	N/A	Part CapV
TOTAL Values				**Total CEV**	**Total Part CapV**

2. DC = Defined Contribution

a. Cash Equivalent Value and Capital Value

The Cash Equivalent Value is the figure provided by the His pension one, His pension two, and His pension three and the sum available if funds were to be moved. There is no Cash Equivalent Value attaching to the State Pension.

The Capital Value is the one I attribute to each pension to enable me to compare Husband and Wife's benefits, based on purchasing an annuity, in accord with the assumptions set out in Appendix One.

The Capital Value is identical to the Cash Equivalent Value for the His pension one, His pension two, and His pension three, because they are Defined Contribution, and the benefits depend simply on what the fund can provide.

b. His pension one

This is a Personal Pension and relates to Husband's service with Ex Employer, between DOJ and DOL

c. His pension two

This is also a Personal Pension and relates to Husband's current employment. The plan started on Commencement Date. The premiums are ongoing, and the value includes the last payment prior to valuation on Date.

d. His pension three

This is a Section 32 pension, which is designed specifically to hold a transfer from a previous occupational scheme. This also relates to Ex Employer service until Date and was accrued in the Previous Pension. The monies were transferred to His pension three in Date.

3.2 Wife's Benefits

I understand Wife has the following pensions:

- Her pension one full name, referred to as Her pension one.
- Her pension two full name, termed Her pension two.
- State Pension Benefit – due at age 68.

Wife accrued a portion of the Her pension one benefits during the Period of Cohabitation (Cohabitation commenced to Cohabitation finished). The entirety of the Her pension two was accrued post separation.

The tables below and overleaf set out the values of Wife's benefits:

Wife's Total Pension Provision					
Pension	**Type of Plan**	**Normal Retirement Age**	**As at Date**	**Cash Equivalent Value**	**Capital Value**
Her pension one	DB[1]	60	Date	CEV	CapV
Her pension two	DB[1]	68	Date	CEV	CapV
State	State	68	Date of SPF	N/A	CapV
TOTAL Values				**Total CEV**	**Total CapV**

Wife's Pension Provision based on Period of Cohabitation					
Pension	**Type of Plan**	**Normal Retirement Age**	**As at Date**	**Cash Equivalent Value**	**Capital Value**
Her pension one	DB[1]	60	Date	Part CEV	Part CapV
Her pension two	DB[1]	68	Date	Nil	Nil
State	State	68	Date of SPF	N/A	Part CapV
TOTAL Values				**Part CEV**	**Part CapV**

1. DB = Defined Benefit

a. Cash Equivalent Value & Capital Value

As explained in relation to Husband's pensions, the Cash Equivalent Value is the figure provided by the Her pension one and Her pension two and the sum available if funds were to be moved. There is no Cash Equivalent Value for the State Pension.

The Capital Value is the one I attribute to each pension to enable me to compare Husband and Wife's benefits, based on purchasing an annuity, in accord with the assumptions set out in Appendix One.

b. Her pension one

Wife could potentially retire on Date, by which point she will be Age. This reflects the scheme rules and her lengthy service.

The Cash Equivalent Value has been calculated based on benefits being due at age 60. This is because the legislation requires the pension providers to treat the member as deferred when undertaking the calculation. In that scenario the benefits would be due at age 60. I have therefore based my computations on them being drawn then.

It is not possible to defer drawing benefits from the Her pension one. The pension must be taken at or before age 60. If the benefits are drawn later the scheme will pay the pension as though the member had retired at 60. In practice that means any arrears of pension will be paid as a taxable lump sum. This may also impinge on the member's eligibility to a tax free cash sum. This restriction also applies to any Pension Credit in that section of the Police Pension Scheme.

c. Her pension two

This scheme was introduced in April 2015. Following the McCloud judgment (see later) adjustments were required. These have been completed for this member.

The active Normal Retirement Age for his plan is age 60. For deferred members it increases to State Pension Age, which is Wife's State Pension Age. Again, in accord with legislation the Cash equivalent Value assumes Wife has left service and so is due at age Wife's State Pension Age.

3.3 Evaluation of Wife's Cash Equivalent Value

There are three main options for considering the value of Defined Benefit pensions like Wife's Her pension one and Her pension two:

- Cash Equivalent Value.
- An alternative actuarial value e.g., a value based on amortising the fund down to zero balance at median life expectancy.
- The Defined Contribution Equivalent, which means the cost of matching the benefits via annuity purchase.

a. Cash Equivalent Value

The Cash Equivalent Value (CEV) is the actuarial assessment of the cost to scheme of providing the benefits. This is based on numerous assumptions determined by the Scheme Actuary most of which will be scheme specific. This means that the figure will not be comparable to that offered by another Defined Benefit Scheme.

b. Actuarial Value

An alternative actuarial value will have the merit of being on a consistent basis for all Defined Benefits Schemes. However, as there is no prescribed basis this would involve introducing my own assumptions, which adds another layer of additional complexity. That would inevitably differ to any figures provided by an alternative Pension on Divorce Expert, which could create additional costs in terms of legal fees. Furthermore, it will not be appropriate for comparing values with Defined Contribution Schemes.

c. Defined Contribution Equivalent

The Defined Contribution Equivalent is the most suitable alternative because it converts the price assessed by the scheme into the cost to an individual for those same benefits. It enables a direct comparison between all types of pensions held by the two parties. I term that the Capital Value and it enables me to assess the Cash Equivalent Value quoted by the scheme.

d. Assessment

The results of my calculations are set out in the table below:

Pension	Cash Equivalent Value (CEV)	Capital Value	CEV as proportion of Capital Value
Her pension one	CEV	CapV	Proportion%
Her pension two	CEV	CapV	Proportion%

The Capital Value used for this purpose is based on the cost of providing the benefits at the relevant scheme Normal Retirement Age. This reflects the methodology used in the Cash Equivalent Value calculation, which is also assessing the cost of the benefits due at the Normal Retirement Age.

Generally, the Cash Equivalent Value is around two thirds of the Capital Value. This reflects the cost savings within the Defined Benefit scheme, which provides the pension out of the fund (or in the case of Public Sector Schemes the Treasury) as against purchasing an annuity with an insurance company or other provider which incorporates various charges.

The comparison above confirms that, as expected, the Her pension one and Her pension two are offering a good Cash Equivalent Value. Following the latest actuarial review this is usually the case with respect to most Public Sector Schemes. This is less relevant in relation to the impact of the Pension Sharing Order, as the option available to Husband is to become a Pension Credit member, which means there is no need to match the benefits in the alternative Defined Contribution environment. It is still appropriate to value the benefits in that way to allow for a direct comparison between all benefits.

The evaluation also shows that the Her pension two offers a better (higher) Cash Equivalent Value as compared with the Capital Value. This would normally lead me to suggesting the Pension Sharing Order is applied to the Her pension two; to ensure the value foregone by Wife is as close as possible to the benefit gained by Husband. However, Wife is continuing to accrue benefits and so the value of that will increase between now and implementation. Also, my detailed comparison of that option confirms the resulting pension income available to both parties would be very different.

