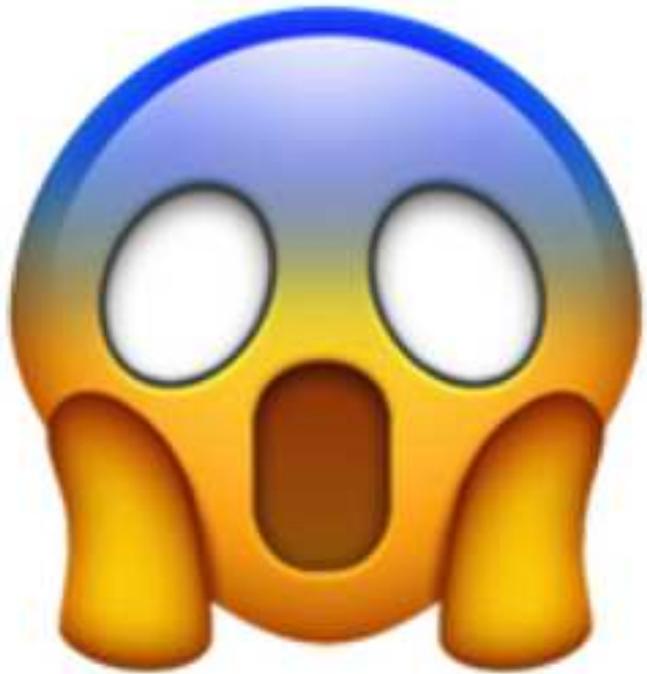




7 Harrington St  
CHAMBERS

GRANT LAZARUS



# PENSIONS ON DIVORCE

## 2018 STATS

- 118,141 Divorce Petitions
- 43,018 Applications for Financial Remedy
- Lump sum and Property adjustment by far most common
- 25,834 Lump sum orders
- 19,698 Property adjustment orders
- 11,316 Pension sharing orders
- 4,632 Pension attachment orders

## BASIC PENSION TYPES

- Defined Contribution
- Defined Benefits
- What is the CEV, and how does calculation of the CEV vary?

## DEFINED CONTRIBUTIONS

- Cash Equivalent Value (CEV), from which 'guesstimate' as to benefits
- Simple money market
- Self Invested Personal Pension (SIPP)
- Options include 25% tax free lump sum, purchasing annuity, drawdown
- Guaranteed annuity rates (GAR)

# DEFINED BENEFITS

- **Public Sector** – eg AFPS, NHS, Police, Civil Service/Local Government, Fire Service, Judiciary,

Not truly 'funded'. Cash Equivalent Value (CEV) by reference to lump sum and income benefits (index linked, and age stages)

Internal Transfer option

- **Private Sector** – eg BA, BT, BP, Banks, Industry, Post Office, Coal, Railways

Funded, but each valued according to own actuaries' approach

Low rate of return, more investment required, substantially higher CEV for same benefits

External Transfer more likely

# PUBLIC SECTOR

## Reading the Pension Statement Understanding the Scheme

- CEV assumes retirement at 60, but AFPS Police and Fire Service earlier retirement options. CEV will increase massively on early retirement. (because payable over longer period).
- Internal transfer, but W benefits not until 60/65 (The benefits gap)
- Resulting room for massive underestimation of what might be required for offset
- Capital value of H retaining sole benefit of early retirement benefits during period of deferral of W's 'equality'
- Lump sum may commutable (reduction in income) but is often 3 times pension income, ie an additional tax free lump sum on top.

# PUBLIC SECTOR continued – questions before offsetting

- Internal/external?
- What % PSO will achieve equality of pension income and lump sum (including index link)
- **When** will that equality be achieved? And what will the figures to be received?
- Is the loss of those achievable benefits justified by what other capital/pension assets W is retaining

## PUBLIC SECTOR continued....

- How to address the benefits gap (deferral of W's benefits although H's are in payment)
- Capitalise (Offset)
- Maintenance (possibly with AOE) and adjournment of application for PSO
- PAO and adjournment of application for PSO (eg Police OK, but AFPS say no)

# PRIVATE SECTOR

## Same questions

- Internal/external?
- What % PSO will achieve equality of pension income and lump sum (including index link) (Bear in mind that the lump sum is now often not on top, but commutable)
- **When** will that equality be achieved? And what will the figures to be received
- Is the loss of those achievable benefits justified by what other capital/pension assets W is retaining

## 2 Financial Details

### Part 4 Capital: Pensions and Pension Protection Fund (PPF) Compensation

2.13 Give details of all your pension rights and all PPF compensation entitlements, including prospective entitlements. Complete a separate page for each pension or PPF compensation entitlement.

