



The University of Manchester

# Pensions on Divorce: the Wider Context

Conference: A Guide to the Treatment of Pensions on Divorce  
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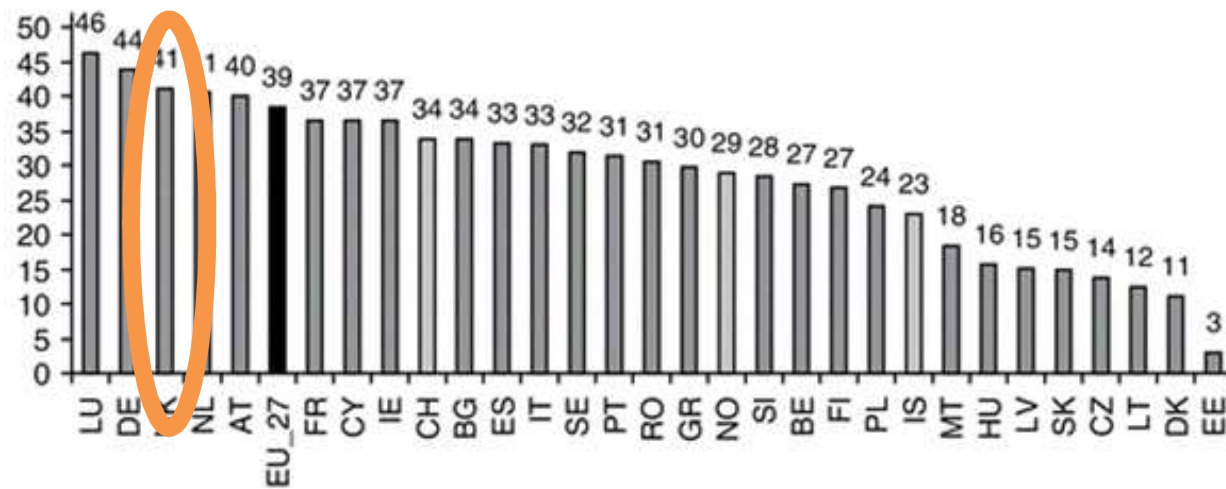
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 @GerontologyUK