Following my detailed evaluation, I am somewhat concerned that the Cash Equivalent Value provided for the Her pension two is incorrect. I have considered the impact of that on my calculations. As those are based on the promised income the Cash Equivalent Value has no real effect on my computations. Additionally, as I am suggesting the Pension Sharing Order is applied to the Her pension one the Cash Equivalent Value of the Her pension two it is not directly relevant. I have not therefore delayed production of the report by questioning this.

e. McCloud Remedy

Significant changes were made to Public Sector Pensions including Her pension one and Her pension two on 1st April 2015; hence Wife has benefits in the Final Salary and CARE Sections. When these alterations occurred, those members closer to retirement were insulated from these changes. In 2018 the Courts found that younger members had been discriminated against because the protections did not apply to them. That has led to subsequent changes being made to remove that age discrimination, called the McCloud Remedy. The Remedy Period (the period of service impacted) is from 1st April 2015 to 31st March 2022. This is because all members of the Her pension one were moved to CARE irrespective of age from 1st April 2022, so any discrimination ceased then.

All members will be provided with a Deferred Choice Underpin. This will set out details of their benefits if they draw them based on current provision i.e., CARE benefits or under the Transitional Protection option, which is effectively Final Salary.

For deferred members, the CARE section provides benefits at State Pension Age and they can be taken earlier, with appropriate reductions, or later with relevant increments. The Final Salary benefits are due at age 60 and if deferred (taken at a later age) are not increased or revalued. This means that for most members who decide to take benefits at the Normal Retirement Age of the CARE Section, the benefits as they stand will be higher. If an individual wishes to consider retiring at age 60, the Final Salary benefits are likely to be higher, because the actual pension accrued each year is larger. There will be a crossover point between the two ages, at which the benefits in the CARE Section will exceed those available from the Final Salary Section. Police Pensions will be providing two Benefit Statements covering the Remedy Period, so members can consider the two options at retirement, which is when they are required to make their choice. This is why it is termed the Deferred Choice Underpin.

The Cash Equivalent Value has been prepared based on the highest current benefits and i.e. allowing for benefits to be rolled back into the older section. The Pension Sharing Order figures are therefore also on that basis.

4. Income Available from Existing Pensions

Having looked at the face values of the benefits and considered how those need to be adjusted to enable a direct comparison, I shall now consider the income available from them.

4.1 Calculating Husband's Pension Income in today's terms

Husband's His pension one, His pension two, and His pension three are Defined Contribution and so the income depends on the fund value available when the individual decides to draw benefits. Though other options can be taken, I have evaluated the income available using an open market current annuity cost, to ensure they are directly comparable with other benefits and the State Pension.

That is calculated both at the relevant Normal Retirement Age of the plan (67 for His pension one and 65 for His pension two and His pension three) and at the Equivalence Age of 67 and then discounted back to now, so the figures are in today's terms.

4.2 Calculating Wife's Pension Income in today's terms

Wife's Her pension one and Her pension two are Defined Benefit Schemes, which promise a certain level of pension at the assumed date of leaving. To calculate the sum due in today's terms, I have revalued that until the relevant Normal Retirement Age (60, and 68, respectively) in accord with the scheme rules. It is then adjusted by application of an early or late retirement factor if required, to ascertain the value at the Equivalence Age of 67.

Wife's Her pension one does not offer any enhancement between the relevant Normal Retirement Age and 67, so it is the same monetary amount which is paid at both dates.

I have then then discounted that projected figure, in both cases, for the relevant period, to the current day allowing for inflation.

4.3 Estimating State Pensions in today's terms

In Section 2.2 I summarised the details ascertained from Husband and Wife's State Pension Forecasts. I identified the amount already accrued, which is relevant as this report is based on existing benefits. I also noted the age the benefits are due. I have estimated the pension due allowing for increases in line with Consumer Prices Index from the tax year end on which the forecast was based until that age. I have then discounted that back in line with inflation to ensure the resultant figure is in today's terms.

I have been instructed to consider the benefits available at age 67, which is before Wife's State Pension Age. It is not possible to draw benefits early and so I have calculated a theoretical value based on inverting the Statutory Late Retirement Factor and applying it to the pension revalued to that age. That has again been discounted in line with inflation, so the figures are stated in today's terms.

4.4 Husband's Pension Income

I have summarised the results of my computations of the potential income, in today's terms, from Husband's existing pensions in the table below:

Husband's Total Pension Income in Today's Terms					
Pension	**Normal Retirement Age**	**Pension due at Normal Retirement Age**		**Pension due at Equivalence Age (67)**	
		Total	**Period of Cohabitation**	**Total**	**Period of Cohabitation**
His pension one	67	Income	Part Income	Income	Part Income
His pension two	65	Income	Nil	Income	Nil
His pension three	65	Income	Income	Income	Income
State	67	Income	Part Income	Income	Part Income
TOTAL		**Income**	**Part Income**	**Income**	**Part Income**

The Period of Cohabitation figures are a straightforward proportion of the full benefits, based on Cohabitation commenced to Cohabitation finished.

4.5 Wife's Pension Income

Wife's potential income, in today's terms, from her existing pensions are summarised in the table overleaf:

Wife's Total Pension Income in Today's Terms					
Pension	**Normal Retirement Age**	**Pension due at Normal Retirement Age**		**Pension due at Equivalence Age (67)**	
		Total	**Period of Cohabitation**	**Total**	**Period of Cohabitation**
Her pension one	60	Income	Part Income	Income	Part Income
Her pension two	68	Income	Nil	Income	Nil
State[1]	68	Income	Part Income	Income	Part Income
TOTAL		**Income**	**Part Income**	**Income**	**Part Income**

1. Please note this is a theoretical value, as explained earlier and Wife cannot draw her State Pension until she reaches age 68.

The Period of Cohabitation figure is based on Cohabitation commenced to Cohabitation finished.

5. Pension Sharing Order – Parity of Income

Having summarised the income due from Husband's His pension one, His pension two, His pension three, and State Pension together with Wife's Her pension one, Her pension two, and State Pension in the last section, I can calculate the combined income, in today's terms. That enables me to arrive at an equal split of that, which is the goal of Parity of Income. I then consider what reduction needs to be applied to Wife's total income to achieve the Parity of Income. Finally, I examine how the Pension Sharing Order should be applied.

5.1 Combined Income Available

The way in which I have calculated the incomes available from each pension in today's terms enables me to directly compare them. The following table summarises the combined income in today's terms due to each party based on the individual figures set out previously:

Annual Income due in Today's Terms				
	Normal Retirement Age		**Equivalence Age of 67**	
	Total	**Adjusted for Cohabitation**	**Total**	**Adjusted for Cohabitation**
Total Income due to Husband	Income	Part Income	Income	Part Income
Total income due to Wife	Income	Part Income	Income	Part Income
Combined income	**Income**	**Income**	**Income**	**Income**

The Period of Cohabitation figures are based on Cohabitation commenced to Cohabitation finished.

