Divorce and Pensions, a Financial Affair

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Frances Roch, Chartered Financial Planner and Pensions Director at Attivo Group in Cheltenham takes a look at the complexities of divorce and pensions.

Getting divorced is one of the biggest financial upheavals likely to be experienced, leaving one or both parties in need of guidance on what to do with their share of the divided assets.

Whilst the number of failed marriages has actually fallen in recent years, predominantly because fewer people are now getting married, it is the average age of divorcees which is increasing, and in particular those aged 60 years plus.

As with a bereavement, this often means that one of the affected parties is totally unaccustomed to handling financial affairs or money matters, and the whole process of a divorce and its implications can therefore be extremely daunting and quite frightening, being totally new territory.

In addition to the marital home, the impact of pension sharing in terms of the overall financial assets can also be particularly significant, and plays a fundamental part of creating a fair valuation outcome.

Whilst the first step to instigate divorce proceedings would normally be to think about contacting a matrimonial solicitor, there are merits for couples, particularly those in their 40’s, 50’s and 60’s to seek the advice of a financial adviser at this point.

Solicitors are legal experts but some IFAs are pensions experts and specialise in pensions analysis, so where pensions are a major concern in a divorce case, then the expertise of both the financial and legal professionals will be required.

Obtaining the fairest value of the pension assets is essential, even if the final settlement does not involve a pensions sharing or attachment order. Seeking advice early on in the process is therefore important to obtain guidance on how best to approach matters. In fact there are many cases where an IFA can be of great assistance in helping couples decide how all financial assets should be divided.

Since legislation in 2000 allowed pensions to be physically split between divorcing couples, the role of the IFA has become more prominent in cases where pensions form part of the financial assets.

Financial advisers are also more likely to know if a valuation is correct or not and have the ability to obtain further valuations to support the demands for a greater share of the matrimonial assets. Whilst additional valuations can incur extra costs with actuarial fees, this may be worthwhile if the new valuation delivers better returns for the client.

Calculations involved in settling a divorce can be complex and extremely emotional, depending on individual circumstances, but a spouse can be entitled to half of all pensions accrued to date.

This means that one spouse can lay immediate claim to a percentage of their partner's pension pot and move the money to another pension fund, and there is no need to wait for their partner to retire. This gives each partner direct control over their finances and promotes a cleaner break in the divorce.

However, much depends on the type of pension scheme held and how its value is best shared between the two parties, as it can be handled in other different ways.
Pension offsetting is another route and can occur if the court allows one partner to keep their pension and award the other partner a greater share of the family home, by taking the value of the pension into consideration. However this does carry its own health warning, as it could affect and impact on retirement security in later years.

An attachment order is another type of agreement also known as pension earmarking and means that when the pension is finally drawn the partner receives an agreed portion. However this system means that the divorcee has to wait until the former spouse decides to retire to receive any funds. There is also the risk of receiving nothing if the pension holder dies before reaching retirement or if the pension-less spouse remarries.

The merits of involving an IFA from the outset of divorce proceedings also extend way beyond the settlement date, as the pensions adviser is then ideally placed with the knowledge and background to

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provide on-going financial and investment services, particularly in cases of major awards where independent advice is essential to maximise income returns.

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