



Mathieson Consulting Ltd

actuarial and expert witness services

Overcoming and Controlling Difficulties with Pension Sharing and Compensation - The view from PAG

George Mathieson



What is PAG all about?

- What is the Pension Advisory Group and how did it come about?
- What are PAG's aims?
- What has PAG done so far?
- <http://www.nuffieldfoundation.org/pensions-divorce-interdisciplinary-working-group>
- Big picture
 - Uncertainty about pensions
 - Experts with different approaches
 - Poor quality letters of instruction
 - Spurious accuracy – stop arguing about fractions
- Last bastion of unintended discrimination against women in family law?



Some Key Issues

- When can you rely upon the CE of a pension?
- Is there a conventional approach to pensions?
- Expert assumptions
 - Annuity purchase
 - Common approach
- Offsetting
- Regulation and avoiding dodgy experts



When can you rely on the CE (for pension sharing)?

- DC schemes with no implicit guarantees
- Young couple, say under 40 (but not if Short Service Scheme, Police, AF etc)
- Assets exceeds needs. Big money.
- Pensions are *de minimis* –
 - less than £100,000 unlikely to need
 - Over £200,000/£250,000 very likely to need
 - Between £100,000 and £250,000, it depends
- Sole DB public sector scheme an internal transfer only (not offsetting)
- DB pensions which cancel each other out e.g. £80k and £130k. Total £210k, but difference only £50k



Is there a Conventional Approach?

- No pointer in s.25
- Pensions are not “a breed apart” and also should not be put in “too difficult” box
- s.25 is “fairness” not “equality”
 - Short marriage may not call for any order.
 - Long marriage, where W has lost earning capacity, may call for unequal order in W favour.
- Sometimes (as above) simple CE s.25 division may suffice
- If CE does not suffice then majority of cases are “equalisation of income in retirement” (and what date? Suggest, to NRD of dominant pension & state retirement)
- “True capital value” used in some cases
 - Substantial age disparity
 - Retirement on ill health



Expert Assumptions and Approach

- Annuity purchase assumption
 - Picture post “Pension Freedoms”
 - At A Glance is reinstating annuity page
- Common approach?



Offsetting

3 principal schools of thought:

- First:
 - It's a unique and personal choice how parties strike a deal (or length of DJ's foot). Use CE as a guide.
 - - Risk of unintentional discrimination against women?
 - - Could it be defended in a negligence claim?



Offsetting, why not the CE? (1)

- H and W both aged 40.
- H active member of Armed Forces Pension Scheme.
- Only assets are equity in FMH worth £150,000, and AFPS CEV £144,650
- W desperate to keep the house to house herself and children.
- H keen to retain pension



Offsetting, why not the CE? (1)

Risk of negligence

- What was done:
 - Straightforward offset, with assets seemingly of the same value. H keeps pension, W keeps house
 - W's lawyers suggest they have actuarial report
 - W resists on grounds of (i) costs and (ii) H putting pressure on W to settle



Offsetting, why not the CE? (1)

Look beyond H's CEV at the actual benefits:

- Has a preserved pension of £10,000 pa, plus lump sum of £30,000, payable at age 60.
- Cost to W of buying an equivalent pension on open market is £223,000. This is also the open market value of H's pension.
- Is accepting equity in FMH to meet basic housing need now a good trade off?



Offsetting, why not the CE? (1)

- But H currently has 21 years of service, next year he will have 22 years of service, at which point his pension would be paid immediately on leaving service, not at age 60.
- CE in 12 months' time will be £281,400 (not because his pension is any greater, still £10,000 pa plus lump sum of £30,000, but because it is now payable immediately not at age 60)



Offsetting, why not the CE? (1)

- How does offset against equity in FMH look now?
- Open market value of H's pension in 12 months' time is over £500,000
- Negligence claim against the solicitors



Offsetting, why not the CE? (2)

- **W** aged 60 (just before retirement) has Public Sector pension CEV **£300,000**
- **H** aged 60 (just before retirement) has Scottish Widows pension CEV **£300,000**
- Already have Equality of CEVs, therefore should there be no offsetting on basis we already have equality of pensions?



Offsetting, why not the CE (2)

- **W** will receive pension of **£12,800** pa, plus a lump sum of **£38,400**, plus a widowers pension of **£6,400**
- **H** may be able to secure index linked pension of **£7,800** pa with no lump sum, or pension of **£6,809** pa with a lump sum of **£38,400**
- Is a pension a capital asset to be judged on CEV (in which case no difference) or is it a future income stream (in which case substantial difference)?



Offsetting

3 principal schools of thought:

- Second:
 - Need to value properly the net pension when CE likely to be misleading. Once you know net value, then parties/court applies s.25 to arrive at a deal. (PAG's preferred option)



Offsetting

3 principal schools of thought:

- Third:
 - Value net pension and then have expert opine on the different ways of how offsetting may work.



Offsetting

Constituent parts:

- Alighting upon a true and consistent valuation of the pension/s
- Adjusting for tax
- Then:
 - (possibly) adjusting (discounting is unhelpful word) for utility
 - Or is that just s.25 discretion?



Regulation

- Shadow expert practice means they all know what the others are saying
- Range of competencies with a “Statement of Truth.”
- Range of experts involved



Pension Problems – Old Age

- H Aged 90, in receipt of pension £65,000 pa
- W Aged 80.
- Parties ignored advice, and agreed 50% PSO in favour of W
- Cash Equivalent £80,000
- H's income dropped to £32,500 pa
- W Received pension credit £40,000
- W able to buy annuity of £5,000 pa



Pension Problems – Ill Health.

- H retired. Pension £11,000 pa, CEV £230,000
- 50% PSO made.
- H's income reduces to £5,500 pa
- W gets pension credit of £115,000.
- Normally W may be able to buy annuity of c. £4,000 pa.
- W seriously unwell.
- Medically underwritten annuity rates



And finally...

Kate Routledge, Actuary, 15 years experience in this field

Dr Catherine Anderson, Actuary, 7 years experience

Jonathan Galbraith, Actuary, previous Senior Actuary at PwC

Chris Goodwin, Scheme Actuary for > 10 years, and 2 years experience in this field

Plus Admin Team of 7 including Law Graduates, Accountancy Graduates all with experience in Pensions Administration.

Mathieson Consulting Limited
Seymour House, 15A Frederick Road,
Edgbaston, Birmingham, B15 1JD

T 0121 455 7222

F 0121 455 0099

E george@mcact.co.uk

W mcact.co.uk