5.2 Income Reduction Required

The computations to arrive at the appropriate income reduction required are summarised overleaf:

Income Reduction in Today's Terms				
	Normal Retirement Age		**Equivalence Age of 67**	
	Total	**Period of Cohabitation**	**Total**	**Period of Cohabitation**
Combined Income Available	Income	Part Income	Income	Part Income
Half of Combined Income	Income	Part Income	Income	Part Income
Wife's Income Available	Income	Part Income	Income	Part Income
Reduction to Wife's Income	Reduction	Reduction	Reduction	Reduction

The Period of Cohabitation figures are based on Cohabitation commenced to Cohabitation finished.

5.3 Application of Pension Sharing Order – Parity of Income

Wife has benefits in two sections of the Overall Scheme – Her pension one and Her pension two. The next step is deciding which of those two pensions the Pension Sharing Order should be applied to.

a. General Considerations

It makes sense to try and avoid applying the Pension Sharing Order to any Pensions in Payment, because that has an immediate effect on Wife and does not always create an immediate benefit for Husband.

It is also not suitable to apply the Pension Sharing Order to those pensions to which contributions are continuing or in which Wife is still accruing benefits. In either of these circumstances, the Pension Debit applied will be larger than it should be, and the result will be inequitable.

It is also preferable to avoid applying the Pension Sharing Order to Defined Benefit Pensions, because these generally offer an external transfer and Husband will require significantly more in a Defined Contribution arrangement to provide the same level of income. This is less of a concern where the plan is a Public Sector Pension, which allows Husband to join as a Pension Credit Member. In that scenario, he will receive a similar type of benefit, with a commensurate level of security. However, these Pension Credit Member benefits are also frequently subject to additional conditions.

b. Alternatives in this case

Wife has the two distinct sections of the Police Pension Scheme. it is important to consider how the Pension Sharing Order should be applied. The first question is whether that should be based on the benefits due at Normal Retirement Age or those available at the Equivalence Age of 67. In my view, it is more appropriate to base the apportionment on when the benefits are due.

If benefits are drawn after the Normal Retirement Age, they would normally be increased for late payment. However, those increments are not granted in the Her pension one. The benefit due at any point after age 60, will be the same monetary sum as is due at age 60. The same will apply to a Pension Credit in the Her pension one.

The other question to consider in this case, is whether the Pension Sharing Order should be based on full benefits or those accrued in the Period of Cohabitation. It is my professional view that the Pension Sharing Order should be based on the full benefits.

My view accords with the Pensions Advisory Group (PAG) Guide to the Treatment of Pensions on Divorce (Second Edition), which states in Part 4:

Generally, in a "needs" case it would be wrong to apportion pensions so as to exclude the "non-cohabitation/marriage" element. By contrast, in a "sharing" case, where the assets and future pension benefits exceed the parties' needs, such apportionment may be appropriate.

It will be necessary for the parties to agree which option is the most equitable and fair before the consent order is finalised.

The fee for implementing the Pension Sharing Order is identical irrespective of whether one or both sections of the Police Pension are affected. In my view it is preferable to apply one order to one portion of benefit, to keep the process as simple as possible.

Additionally, Wife is continuing to accrue benefits in the Her pension two, which means her benefits are increasing and so the Pension Sharing Order would be applied to a larger benefit and so have a disproportionately higher impact on her. On that basis my preference is to apply the entire order to Her pension one benefits.

I have therefore considered the options further in section 5.4 and 5.5. In the meantime, I have set out here which seems the most equitable alternative.

It is my belief that the Pension Sharing Order should be applied against the Her pension one portion of her benefits.

This is because:

- Wife is still accruing benefits in the Her pension two. Applying a Pension Sharing Order to that will result in Wife losing more and Husband receiving more than intended.
- Wife is no longer accruing benefits in the Her pension one so the same concern will not apply.
- Both sections of the Police Pension offer the option for Husband to become a Pension Credit Member. The Her pension two benefit is insufficient to cover the required order. Using the entirety of that plus a lower proportion of the Her pension one, would require two orders, increasing administration and costs.
- Additionally, the Cash Equivalent Value for the Her pension two exceeds the Capital Value I have calculated. That suggests the benefits are more valuable and Husband would receive more benefit than Wife loses. That is demonstrated in in Section 5.6 and is clearly inequitable. If alternatively, the Her overall scheme adjusts the figures, so that Husband receives a similar gain to Wife's loss, the beneficiary is the scheme. This would in effect create a destruction of value.
- The Her pension one allows Husband to become a Pension Credit Member and so enjoy the same level of security in his retirement provision. It is also large enough to only require one order. The Cash Equivalent Value is a reasonable proportion of the Capital Value, ensuring the apportionment will be fairer than that under the Her pension two.

c. Basis for the Pension Sharing Order

I have calculated the Pension Sharing Order on four differing bases as summarised in the table below:

Benefits Due at	**Total Benefits**	**Period of Cohabitation**
Normal Retirement Age	PSO%	PSO%
Equivalence Age of 67	PSO%	PSO%

This is the value of the Pension Sharing Order based on applying it solely to the Her pension one and leaving the Her pension two benefits untouched.

In contrast, if the Pension Sharing Order is applied against the Her pension two first, it will also be necessary to apply a separate Pension Sharing Order to the Her pension one, because the newer segment of benefits is insufficient to match the proportion of pension income due.

I have again calculated the figures on the four bases identified above and the results are set out in the table overleaf:

Benefits Due at	Total Benefits	Period of Cohabitation
Normal Retirement Age	PSO%	3.98%
Equivalence Age of 67	PSO%	0.24%

Please remember these reduced Pension Sharing Orders will apply in addition to an order to share 100% of the Her pension two benefits.

It is my professional opinion that the Pension Sharing Order should be based on total benefits due at Normal Retirement Age, which means in this case PSO% of Wife’ Her pension one should be passed to Husband.

It will be necessary for the parties to agree which option is the most equitable and fair before the consent order is finalised.

d. Practical Aspects

It is important to appreciate that there are charges associated with implementing a Pension Sharing Order. It also takes time for the order to be administered. The Her pension one has four months from the point at which they hold all the documents, and any fee required (Total PSO Fees including VAT), to implement the order.

Husband will receive a Pension Credit in the Her pension one; he is likely to need assistance with arranging that and also his longer term financial planning needs. He should seek the assistance of a Financial Adviser in that regard.

e. Pension Credit Format

Husband will receive a Pension Credit in the Her pension one, which will be payable at age 60.

- He will be able to draw benefits at age 60. There is no option to take them earlier.
- If the benefits are drawn after age 60, they will be paid as though he had retired at 60, i.e. a lump sum in respect of arrears of pension.
- He will be able to commute pension into Tax Free Cash. The current commutation factors mean the exchange rate would be £21.40 of cash for each £1 of pension.

- His benefits will not include a spouses' pension or children's pensions, though a lump sum is payable on death of 2.25 x the revalued pension on death before retirement.
- The Pension Credit will be revalued until retirement in line with Consumer Prices Index (CPI).
- The resulting pension will be indexed in line with CPI in payment.
- The Pension Credit cannot be combined with any other benefits in the Police Pension Scheme.