EXCLUDE:

- Basic State Pension

INCLUDE (complete a separate page for each one):

- Additional State Pension (SERPS and State Second Pension (S2P))
- Free Standing Additional Voluntary Contribution Schemes (FSAVC) separate from the scheme of your employer
- Membership of ALL pension plans or schemes
- PPF compensation entitlement for each scheme you were a member of which has transferred to PPF

Documentation required for attachment to this section:

- a) A recent statement showing the cash equivalent (CE) provided by the trustees or managers of each pension arrangement; for the additional state pension, a valuation of these rights or for PPF a valuation of PPF compensation entitlement
- b) If any valuation is not available, give the estimated date when it will be available and attach a copy of your letter to the pension company, administrators, or PPF Board from whom the information was sought and/or state the date on which an application for a valuation of an Additional State Pension was submitted to the Department of Work and Pensions

Name and address of pension arrangement or PPF Board

Your National Insurance Number


Type of scheme  
e.g. occupational or personal, final salary,  
money purchase, additional state pension,  
PPF or other (if other, please give details)

Date the CE, PPF compensation or  
additional state pension was calculated

Is the pension in payment or drawdown?  
(please answer Yes or No)

State the CE quotation, the additional state  
pension valuation or PPF valuation of those  
rights

If the arrangement is an occupational  
pension arrangement that is paying  
reduced CEs, please quote what the CE  
would have been if not reduced. If this  
is not possible, please indicate if the CE  
quoted is a reduced CE

Is the PPF compensation capped?  
(please answer Yes or No)

		
Date	Month	Year
<input type="checkbox"/> Yes <input type="checkbox"/> No		
		
<input type="checkbox"/> Yes <input type="checkbox"/> No		

TOTAL value of ALL your pension assets: TOTAL F 

£
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scheme you must attach it. Where the information is not available, give the estimated date when it will be available and attach the letter to the pension company or administrators from whom the information was sought. If you have more than one pension plan or scheme, you must provide the information in respect of each one, continuing, if necessary, on a separate piece of paper. If you have made Additional Voluntary Contributions to any pension scheme, you must give the information separately if the benefits referable to such contributions are separately recorded or paid. If you have more than one pension scheme you should reproduce the information for each scheme. Please include any SERPS.

Type of scheme, plan or policy (e.g. final salary, money purchase or other)	Final Salary and Career Average
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**CETV - Cash Equivalent Transfer Value**

CETV Value	£15,242.63
The lump sum payable on death in service before retirement	£30,980.91

**Retirement Benefits**

Retirement benefits payable at Normal Pension Age	20/08/2031
The estimated lump sum and annual pension payable on retirement	Lump sum: NIL Annual Pension: £4,115.12 VC Current Value: £1,029.64

**Spouse's Benefits**

On death in service	£1,290.05
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**Dependant's Benefits**

On death in service (per child)	£645.03
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**TOTAL - value of your pension assets (F)**

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Transfer Out Member Schedule (continued)

Part C Transfer Details

**Cash Equivalent Transfer Value (CETV)**

Total Transfer Value:

£1,009,264.19

Pre 6 April 1997 Transfer Value arising from GMP:

£12,550.41

Post 6 April 1997 Transfer Value arising from post 1997 contracted out service (Section 9 (2B) Rights):

£741,582.05

Date of Calculation:

18/05/2018

Guarantee Date:

18/08/2018

**Money Purchase Transfer Value (MPTV)/Additional Voluntary Contributions (AVC)**

MPTV/AVC Provider:

Clerical Medical

MPTV/AVC Fund Value (not guaranteed)

MPTV £20,025.03 and AVC £8,263.46

MPTV/AVC valuation date:

24/05/2018

**Part B**

**Preserved Benefits**

**Benefits at Date of Leaving (DOL)**

Member's total Pension at DOL:

£38,825.40 per annum

Member's Pre 6 April 1997 Pension at DOL:  
(included in the total)

£10,748.57 per annum

Total Member Contributions at DOL:

£61,442.59

**Guaranteed Minimum Pension (GMP):**

Pre 6 April 1988 GMP at DOL:

£0.00 per annum

Post 6 April 1988 GMP at DOL:

£596.96 per annum

Revaluation Method:

Fixed

Revaluation Rate:

4%

Private Final Salary Pension

CETV - £600,000

DC Personal Pension

CETV - £600,000

Public Final Salary Pension

CETV - £600,000

GAR Pension

CETV - £600,000

**Private Final Salary Pension**

Income today - £18,750 and no lump sum

Lump sum today - £84,6779

and £12,701 income

**DC Personal Pension**

Income today - £21,600 and no lump sum

Lump sum today - £150,000

and £16,200 income

**Public Final Salary Pension NHS**

Income today - £24,000 **PLUS**

Lump sum today - £72,000

**Guaranteed Annuity Rate 6%**

Income today - £36,000 and no lump sum

Lump sum today - £150,000

and £27,000 income

# SCHOOLBOY ERRORS



## Failing to appreciate or understand

- The difference between a DC and a DB scheme when comparing pension provision for each party;
- The potential value of a DC scheme with Guaranteed Annuity Rates
- That in relation to a DB occupational pension scheme, the pension statement *should* include a statement of the future lump sum and income benefits that have accrued to date, and that this will often give a more reliable idea of the value of the pension benefits that the wife is giving up by not seeking a PSO to share with those available to the husband. The CEV alone is simply the figure against which a % PSO will be applied. By itself the CEV says nothing useful about the future lump sum and income benefits that will be available (or when that will be);
- That the CEVs for different DB occupational pension schemes may have been calculated on wholly different actuarial principles, such that a significantly higher CEV can easily underlie an entitlement to a significantly lower future pension income;
- That some pension providers give only the option of internal transfer, some give only the option of external transfer and others give the choice.

- That, depending upon the ages of the parties and the dates at which they may be able to take their pension benefits after a PSO, adopting a simple 50% PSO will not necessarily lead to equality of future pension lump sum and income, even when an internal transfer is available.
- In relation to DB occupational pension schemes where an internal transfer is not available, failing to appreciate that a simple 50% PSO on an external transfer basis will probably give rise to pension benefits that will be significantly lower than those retained by the husband;
- Failing, in particular in relation to Armed Forces pensions and Police pensions, to appreciate that the CETV stated in respect of a husband who is approaching his intended early retirement age is usually a figure that wrongly assumes/pretends that he will not retire until aged 60. (If/when he retires at a much earlier age, the benefits will be payable over a much longer period, and the CEV inevitably rises considerably);
- Failing to appreciate that even if a PSO is made which shares future pension benefits (particularly for Armed Forces or Police pensions) that the wife's perceived "equality" will be deferred until aged 60/65, and that there is a value to be placed on her loss of a share in the residual pension income which was accrued through years of service during the marriage but which will be retained solely to the benefit of the husband during the period of that deferral;

- **Failing to understand, or to give any advice to the wife, that a fair and reasonable approach to issues of division of matrimonial capital and pension sharing is not necessarily a black and white choice between PSO or offset, and that although retention of the FMH may meet an obvious need, it might justify only a *partial* offset of a claim to PSO;**
- **In cases where the capital advantage is intended to achieve a clean break both as to PSO and spousal maintenance, failing to give any thought to the element of the capital advantage that should properly be attributed to the dismissal of the spousal maintenance (SM) claim, such that the overall capital division may justify only a partial offset of the claim for PSO**
- **A failure to appreciate that the court enjoys jurisdiction to make a PSO even in respect of a pension that is already in payment;**
- **A failure to differentiate between pension and capital assets, by including a CEV for a DC pension within the schedule of capital assets as if it were immediately available in full;**
- **Giving positive, persuasive and apparently confident advice that an offset by retention of the FMH (or otherwise a greater share of capital) is advantageous because of the housing needs of the Wife and children, without any proper understanding of any of the above.**





Grant Lazarus  
Barrister and MCI Arb



**7** Harrington St  
CHAMBERS

**7 Harrington Street Chambers** Liverpool L2 9YH

**T:** 0151 242 0707 **M:** 07850017769 **E:** [grant.lazarus@7hs.co.uk](mailto:grant.lazarus@7hs.co.uk) [www.7hs.co.uk](http://www.7hs.co.uk)