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Pension reform: How to advise divorcee clients

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An estimated 31,000 public sector workers will file for divorce this year, but with reform to their pensions hanging in the balance, what should advisers recommend?

January is always seen as a bleak month, and it is no surprise that it usually comes with a surge in divorces. Steven Meredith, pensions specialist at NFU Mutual, said: “For many married couples, the most valuable asset is their pensions.

“Not every divorce will end in a pension being shared but, particularly for those approaching retirement age, it is a large sum of money and splitting the pension pot could significantly alter both partners’ retirements.”

Research from Buck Consultants shows there could be 31,000 public sector workers filing for divorce who face uncertainty in the value of their pensions because reforms to their schemes have not yet been decided.

A year of paralysis

There has been uncertainty surrounding public sector pension valuations for several months, Mike Morrison, head of pensions development at Axa Wealth, said.

“Public sector pension members looking to divorce have had their valuations in a state of paralysis since March because of the government’s wrangling over changing the indexation of their pensions from RPI to CPI,” Morrison said.

New guidelines on valuing public sector pensions using CPI inflation were finally published in October 2011.

However, though indexation is now set, the question of how public sector pension benefits will accrue in future is still unanswered due to continuing negotiations between the government and the unions.

The legal position

Jennie Kreser, pensions partner at Silverman Sherliker, said it is unlikely that, if the valuation of a pension turned out to be less than its true value after the divorce, an ex-spouse could come back and demand a bigger settlement.

However, Kreser said with no definitive guidelines on how to value public sector pots in light of the future reforms, it would be very difficult to calculate how much a lump sum payment or a split in income to a divorcing partner should be in the first place.

Advisory approaches

Advising clients during a divorce requires sensitivity, Morrison said. It might be more economically expedient for the partner who is the pension scheme member to wait until the reforms are finalised. However the emotional strain of the situation might make it inappropriate for an adviser to recommend a delay, he added.

Kreser said the divorce proceedings can at least be started without a final valuation of the pension pot.

“A divorce happens in two stages: Decree Nisi and Decree Absolute,” she explained.

Decree Nisi states the intention of the couple to divorce at a future date provided no contradiction to the grounds for divorce has been produced. Decree Absolute finalises the divorce, so, Kreser said, couples could sign Decree Nisi to “get the ball rolling” before their assets are split.

This could help to placate distressed clients unhappy with a delay, she said. However, Morrison said the safest move for an IFA is to base recommendations on hard facts as predictions could be wrong.

“You could argue it would be better for some couples to delay a divorce but, with gilt yields at a record low, transfer values now could be higher than in future,” he said.

“An adviser can only advise on the present state of legislation; the only thing set in legislation.”