5.4 Impact of Pension Sharing Order on Wife's Benefits

The table below summarises the impact on Wife's income assuming the reduction in income is applied to Her pension one benefits. I have quoted the income figures in today's terms.

The following table summarises the position based on the benefits due at the Normal Retirement Age of the Her pension one, Her pension two and the State Pension, ignoring the adjustment for Period of Cohabitation:

Wife's Full Benefits based on Normal Retirement Age Application of Pension Sharing Order - Parity of Income				
Pension	**Current Income in today's terms**	**Reduction**		**Revised Income in today's terms**
		£	**%**	
Her pension one	Income	Reduction	PSO%	Income
Her pension two	Income	Nil	Nil	Income
State	Income	Nil	Nil	Income
TOTAL	**Income**	**Reduction**		**Income**

The second table overleaf draws together the results based on the benefits due at Normal Retirement Age, when I allow for the Period of Cohabitation (Cohabitation commenced to Cohabitation finished):

Wife's Benefits at Normal Retirement Age – adjusted for Period of Cohabitation Application of Pension Sharing Order - Parity of Income				
Pension	**Current Income in today's terms**	**Reduction**		**Revised Income in today's terms**
		£	**%**	
Her pension one	Income	Reduction	PSO%	Income
Her pension two	Income	Nil	Nil	Income
State	Income	Nil	Nil	Income
TOTAL	**Income**	**Reduction**		**Income**

This second pair of tables examines the situation based on the benefits due at the Equivalence Age of 67. The first is based on the full benefits and the second allows for the adjustment for Period of Cohabitation (Cohabitation commenced to Cohabitation finished):

Wife's Full Benefits based on Equivalence Age of 67 Application of Pension Sharing Order - Parity of Income				
Pension	**Current Income in today's terms**	**Reduction**		**Revised Income in today's terms**
		£	**%**	
Her pension one	Income	Reduction	PSO%	Income
Her pension two	Income	Nil	Nil	Income
State	Income	Nil	Nil	Income
TOTAL	**Income**	**Reduction**		**Income**

Wife's Benefits at Equivalence Age of 67 – adjusted for Period of Cohabitation Application of Pension Sharing Order - Parity of Income				
Pension	**Current Income in today's terms**	**Reduction**		**Revised Income in today's terms**
		£	**%**	
Her pension one	Income	Reduction	PSO%	Income
Her pension two	Income	Nil	Nil	Income
State	Income	Nil	Nil	Income
TOTAL	**Income**	**Reduction**		**Income**

As described earlier, I thought it important to consider how the situation might change if the reduction was applied to Wife's Her pension two benefits. Applying the Pension Sharing Order to either section makes no overall difference to Wife, her remaining total income is identical irrespective.

5.5 Impact of Pension Sharing Order Parity of Income on Husband's Benefits

The impact on Husband is also complex. There are numerous factors to consider; not least of which are the options available to him (Pension Credit or External Transfer) and the date at which he will draw the benefits.

Husband will automatically receive the Pension Credit as a benefit within the Her pension one. I have ascertained the Pension Credit factor and so the figure quoted is based on that. As with all the other numbers within the report, the final benefit will differ, because it will be recalculated on Implementation. It is also important to appreciate that the Pension Credit will be subject to specific restrictions as outlined at Section 5.3 (e).

The potential benefits available from Husband's pensions in today's terms both in full and based on that accrued during the Period of Cohabitation (Cohabitation commenced to Cohabitation finished), assuming they are drawn at the respective Normal Retirement Ages are as follows:

Husband's Benefits at Normal Retirement Age Application of Pension Sharing Order Parity of Income			
Pension	**Age benefits payable**	**Income**	**Period of Cohabitation**
His pension one	67	Income	Income
His pension two	65	Income	Income
His pension three	65	Income	Income
Pension Credit	60	Income	Income
State Pension	68	Income	Income
TOTAL		**Income**	**Income**

The figures in the table above are based on the Pension Sharing Order being applied to Wife's Her pension one. This next table looks at the income Husband would derive from 100% of the Her pension two with the excess being deducted from Wife's Her pension one.

Husband's Benefits at Normal Retirement Age Application of Pension Sharing Order Parity of Income			
Pension	**Age benefits payable**	**Income**	**Period of Cohabitation**
His pension one	67	Income	Income
His pension two	65	Income	Income
His pension three	65	Income	Income
Pension Credit	60	Pension Credit	Pension Credit
Pension Credit	67	Pension Credit	Pension Credit
State Pension	68	State Income	State Income
TOTAL		**Total**	**Total**

This alternative results in Husband receiving much more from the Pension Credit (PC1 + PC two = Total PC)) than Wife loses (PD).

This reflects the fact the Cash Equivalent Value for the Her pension two is overstated. This option therefore results in inequitable post Pension Sharing Order incomes.

Additionally, it involves applying an order to the section in which Wife is still accruing benefits. That will make the differential between the benefits foregone and those acquired even larger.

Furthermore, it requires two orders which will increase the administration and legal costs incurred during implementation.

This second table considers the potential benefits in today's terms based on both full benefits and those accrued during the Period of Cohabitation, assuming Husband's pensions are all drawn at Age 67.

Husband's Benefits at Equivalence Age of 67 Application of Pension Sharing Order Parity of Income			
Pension	**Age benefits payable**	**Income**	**Period of Cohabitation**
His pension one	67	Income	Income
His pension two	67	Income	Income
His pension three	67	Income	Income
Pension Credit	60	Income	Income
State Pension	67	Income	Income
TOTAL		**Income**	**Income**

Again, the figures above are based on the Pension Sharing Order being applied to Wife's Her pension one.

The table overleaf examines the position if the order is split across both sections.

Husband's Benefits at Equivalence Age of 67 Application of Pension Sharing Order Parity of Income			
Pension	**Age benefits payable**	**Income**	**Period of Cohabitation**
His pension one	67	Income	Income
His pension two	67	Income	Income
His pension three	67	Income	Income
Pension Credit	60	PC	PC
Pension Credit	67	PC	PC
State Pension	67	Income	Income
TOTAL		**Income**	**Income**

5.6 Comparative Benefits

I have drawn together the results of the two alternative Pension Sharing options.

This confirms as noted earlier, that Wife's income remains the same either way. However, if the Pension Sharing Order is applied to the Her pension two supplemented by the Her pension one, the differential is much larger confirming that does not arrive at an equitable option.

First, I compare the benefits based on the total benefits at Normal Retirement Age (NRA) and at age 67.

Differential in benefits following the Application of Pension Sharing Order Parity of Income		
Basis	**PSO applied to Her pension one**	**PSO applied to Her pension two**
Wife (NRA)	Income	Income
Husband (NRA)	Income	Total
Differential	Differential	Differential

Differential in benefits following the Application of Pension Sharing Order Parity of Income		
Basis	**PSO applied to Her pension one**	**PSO applied to Her pension two**
Wife (Age 67)	Income	Income
Husband (Age 67)	Income	Income
Differential	Differential	Differential

This second table examines the difference if the benefits are based on the period of commutation:

Differential in benefits following the Application of Pension Sharing Order Parity of Income – Adjusted for Period of Cohabitation		
Basis	**PSO applied to Her pension one**	**PSO applied to Her pension two**
Wife Reduction (NRA)	Reduction	Reduction
Husband Increase (NRA)	PC	PC
Differential	Differential	Differential
Wife Reduction (Age 67)	Reduction	Reduction
Husband Increase (Age 67)	PC	PC
Differential	Differential	Differential

I hope these two tables make it clearer why I believe applying the Pension Sharing Order to Wife's Her pension one is more equitable than including Her pension two.

