

# Divorce (pensions), Civil Partnerships (pensions) and more pensions

10 July 2019

**DIVORCE (PENSIONS), CIVIL PARTNERSHIPS (PENSIONS) AND MORE PENSIONS**

Presented by:  
Mena Ruparel MCI Arb and  
Karen Dovaston MCI Arb

(c) Karen Dovaston and Mena Ruparel July 2019

---

---

---

---

---

---

**MENA RUPAREL  
MCIARB**

- Mena@menaruparel.com
- www.menaruparel.com
- Trainer, Solicitor, Arbitrator
- Law Society committee member
- Representative on PAG

(c) Karen Dovaston and Mena Ruparel July 2019

---

---

---

---

---

---

**KAREN DOVASTON**

- Solicitor, admitted 1995
- Arbitrator (Finance)
- Secretary Forum of Family Arbitrators
- Law Society Accredited Family Law Resolution member
- Contributor to PAG Focus Group
- karen@dovastonlaw.co.uk

(c) Karen Dovaston and Mena Ruparel July 2019

**Dovaston Law**  
Specialist Family Solicitors

---

---

---

---

---

---

**" I HATE PENSIONS AND I DON'T GET THEM"**

- Knowledge is power. Get to know the beast. How?
- Lexis Nexis
- Webinars with a financial adviser element in them
- Pensions Advice Service website

(c) Karen Dovaston and Mena Ruparel July 2019

**Dovaston Law**  
Specialist Family Solicitors

---

---

---

---

---

---

**" I HATE PENSIONS AND I DON'T GET THEM"**

- NHS pensions website
- Business sections of newspapers
- www.gov.uk has a section
- Know a financial planner or chartered financial planner from your networking? Get chatting to them
- Pensions on Divorce – 3rd ed – Hess, Hay, Lockett and Taylor

(c) Karen Dovaston and Mena Ruparel July 2019

**Dovaston Law**  
Specialist Family Solicitors

---

---

---

---

---

---

# Divorce (pensions), Civil Partnerships (pensions) and more pensions


## 10 July 2019

AND MOST IMPORTANTLY .....

**READ THE P.A.G. REPORT!**

- Yes, it is long
- Yes, it is not a page turner
- Yes, it will help your practice
- Yes, you have to read it

© Karen Dovaston and Mena Ruparel July 2019




---

---

---

---

---

---

---

---

**WHAT IS THE REPORT ABOUT**

*"For too long the division of pension assets, which may often be of significant value, has been confused by jargon, complicated structure and changing provisions; for too long, also, tales of divergent approaches to pension sharing in different court centres have brought the integrity of the system into question."*

Sir Andrew McFarlane  
President of the Family Division

© Karen Dovaston and Mena Ruparel July 2019

---

---

---

---

---

---

---

---

**COMMON PROBLEMS – THE BASICS**

- ? What type of pension are you dealing with
- ⚠ Not getting a report when you need one to advise the client (possibly leading to negligence)
- 📄 Getting a report when you don't need one (simple DC pensions with no guarantees)
- 🗨 Not knowing what to ask when drafting a LOI for a report
- 💡 Not understanding the value of the defined benefit pension when dealing with an offsetting case
- 💞 What to do with pre-marital and post separation pension growth

© Karen Dovaston and Mena Ruparel July 2019

---

---

---

---

---

---

---

---

**HOW DOES THE REPORT HELP?**

- Part 2 – essential action points to keep in mind
- Part 4 – Distinguishing between needs and sharing cases – vest property will be needs cases. "Appurtenance is not usually relevant in a 'needs' case"
- Part 6 – When to instruct a PODE? Examples of when you don't need to and when you really should
- Part 7 – offsetting – fertile ground for negligence claims
- Using the right value
- Adjustments for 'uslley'

© Karen Dovaston and Mena Ruparel July 2019

---

---

---

---

---

---

---

---

# Divorce (pensions), Civil Partnerships (pensions) and more pensions

## 10 July 2019

### AGREEING THE LETTER OF INSTRUCTION

- If you really cannot agree, consider Family Arbitration
- A decision can be made in a matter of days
- It can be done on the papers
- It is surely faster and cheaper than cross applications in proceedings
- It can be resolved as a discrete issue within the context of proceedings
- It is binding.

© Karen Dovaston and Mena Ruparel July 2019

### CM v CM [2019] EWFC 16

(Judgment 1 March 2019).

Mr Justice Moor on cross applications to approve the working of a letter to go to the expert:

"High Court Judges are exceptionally busy. They do not have time to draft letters of instruction or even to determine disputes as to the wording of such letters. On this occasion, there was no legitimate dispute as I had already made an order that set out the issues Mr Bezat had to consider. If, however, in a future case, there is a genuine issue as to drafting, I consider it would be exactly the sort of matter that should be referred to an arbitrator who is accredited by the Institute of Family Law Arbitrators."

You have been warned!

---

---

---

---

---

---

---

---

### RIGHT, SO THE CLIENT HAS A PENSION. WHAT NEXT?

- ✓ Do they have a CE statement?
- ✓ If they do have the CE statement, read it. All of it.
- ✓ Do you need to get a benefits statement as well?
- ✓ What type of pension is it? Defined Benefit? Defined Contribution? SIPP? Average salary? Final salary?
- ✓ Have you got a 'mix' of pensions?

© Karen Dovaston and Mena Ruparel July 2019



---

---

---

---

---

---

---

---

### RIGHT, SO THE CLIENT HAS A PENSION. WHAT NEXT?

- ✓ There are a few 'golden' pensions : Fire, Police, Teachers (Watch out for the AVC), NHS, Civil Service, Banking, Army
- ✓ For people divorcing post age 40, pensions are still likely to be a serious consideration

© Karen Dovaston and Mena Ruparel July 2019



---

---

---

---

---

---

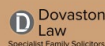
---

---

### ....AND INTERNALLY FROM A RISK POINT OF VIEW....

- ✓ Know what your firm's insurers require from you
- ✓ Many PII covers have a provision that if pension funds are more than £100,000, you need to advise the client to get PODE – so if they choose not to, you get that in writing signed by them
- ✓ What is the value of a disclaimer?

© Karen Dovaston and Mena Ruparel July 2019



---

---

---

---

---

---

---

---


# Divorce (pensions), Civil Partnerships (pensions) and more pensions

10 July 2019

### GETTING A PENSION EXPERT REPORT

- If in doubt, get a PODE
- Look at the template letter of instruction in the PAG report
- What's the report for? Depends on what you ask

(c) Karen Dovaston and Mena Ruparel July 2019



---

---

---

---

---

---


---

---

### GETTING A PODE

- Main issue you will want to know:
  - How to achieve equal income in retirement for each party
  - What values to use if you are trading equity for pension
  - What is any pre-relationship accrual worth? (CF P.A.G)

(c) Karen Dovaston and Mena Ruparel July 2019



---

---

---

---

---

---

---

---

### COUPLE OF FINAL POINTS.....

- ❖ There are more women in pension poverty than men. (Lots of articles and studies recently)
- ❖ Consider getting a financial planner or chartered financial planner involved at an early stage for financial planning
- ❖ A PODE report is not as expensive as you think. Costs circa £1,500 + VAT as a starting point.
- ❖ Growing area for negligence claims

(c) Karen Dovaston and Mena Ruparel July 2019



---

---

---

---

---

---

---

---



QUESTIONS?

(c) Karen Dovaston and Mena Ruparel July 2019

---

---

---

---

---

---

---

---