#pensionsondivorce

The most complex pension system in the world,  
and highly gendered



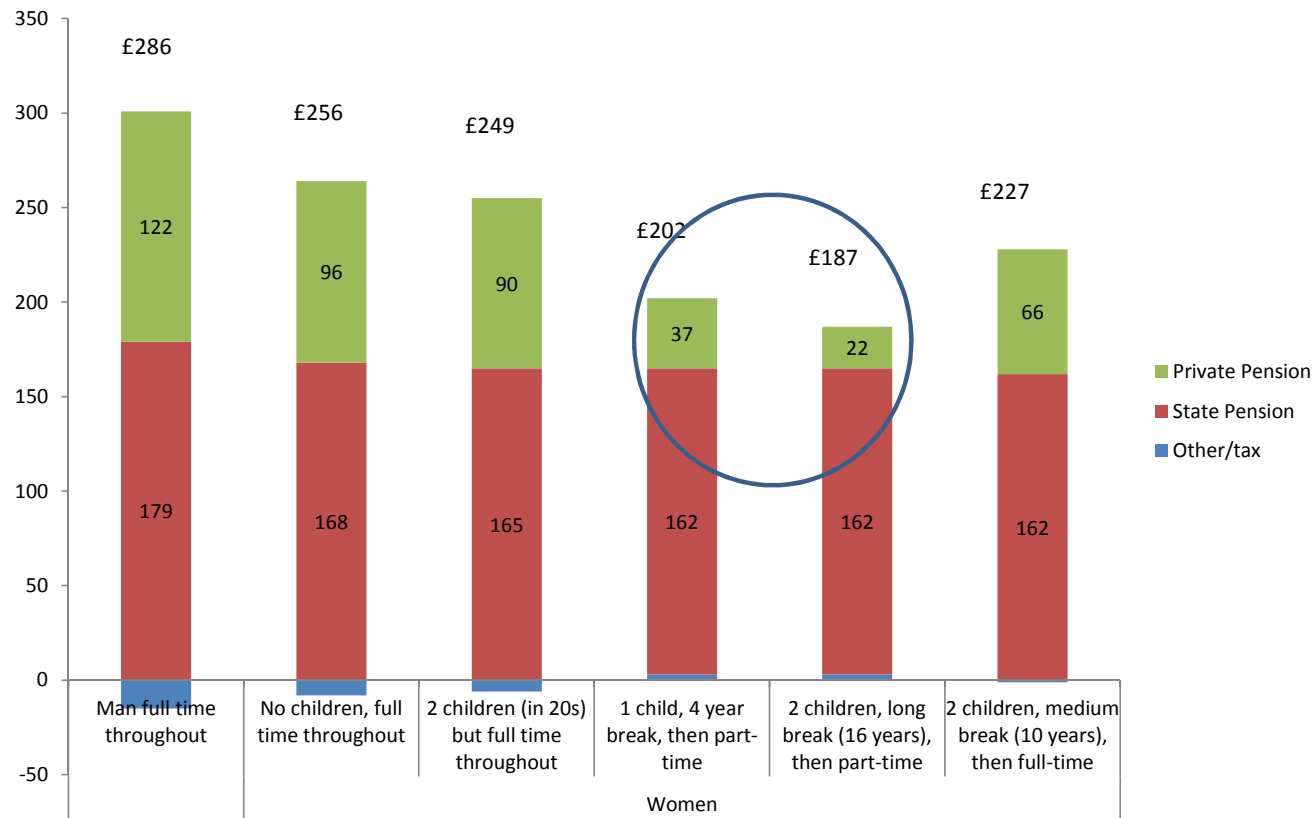


**Figure 3.1** Pensioners' Gender Gap in Pensions (%), pensioners aged over 65 years.

Source: EU-SILC 2011, own estimation. Estimate for IE is based on 2010 data.

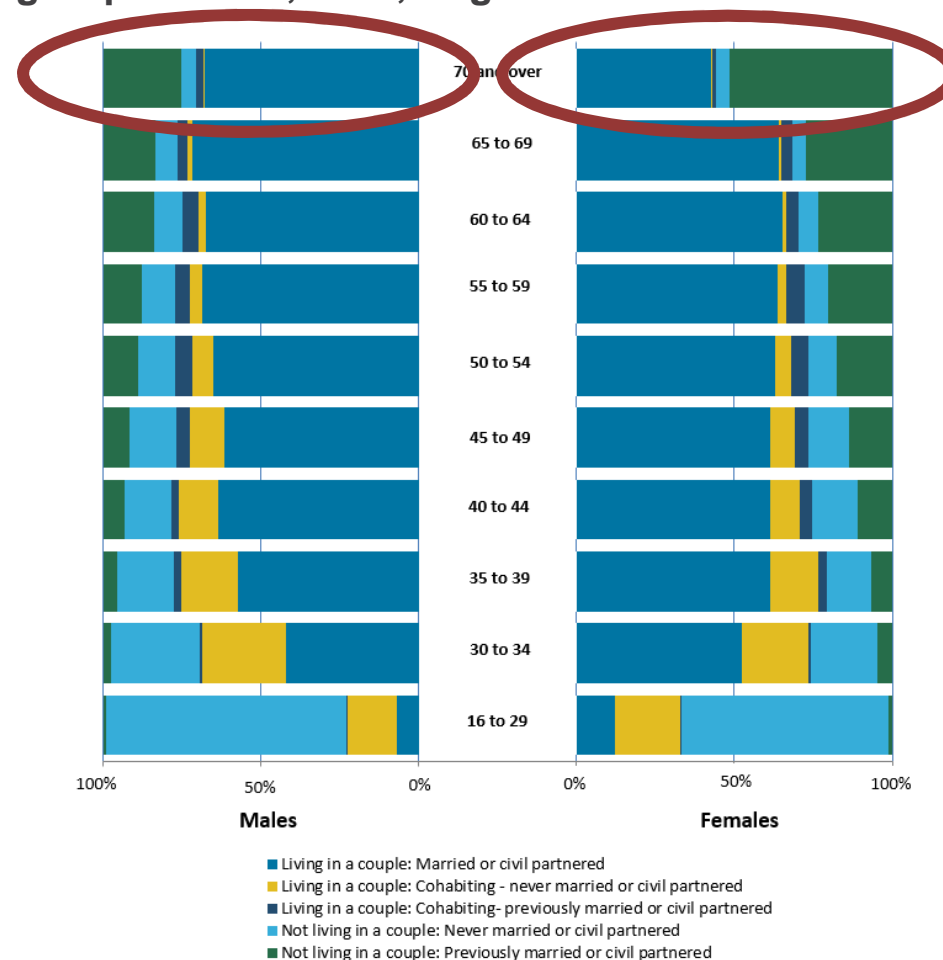
Source: Betti, G. et al (2015) *Unequal Ageing in Europe: Women's Independence & Pensions*. Chapter 3: Gender Gaps in Pensions in Europe. Palgrave Macmillan