5.7 Offsetting to achieve Parity of Income

Offsetting calculations are notoriously difficult, as it requires a comparison between a pension, and other assets, which are intrinsically different. A pension is effectively an income stream which will start at some point in the future and then continue until death. The alternative asset could be the Former Matrimonial Home, or other property, investments or even cash at bank. Each of these asset types has differing liquidity and taxation issues, which must be considered when splitting them.

There is no one fixed way of assessing the alternative Offsetting Value of a pension, each Pension on Divorce Expert will interpret this in their own way. I have not set out all the options and dismissed them within the report in the interests of clarity and conciseness. I have included a brief explanation here; the full explanation is set out in Appendix Three.

a. Offsetting Calculation Method

I explained in Section 3.4 that in my computations I use the Defined Contribution Fund Equivalent, which I call the Capital Value, as against the Cash Equivalent Value and why.

The Offsetting calculations are similarly based on the Capital Value. The distinction is that the offsetting figures, allow for the portion available tax free (in accord with the relevant scheme rules) and basic rate tax being applied to the remainder. That cost is estimated at the relevant age.

I then calculate the net present value, i.e. the sum which would need to be invested in a pension now to create that fund. That is identical to my calculation of the Capital Value and mirrors the process used by a pension scheme actuary to calculate a Cash Equivalent Value. I use the same assumptions as detailed in Appendix One.

My intention is to calculate the cost to the pension holder of replacing that income, which would be lost due to the Pension Sharing Order. I therefore calculate the amount which needs to be invested as a personal contribution, receiving the relevant tax relief to match the net present value calculated above.

As part of the Parity of Income calculations I calculate the proportion of the total pension income to be given up in relation to each plan and apply that to the relevant Offset Value. That enables me to estimate the Offset Value equivalent to the percentage of pension reduction i.e. the value which would be lost if a Pension Sharing Order were applied.

b. *Offsetting Values*

The following table sets out the Offset Value based on the income in today's terms. There are two sets of figures, one based on benefits due at Normal Retirement Age and the second assessing the situation if benefits are taken at the Equivalence Age of 67.

These offsetting figures are based on the premise the alternative Pension Sharing Order would have been applied to the Her pension one.

The table overleaf shows the offset value of the income based on Wife being required to make payment to Husband, in relation to the four differing options considered throughout the report. That is the full value or that accrued during the Period of Cohabitation (Cohabitation commenced to Cohabitation finished), based on benefits due at the Normal Retirement Age and at age 67.

Offsetting Values – Parity of Income			
Based On	**Total Income**	**Income Accrued During Period of Cohabitation**	**Recipient**
Income available at Normal Retirement Age	Offset Sum	Offset Sum	Husband
Income available at Equivalence Age of 67	Offset Sum	Offset Sum	

c. *Adjusting Offsetting Values*

It is likely that in the subsequent negotiations the parties will wish to consider Offsetting in conjunction with a Pension Sharing Order. To that end I have considered the impact of various amounts of Offsetting Payment and calculated the revised Pension Sharing Order. This is not a straight line adjustment and so I have undertaken a further calculation extrapolating these figures to ascertain the relevant Offsetting Value and revised Pension Sharing Order if the parties wish to consider partial offsetting.

Using the above as a starting point I have calculated the impact of £10,000 Offsetting Payments in each of the four scenarios.

The following table sets out the Offsetting Value and revised Pension Sharing Order based on the total benefits due at the relevant Normal Retirement ages of the various pensions.

Adjustments – Parity of Income Normal Retirement Age			
Offsetting Sum	**Revised Pension Sharing Order**	**Offsetting Sum**	**Revised Pension Sharing Order**
£10,000	PSO%	£60,000	PSO%
£20,000	PSO%	£70,000	PSO%
£30,000	PSO%	£80,000	PSO%
£40,000	PSO%	£90,000	PSO%
£50,000	PSO%	Offset Sum	Nil

The next table overleaf sets out the figures based on the total benefits at the Equivalence Age of 67:

Adjustments – Parity of Income Equivalence Age of 67			
Offsetting Sum	**Revised Pension Sharing Order**	**Offsetting Sum**	**Revised Pension Sharing Order**
£10,000	PSO%	£40,000	PSO%
£20,000	PSO%	£50,000	PSO%
£30,000	PSO%	Offset Sum	Nil

The following table sets out the Offsetting Value and revised Pension Sharing Order based on the benefits accrued during the Period of Cohabitation at the relevant Normal Retirement ages of the various pensions.

Adjustments – Parity of Income benefits Period of Cohabitation Normal Retirement Age	
Offsetting Sum	**Revised Pension Sharing Order**
£5,000	PSO%
£10,000	PSO%
Offset Sum	Nil

This table sets out the figures based on the benefits during the Period of Cohabitation at the Equivalence Age of 67:

Adjustments – Parity of Income benefits Period of Cohabitation Equivalence Age of 67			
Offsetting Sum	**Revised Pension Sharing Order**	**Offsetting Sum**	**Revised Pension Sharing Order**
£5,000	PSO%	£15,000	PSO%
£10,000	PSO%	Offset Sum	Nil

d. Using these figures

Hopefully the following example will help illustrate the way these figures should be used.

The starting point will be to agree which set of figures should be used. I have confirmed in Section 5.3(c) that in my professional opinion, the Pension Sharing Order should be based on the full benefits and the Normal Retirement Age.

If Wife wishes to make an Offsetting Payment of £50,000 or Husband wishes to retain that value in the Former Matrimonial Home, or any other asset, the Pension Sharing Order applied to Her pension one should be adjusted from PSO%, to PSO%.

Declaration

I, Heather Dunne, do declare that:

- I understand that my overriding duty is to assist the court in matters within my expertise, and that this duty overrides any obligation to the party who has engaged me or the party who has paid or is liable to pay me. I confirm that I have complied with this duty and will continue to do so. I am aware of the requirements set out in Part 25 of the Family Procedure Rules 2010 and Practice Direction 25B.
- I have set out in my report what I understand from those instructing me to be the questions in respect of which my opinion as an expert is required.
- I have done my best, in preparing this report, to be accurate and complete. I have mentioned all matters which I regard as relevant to the opinions I have expressed.
- I consider that all of the matters on which I have expressed an opinion lie within my field of expertise.
- I have drawn to the attention of the court all matters, of which I am aware, which might adversely affect my opinion.
- In preparing and presenting this report I am not aware of any conflict of interest actual, or potential save as expressly disclosed in this report.
- In respect of matters referred to which are not within my personal knowledge, I have indicated the source of such information.
- I have not included anything in this report which has been suggested to me by anyone, including the lawyers instructing me, without forming my own independent view of the matter.
- Where, in my view, there is a range of reasonable opinion relevant to the opinions I express, I have indicated the extent of that range in the report.
- At the time of signing the report I consider it to be complete and accurate. I will notify those instructing me if, for any reason, I subsequently consider that the report requires any alteration, correction, or qualification.
- I understand my report, subject to any corrections before swearing as to its correctness, will form the evidence to be given under oath or affirmation.
- My liability in relation to actions or decisions taken based on this report is limited to the amount of the fee.

