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Family and Divorce Pensions and Divorce

Pensions have always been an important part of any financial settlement on divorce. A pension can be the largest asset, sometimes worth even more than the home.

Most pensions provide a widows/widower's pension of half the pension the holder would receive on retirement. On divorce, the other party is no longer a spouse and so loses the chance of receiving this benefit. Many work pensions also provide a death-in-service payment, of a substantial lump sum if the employee dies whilst in employment which is only payable to a spouse and so is lost on divorce.

Sometimes the other party is compensated, by them having a larger share of the home, or other assets. Nowadays, pension orders can be made instead, either an "attachment Order" or a "sharing Order". For an attachment order, the pension holder retains his pension and on retirement can choose to take up to 25% of this fund as cash and then receive a reduced pension. The ex-spouse can then receive all or part of the holder's per annum pension and/or part of the lump sum. However, if the ex-spouse marries before the holder's retirement, he or she will not receive anything. If they remarry after, any per annum payment will cease. Further, if the holder dies before retirement, the ex-spouse will not receive anything.

Alternatively the pension can be "shared" on divorce, rather than the division having to wait until retirement. The ex-spouse receives a pension credit for their own pension fund and the holder's pension fund is debited by that share. As the fund passes on divorce, remarriage of the ex-spouse, or death of the holder does not affect the fund.

If you have a work or personal pension with benefits payable to your spouse on your death prior to retirement you may, if possible, wish to nominate someone other than your spouse to receive this benefit pending long-term financial matters being resolved as part of your divorce. We may be able to help you clarify this, or you may wish to contact your pension provider or financial adviser.