## Median earners, now aged 55, income at age 66 (in 2016 earnings terms)



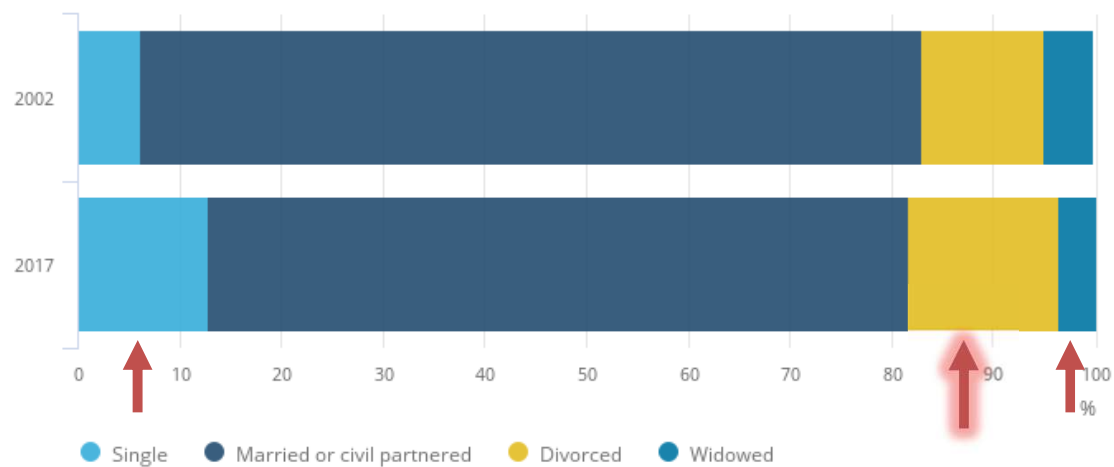
\* Source: WHERL project - <http://wherl.ac.uk>

## Percentage of people (age 16 years and over) by living arrangements, age group and sex, 2017, England and Wales



Source: Office for National Statistics, Population estimates by marital status and living arrangements, England and Wales: 2002 to 2017. Annual estimates of population by legal marital status and cohabitation status by age and sex for England and Wales.

Percentage of people aged 50 to 64 by marital status and by  
selected years  
England and Wales



Source: Office for National Statistics, Population estimates by marital status and living arrangements, England and Wales: 2002 to 2017. Annual estimates of population by legal marital status and cohabitation status by age and sex for England and Wales.

## The Household and Pension Structure in the UK

- Still very wide disparities in men's roles (primary breadwinner) and women's roles (child care, housework, smooth running of household, supplementary earnings)
- 'Flexible working' primarily aimed at women who need to 'manage' unpaid and paid work, including in mid-life for adult care
- Inequality inside the home and in the labour market are inextricably linked
- Differential pension accrual reinforces inequalities

- Currently women's pension wealth at retirement c. a quarter of men's; UK gender pension gap has **widened** in the last decade

## **Future pensioners?**

- Rising student debt: men expected to pay off student loans by age 38, women by age 51 [lower earnings and part-time pay penalty]
- Difficulties of property purchase
- Looming 'care crisis' [esp. affecting mid-life women]

= higher levels of debt when young, continued lower earnings, reduced home ownership, family pressures for care lasting longer through life —→ greater impact on women's ability to save



# Family Court Statistics 2019

Stable over time:

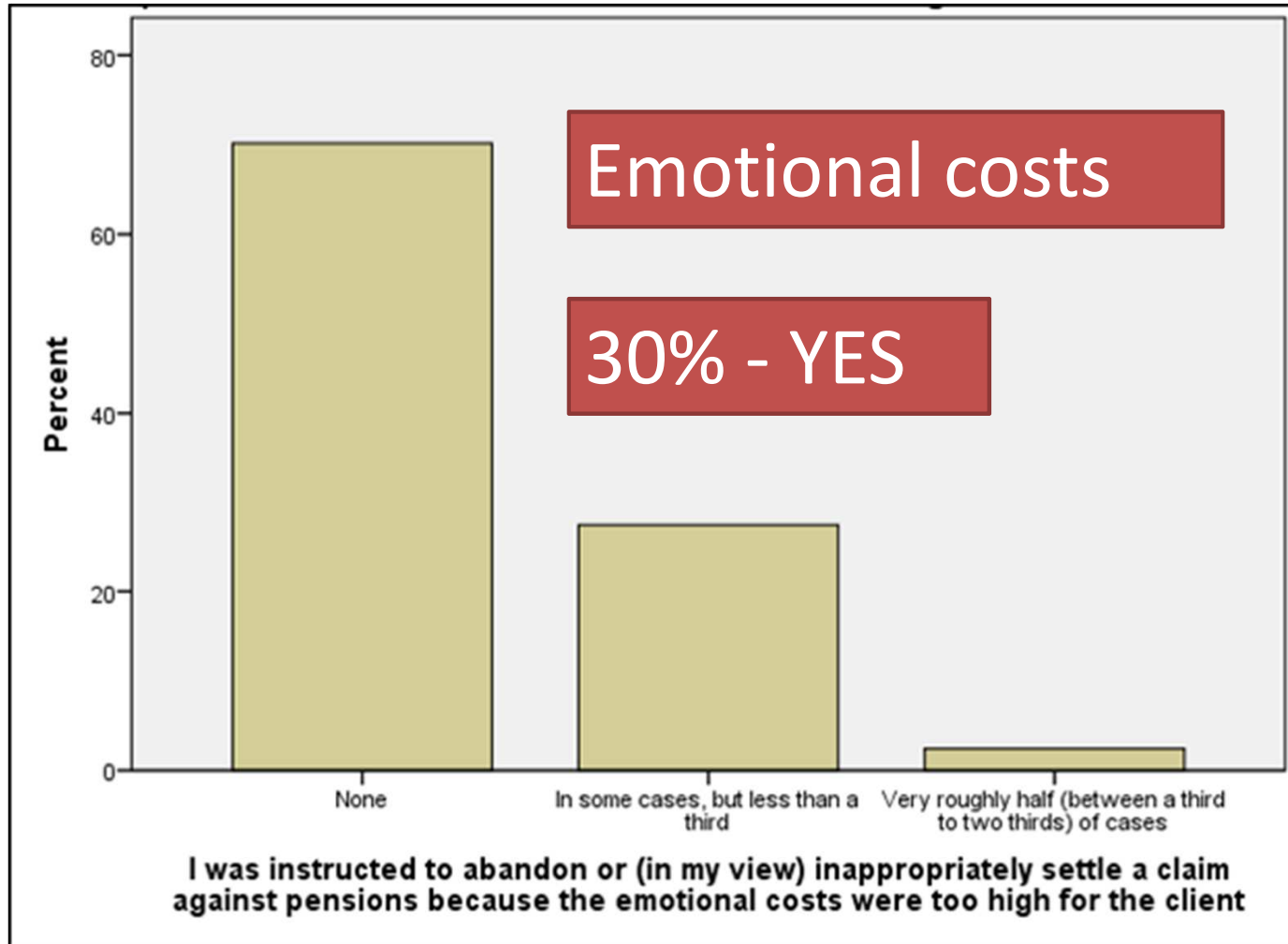
- Within 5 or 6 years of a divorce, about 33% of divorces have registered *any* financial order
- Within 15 years of a divorce, about 40% of divorces have registered *any* financial order
- At most, about 30% of divorces with a financial remedies order have any kind of pension order (about **12% of divorces**)
  - Likely to be an overestimate
  - Only about 2.5% of financial remedies cases end up contested (i.e. almost all orders are made by consent)