Heather Dunne ACII FPFS
For and on behalf of The Pensions Experts Ltd

Date of Report

Statement Of Truth

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Heather Dunne ACII FPFS
For and on behalf of The Pensions Experts Ltd

Date of Report

Appendix One

Assumptions

It has been necessary to make some assumptions within the many computations undertaken to prepare this report, which are set out below:

Financial Assumptions

- Consumer Prices Index (CPI) will be 2% p.a.
- Retail Prices Index (RPI) inflation will be 3% p.a.
- Average Weekly Earnings (AWE) 4.5%p.a.
- Pension assets will achieve investment returns of 5% per annum gross.
- Policy or investment charges 1% pa.
- Non Pension Assets will grow at 4% per annum gross.

Annuity Rates

- Based on open market rates applicable at date of calculations.
- Annuities will be purchased on a joint life basis including a 50% spouse's or dependant's pension and incorporate 3% indexation in payment.
- The calculations will be based on the relevant spouse's dates of birth. The annuity cost assumes the male is three years older than the female.
- Both parties are in good health, non-smokers that they do not have any condition which may mean that their life expectancy could be foreshortened.
- A standardised postcode for central London has been used.

Today's Money

- To facilitate comparisons, all calculations have been undertaken in today's money.
- Similarly, it has been assumed that all pension benefits will be taken as taxable income.
- If either parties' benefits provide Tax Free Cash in addition, those have been converted into additional income, using the relevant commutation factors currently in use.
- Additionally, any differing indexation available on the benefits has been ignored.
- The calculations have been based on both parties current ages.
- Projected figures have been calculated allowing for the assumed revaluation due on Defined Benefits. Those have then been discounted allowing for the impact of inflation to arrive at figures in today's terms.

Appendix One

- Where schemes set a Normal Retirement Age, that is deemed the date the benefit is due to come into payment. Where no such age is prescribed, a default age of 65 has been used.
- Any special early or late retirement facilities relevant to a specific scheme will be allowed for in the calculations, where relevant.

Apportionment of benefit accrued during Marriage or Cohabitation

- Within a Defined Benefit scheme, members accrue a certain portion of benefit for each year's service. Usually, an individual's earnings will increase during the period of employment and so the value of benefits earned in later years will be higher. Additionally, the cost of providing those benefits will become larger. Irrespective of this the calculation of the pension earned during Marriage or Cohabitation is based on a straight line percentage of the overall benefits.
- Within a Defined Contribution scheme, member's benefits are determined by the value of the pot and as that is usually based on the percentage of income again the benefits of accrued later in life will normally be more valuable. As with the Defined Benefit Pension the calculation will be determined on an average basis.
- Within either type of scheme, a member may have opted to transfer the benefits from previous service into the scheme. This possibility has been ignored to keep the calculation simple.

Tax

- All incomes quoted in this report are gross.
- It has been assumed that maximum 25% Tax Free Cash will be drawn and that the remining pension will be subject to basic rate tax in the Offsetting computations.
- The impact of income tax will need to be considered, especially if Offsetting is to be used. Both parties should seek relevant independent financial advice in that respect.

Sensitivity of Assumptions

- The calculations in this Report and therefore the results of my calculations are based on the assumptions set out in this Appendix and the rest of the Report. If different assumptions were made, then it is likely that the outcome would alter.
- Any orders subsequently applied will result in differing benefits as the effective date will be later than the current calculation date.
- The actual provision resulting from any Pension Sharing Order will be subject to adjustment reflecting differing assumptions used by the relevant scheme actuary and the subsequent impact of investment return, inflation, charges, and cost of purchasing an annuity, etc.
- It is possible that the methodology for calculating Cash Equivalent Values will alter between the date of these calculations and the subsequent agreed actions. That will impact on the value available to both parties.

Appendix One

- The amount of pension that will be received will differ from the figures used within this report. In relation to Defined Contribution benefits, this is because it will be dependent on future investment performance and annuity rates at retirement. With respect to Defined Benefits provision, it will depend on actual revaluation applied and actuarial assumptions at retirement.
- If either individual is continuing to accrue benefits within their scheme, that will distort the comparative benefits. No allowance has been made for future accrual.
- If either party is receiving a pension in payment, that will potentially create an income gap, as the other party may not be able to draw benefits until later.
- A large differential in the ages of the two parties will also alter the relative pension income in the estimates and the outcome. That has been allowed for as far as possible, if relevant.
- It has been assumed that all benefits stated will be paid in full and that no schemes are subject to entering the Pension Protection Fund or will enter it in the future.
- This report is based on the relevant pensions and taxation legislation in force at the date of the computations. Legislation can change in the future, which could affect the results.
- If either party accesses any pension benefits not yet in payment between now and when the Pension Sharing Order is implemented, all calculations and conclusions reached within this report are rendered void and obsolete.
- Nothing within this report can or should be construed as financial advice. It is important that both parties take professional financial advice before finalising any financial settlement. It is possible that their personal circumstances may dictate a different approach.
- I have prepared this report considering the Guide to the Treatment of Pensions on Divorce Report issued by the Pension Advisory Group in July 2019.

Appendix Two

Details of the Author – Heather Dunne

The following is an outline of the CV of the author. More details can be provided on request.

Profile

An outgoing and technically knowledgeable individual with a positive attitude to life and an ability to relate the technical aspects of pensions to practical situations and draw from experience to underline or explain them to other professionals. Qualified and experienced in Pensions on Divorce work, based on many years working as Pension Transfer Specialist, alongside delivering training.

Professional History

Pension on Divorce Expert August 2018 ongoing **TPE – The Pension Experts Ltd**

Pension on Divorce Expert: Providing Expert reports for solicitors, mediators, and divorcing parties. Consultant paraplanning, technical support & training for adviser firms.

Consultancy and Training June 2002 to August 2018 **HDC - Heather Dunne Consulting Ltd**

Pension Transfer Specialist: services for adviser firms both on a contract basis and via referral to her own adviser firm Heather Dunne trading as HDIFA.

Pension Consultant September 2001 to May 2002 **The Pension Professionals**

SSAS Consultant. Managing administration team. Preparation & sign off Pension Transfer & Drawdown Reports. Training. Other technical support as required, by adviser client firms.

Training & Competence Supervisor 2000 to August 2001 **Berry Birch & Noble**

T&C for ten advisers. Preparing & implementing Compliance and T&C for employee benefits advisers. Preparing and delivering G60, Drawdown and Transfers training. Writing distance learning material & tests. Sales skills assessment, coaching and training. Including work post FSA visit.

