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Technical Briefing Note (For Family Lawyers)

Pensions – Key Considerations on Divorce

What type of pension do you have?

- **"Final Salary", "Career Average", or Defined Benefit** – These schemes promise a guaranteed income in retirement, usually linked to the level of your salary. The pension scheme takes the burden of providing the promised income.
- **Defined Contribution** – You pay into the pension in order to build up a "pension pot". There is usually no income guaranteed and the individual has the burden of ensuring this will be sufficient to generate an income.
- A Defined Contribution Pension with **Safeguarded Benefits** – Some pension plans include pension promises without being full defined benefit plans. One example of this is a plan which has a guaranteed annuity rate, meaning that the pot can be converted into an income at a known rate. These can be both complex and valuable benefits.

Caution Needed

Due to the changes that have happened in pension legislation over the years there is a need for considerable caution when looking at older pension plans. There are often specific rules or details which could impact their value in a divorce situation.

Defined Benefit Pensions

These pensions are complicated to value as there is no "pension pot" being accrued specifically for the member. The scheme trustees are responsible for ensuring that there are sufficient assets and investments to fulfil the pension promises offered to all members.

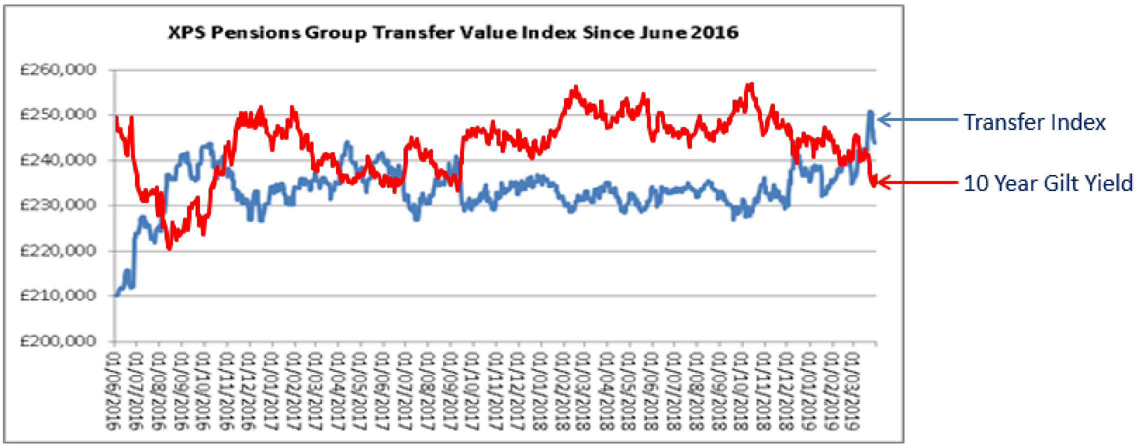
"I have a Cash Equivalent Transfer Value (CETV) from the scheme, surely that is all I need to know"

- CETVs (Also abbreviated CE and CEV) were first developed as a way to provide a figure for members who wanted to leave the pension scheme. They were **not originally intended for use in divorce cases** and, whilst they provide an essential starting point, they require significant interrogation.
- The income promise, rather than the CETV, should usually be the starting point.
- The CETV is an actuarial calculation and is usually **only valid for 3 months.** Due to the variable factors used in the calculation the value can change dramatically over a relatively short period of time. If a value is out-of-date it should not be relied upon.

- **Scheme specific**, two CETVs offered by two different schemes for the same income promise may be considerably different. This could lead to a false equivalence and an unfair outcome.
- The CETV **does not reflect when the scheme benefits were accrued** and how this should be reflected in any sharing of the pension.
- It is important to consider whether there is the option for the pension benefits to remain in the scheme. This is often referred to as a "shadow member" arrangement and can have significant advantages for both parties.
- The CETV alone may appear **misleadingly simple** to compare with Defined Contribution benefits or the value of an asset such as a property. The true cost of replacing the income promise on the open market is often not reflected by the CETV.

How much will the CETV move?

- The chart below shows the significant month on month changes that were experienced in CETVs between 2016 and 2019. The chart highlights the significant impact of changes in the 10 year Gilt yield on CETV levels.
- Gilt rates and Interest rates both have a significant impact on the CETV. Generally, these movements are inversely correlated with CETVs.
- It is crucial to ensure CETVs are up-to-date. The starting CETV may no longer be accurate at the conclusion of matters and this may impact the required action.
- Although there may be an administrative cost for requesting a new CETV the importance of a recent valuation cannot be overstated.



Average CETV offered to a scheme member aged 64, retiring at 65 with a pension promise of £10,000 per year.

Expert Pension Reports can give you confidence that the agreed split is fair and provides the intended outcome. Sharing pensions incorrectly could result in lower retirement incomes for both parties. A pensions expert will analyse and interrogate the figures provided by pension schemes in order to determine their value for sharing or off-setting. A suitably qualified pension expert will take the professional responsibility for the specific advice given.

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