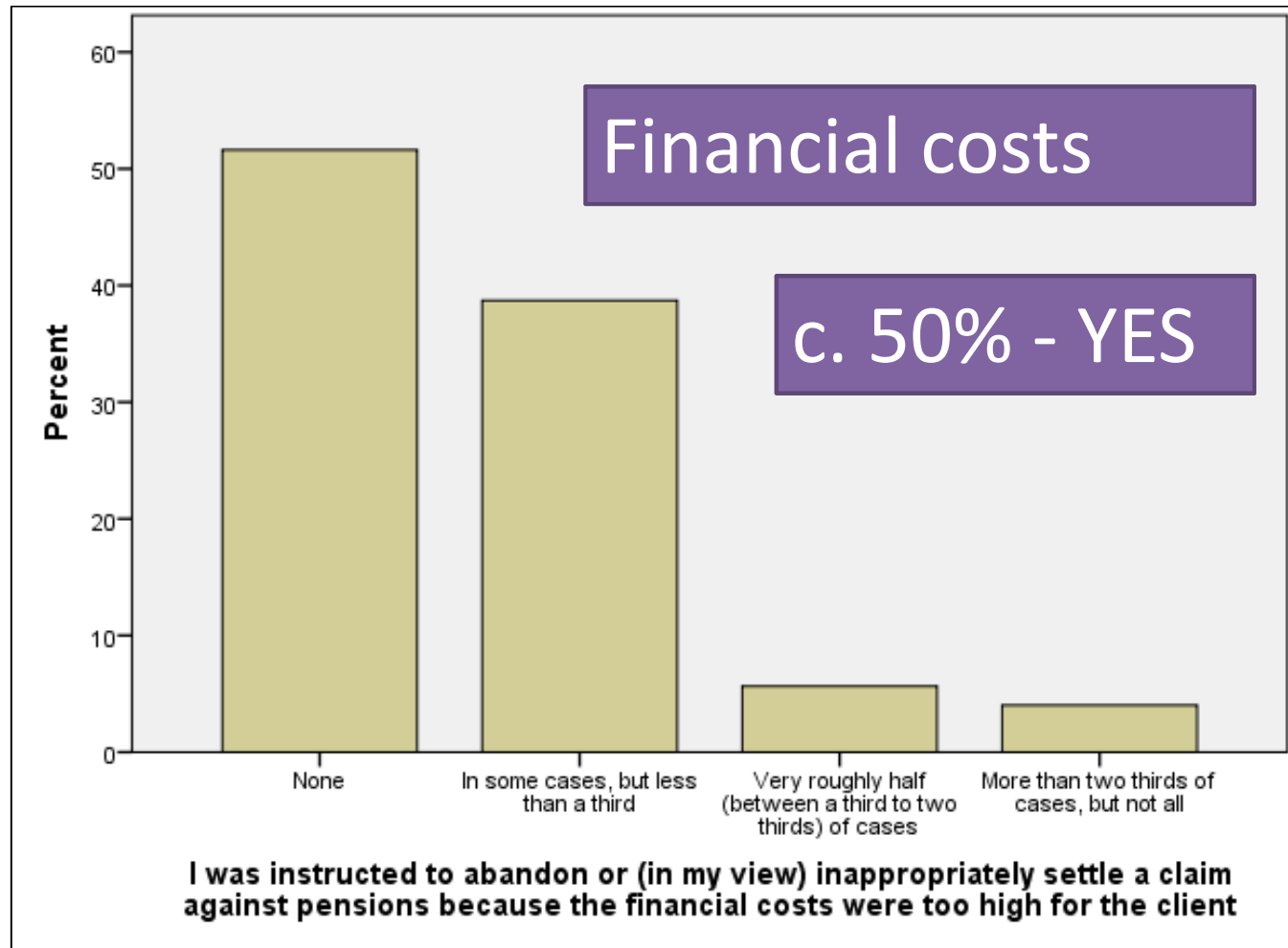
Source: <https://www.gov.uk/government/statistics/family-court-statistics-quarterly-january-to-march-2019>, Tables 13 and 16

See also Woodward and Sefton: *Pensions on divorce: an empirical study* (2014)

In the last 6 months, in my caseload....

**I was instructed to abandon, or (in my view) inappropriately settle a claim against pensions because the [emotional/financial] costs were too high for my client**





There was a feeling that the courts should be more forceful and should mandate the information; that the D81 should not be allowed to say 'we don't want to make a claim'. Some perceived that the problem sometimes lay with the judges not wanting to disrupt an agreement, which was felt to be inappropriate – **people felt that when agreements were to the manifest disadvantage, usually of the wife possibly under coercive or emotional pressure, it was the judge's duty not to approve it.** For example when they might have gone to great lengths to tell their own client that the pension is a real issue, may have had them sign a **waiver of liability** because their client doesn't want it raised, **expecting the judge to raise an objection to a manifestly unfair settlement,** and then have the judge **approve without comment.** There was a feeling that judges give insufficient scrutiny and are too easily satisfied.

In the last 6 months, in my caseload....

I had my client sign a waiver because I had advised him/her to pursue the question of pensions but he/she insisted that we do not....

- 28% of lawyers responding said they had done this in the last six months
- 5% of lawyers responding said they had done this in more than a third of their cases

# What do lawyers see as real problems?

- litigants in person don't understand the issues
- in offsetting cases it can be hard to take account of the value of the pension
- pension providers are slow to provide information and implement orders
- expert reports take too long and are not standardised
- It can be too easy for a knowledgeable solicitor to take advantage of one less knowledgeable
- Judges endorse consent orders without sufficient scrutiny of pensions

Thank you!