Technical Trainer 1998 to 31st December 1999 **NPI**

Writing and delivering distance learning programme for G60 including manual, assignments & marking. Graduate, Induction, Transfers, Switching, Drawdown, Stakeholder, SSAS & SIPP training.

Appendix Two

Director of Pensions 1995 to 1998 **Caroline Banks & Associates**

A niche IFA - high net worth and corporate clients. T&C Pension Supervisor. G60 training. Group Pensions. Pensions Act 1995 conversion DB to GPP. Individual clients. Professional Connections. Technical support re transfers and SSAS/SIPP. IFA of the year; Highly Commended in Corporate Pensions.

Account Manager 1991 to 1995 **Pensions Associates Ltd**

A Pensioneer Trustee. Pioneered and marketed cross-selling to small firms. Portfolio of SSAS clients.

SSAS Consultant 1985 to 1991 **Crown Financial Management**

Introduction to financial services. SSAS team - draft accounts, actuarial reports, and trustee meetings.

Qualifications

9 “O” Levels, 3 “A” Levels

ACII & FPC, FPFS – G10 G20 G30 G60 H15 Plus - K10, K20, SV1, AF7, RAR

Expert Witness Institute Core Training

Appendix Three

Offsetting Calculations

There is no one fixed way of assessing the alternative Offsetting Value of a pension, each Pension on Divorce Expert (PODE) will interpret this in their own way. This document expounds on the options available and why I use a particular method.

Background

Offsetting calculations are notoriously difficult. The assessment requires a comparison between a pension, and other assets, which are intrinsically different. A pension is effectively an income stream which will start at some point in the future and then continue until death. The alternative asset could be the Former Matrimonial Home, or other property, investments or even cash at bank. Each of these asset types has differing liquidity and taxation issues, which must be considered when splitting them. Those aspects are clearly not in the purview of the PODE and are better assessed with the assistance of a Financial Adviser.

Pension Advisory Group Guidance

The Pension Advisory Group (PAG) Guidance sets out various options but does not conclude which is most appropriate.

Valuing Pension Benefits

The starting point is of course to value the pension benefits. PAG suggests three options:

- The Cash Equivalent Value
- A figure based on the Parity of Income calculations
- The value of the pension holder's retained benefits assuming no pension share has been implemented

I will consider each in turn to explain why it is I use the third option identified above.

a. Cash Equivalent Value

Within the report, in Section 3, I explain how I evaluate the Cash Equivalent Value. I state there that the Defined Contribution Equivalent converts the price assessed by the scheme into the cost to an individual for those same benefits. That ensures the figures from all sources are directly comparable. That therefore, replaces the Cash Equivalent Value in my calculations.

Following the same reasoning, and for consistency, I use the Defined Contribution Equivalent as against the Cash Equivalent Value for the Offsetting calculations.

b. Parity of Income

The Parity of Income Calculations are also based on the Defined Contribution Equivalent. Those computations mirror the basis for calculating the Cash Equivalent Value which is derived from the cost of providing the promised benefits. None of them allow for the potential to take what is officially called a Pension Commencement Lump Sum (PCLS) or more usually termed Tax Free Cash. Within the scheme the conversion factors for exchange pension to Tax Free Cash (Commutation Factors) will be set so they are actuarially neutral. That means this is not relevant in terms of the cost assessed by the scheme.

c. Value of benefits retained

The third option outlined by PAG is the value of the pension holder's retained benefits assuming no pension share has been implemented. This is again, derived from the Defined Contribution Equivalent valuation used in the Parity of Income and Equality of Capital Value computations.

In my view that option to take a Tax Free Cash Lump Sum is significant in terms of the Offsetting Value, which is examining the pension valuation in non-pension terms. The fact that a portion need not be used to purchase a taxable annuity but can be drawn without incurring Income Tax is relevant to that comparison. In real terms, providing Tax Free Cash will be cheaper than purchasing an annuity. The lump sum will also not suffer Income Tax, whereas the pension instalments derived from the annuity will be taxed along the lines of earned income, though National Insurance is not payable.

This means the value for the pension benefit used in the Offsetting calculation will not directly correlate to the Parity of Income or Equality of Capital Value figures, which are based on the promised pension benefits or purchasing an annuity.

Deriving the Offsetting Value

PAG Guidance Part 7 lists various options for deriving the Offset Value which include:

- Realisable value (for those able to access benefits immediately)
- Actuarial Value
- Cash Flow Modelling
- Galbraith Tables
- Duxbury or similar
- Purchased Life Annuity (not listed by PAG, but used by some PODEs)
- Defined Contribution Fund Equivalent

a. Realisable Value

As noted, the realisable value option can only be used when an individual can access their benefits immediately. If an individual is already drawing benefits or I have been asked to consider Parity of Income based on both parties taking benefits now, this could be an option. In practice, I simply apply the current annuity rates, as against those at some point in the future to assess the current cost of the future benefits. This again matches the way the Cash Equivalent Value would be assessed. It is also consistent with my use of the Defined Contribution Equivalent Value for other benefits not yet being drawn. I believe that consistency across the calculations is imperative and that is reflected elsewhere in the PAG Guidance.

b. Actuarial Value

In Section 3 of my report, I consider the potential of using an Actuarial Value for the evaluation of the benefits within the Parity of Income calculations. I dismiss that option on the basis it would simply introduce further actuarial assumptions and not be consistent with the values attributed to any Defined Contribution Schemes. I stand by that assessment and do not feel attributing an alternative Actuarial Value is any more appropriate to use in relation to the Offsetting calculations.

c. Cash Flow Modelling

Cash Flow Modelling is to my mind a tool for Financial Advisers assisting individuals with their financial planning, working out how they can use the assets and pensions they hold to provide their required income in retirement. These enable the adviser to adjust the projections reflecting assumptions regarding investment returns, inflation and the like agreed with the individual. The purpose of a PODE Report is to evaluate the benefits and assess the appropriate apportionment. The introduction of variables in relation to the assumptions to use for one party as against the other will undermine the consistency essential to an equitable apportionment.

d. Galbraith Tables

The Galbraith Tables were launched in March 2022. The authors confirm that they are only intended to be used as a starting point and are not a substitute for obtaining a PODE Report.

Furthermore, they are not regularly updated and so not sensitive to market fluctuations in the same way as the Cash Equivalent Value. The Defined Contribution Equivalent is based on current annuity rates and therefore allow for the impact of Fixed Interest and Gilt returns which are the most significant factor in valuing pension benefit promises.

e. Duxbury or Similar

The Duxbury method is derived from case law (Duxbury v Duxbury in 1987) and is a method for converting spousal maintenance into a capital sum. The idea being that the one off lump sum is invested to provide an immediate income for a certain period. To my mind, this is not suitable for matching a whole of life income due to start at some point (frequently many years) in the future. Furthermore, it does not take into account the beneficial taxation position of pensions.

I am aware that Duxbury was deemed appropriate in WS v WS, as an alternative to a Pension Attachment Order. However, I am not alone in thinking the better alternative would have been to obtain a Pension on Divorce Expert's report, which would have much more accurately evaluated the benefits.

It is also important to consider the “Duxbury Paradox”. This relates to the life expectancy of the recipient, meaning an older wife will receive less than a younger wife. As a general rule, the older wife will be party to a longer marriage and so a reduced benefit is counterintuitive.

Another aspect which Duxbury cannot easily allow for is remarriage or cohabitation – there have been cases where the husband has tried to reclaim part of the capital sum in those circumstances. Financial Advisers can provide alternative ways of making this provision, which can incorporate a refund to the party making the payment, or provision for dependants. This ensures that the one off lump sum which meets the clean break principle also retains some of the benefits associated with the ongoing maintenance payment it is designed to replace.

f. Purchased Life Annuity

I am aware other Pension on Divorce Experts assume funds are invested in a Purchased Life Annuity. This is a specific type of plan, designed to enable an individual to exchange a capital sum for an ongoing certain level of income. It is not a pension but an investment vehicle and so does not have the same beneficial taxation regime. These Purchased Life Annuities have their own very specific tax regime, reflecting that each instalment paid is part capital and part investment return (termed interest). The portion deemed capital is not taxable, as it is seen as a return of the original investment. The portion treated as investment return is taxable at the individual’s highest marginal rate.

A Purchased Life Annuity must be contingent on an individual’s life and so payments will continue until death. A fixed term annuity without that link to an individual’s mortality is not subject to the same tax treatment.

His Majesty’s Revenue & Customs (HMRC) specify the methodology for calculating the exempt portion (split between capital and interest) in the Insurance Policyholder Taxation Manual (IPTM4000). This is an actuarial calculation, overseen by the Government Actuary’s Department (GAD), based on prescribed tables of mortality age of the policyholder and the sum they wish to invest.

The insurance companies which provide these investments offer lower annuity rates within a Purchased Life Annuity than they will in exchange for a pension fund being used to provide income in retirement.

There are many reasons, but the following are the main ones:

- Insurers believe that those who opt for a Purchased Life Annuity expect to live longer than average.

  Pension plan holders can only purchase a pension annuity to obtain a secure income for life. The alternative is Flexi Access Drawdown which enables them to take as much or as little as they want but offers minimal security. Those with a lump sum to invest can consider all sorts of plans. Investors will use a PLA if they believe they will get more back than they invest. Those with health issues will not expect to have above average longevity.

- Fewer insurers offer a Purchased Life Annuity

  HMRC monitors the use of PLAs and the associated tax rules are complex. That requires a certain amount of initial investment and ongoing cost in terms of training systems and processes. Insurers will not continue to provide a plan type which is not creating a profit. In that situation a closed book will generally be consolidated. By the same token an insurer is unlikely to enter this as a new market.

The rates mean that the income is around 80% or 90% of that offered under the standard annuity. The specialist tax treatment described above, does offset that. On occasions it may therefore be appropriate to draw the maximum Tax Free Cash and opt to invest in a Purchased Life Annuity. However, this will depend on the individual circumstances of the client i.e. whether they are willing to part with the lump sum in exchange for a regular income. The other consideration will be the annuity rate they can obtain. In many cases other investments with differing tax treatments may be more appropriate.

In short, a Purchased Life Annuity is a way in which an individual could exchange a lump sum for an ongoing income for life. It could therefore, be considered an appropriate way in which to evaluate the alternative Offsetting sum.

My view is that the benefit being Offset is a pension and the assessment should be based on what it costs the individual who is not now suffering a Pension Debit to replace that pension. That means the Offsetting value is based on the benefit for which it is being exchanged i.e. the pension and is not based on what the ex-spouse is receiving instead.

g. Defined Contribution Equivalent

I explained in Section 3 of my report that in my computations I use the Capital Value, which is the Defined Contribution Fund Equivalent, as against the Cash Equivalent Value and why. That included reference to the alternative option of an Actuarial Value and why I felt that was inappropriate. That Capital Value is based on providing the entire benefit as pension, to match the actuarial calculation basis.

The Offsetting calculations are similarly based on the Defined Contribution Fund Equivalent cost of the potential benefits which may be drawn. The distinction is that the offsetting figures, allow for the portion available tax free (in accord with the relevant scheme rules) and basic rate tax being applied to the remainder. This reflects the value of the benefits to the individual i.e. the value of the pension holder's retained benefits assuming no pension share has been implemented. It also meets the requirement to allow for taxation implications.

My offsetting calculations allow for the format and taxation of the benefits, reflecting the fact this is a comparison with non-pensions assets. The Parity of Income computation is derived from the cost of providing the entirety of the benefits as a taxable income, which is consistent with the basis used for the actuarial calculation of the Cash Equivalent Value, because this is used to compare pensions assets.

My Method

As part of the Parity of Income calculations, I calculate the proportion of the total pension income to be given up and apply that to the total Offset Value. That enables me to estimate the Offset Value equivalent to the percentage of pension reduction i.e. the pension value which would be lost if a Pension Sharing Order were applied.

This results in a value which represents the benefit the holder will retain if offsetting is used as against the application of a Pension Sharing Order, in accord with the PAG guidance.

My next step is to consider what it would cost the policyholder to replace the Pension Debit (the portion which would be deducted from the pension holder's pension).

On the premise that the pension is not due to be paid until some point in the future, I calculate the net present value of the pension. In other words, the amount which would need to be invested in a pension now to create a fund to match that Pension Debit.

This requires certain assumptions. I need to allow for the potential investment return and the charges a pension provider would impose. I use the same assumptions for this as I do for evaluating any Defined Contribution benefits. I also use these for estimating the pension available from a Pension Credit which must be taken by external transfer.

Appendix Three

As with all estimates, a slight adjustment in the expected investment return could have a significant impact on the projected benefits. By using the same assumptions throughout I ensure that the computations and the results developed are consistent. The assumptions used are detailed in Appendix One.

This process ascertains the sum which needs to be invested now (the net present value) to create the fund required to purchase an annuity (the Capital Value) to match the pension income due at the relevant age. In this scenario the pension to match is the portion which would be passed from the pension holder to their ex-spouse via the Pension Sharing Order.

If an individual makes a pension contribution, they will benefit from tax relief. This relief is granted in differing ways depending on the type of pension. I assume this will be an individual pension and so the tax relief will be granted in two parts. Any personal pension contribution made will benefit from 20% or basic rate tax relief at source.

For example: An individual who contributes £80 will have that supplemented by £20 tax relief and £100 will be invested.

This relief applies to all, including non tax payers.

The second part is only relevant to those who pay higher rates of Income Tax. That portion is returned to the individual via reclaim under Self Assessment. It is not therefore added to the pension pot, like the basic rate tax. It can therefore be ignored for these purposes.

In short, having calculated the net present value of the retained pension, I adjust that to allow for the basic tax relief a pension contribution would receive. That is the cost to the individual of replacing that benefit. That is in my view, the amount they "save" in pension terms by making an alternative offsetting payment.

In my report I simply state that:

I assume that the Offset Value will be invested as a personal contribution, receiving the relevant tax relief, in a defined contribution pension.

I hope that this detailed explanation gives a better insight into the consideration I have given to this matter and provides a reasoned explanation for the methodology I use.