

## PENSIONS AND DIVORCE – IMPORTANT UPDATES



The last 12 months have seen some quite significant changes in issues affecting pensions and divorce.

*The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008*

Probably one of the biggest changes was the introduction of the Occupational Pension Schemes (Transfer Values) (Amendment) Regulations 2008 – statutory instrument SI2008/1050 on 1 October 2008, which have affected the calculation of cash equivalent transfer values (CETVs) for defined benefit (or commonly called final salary) pension schemes.

Until 30 September 2008, CETVs were calculated by the scheme actuary in accordance with the actuarial guidance note GN11. The new regulations passed the responsibility to the scheme trustees to decide and agree the basis on which cash equivalent transfer values would be calculated in the future. Their assumptions should be on a scheme specific basis, taking into account the investment policy and any known variations in mortality as a result of the demographics of the scheme.

Since these regulations were introduced we have seen some significant variations in recalculated transfer values, for example, within the public sector pension schemes – the NHS, Teachers, Police etc – transfer values have increased between 20% and 25%.

However, the greatest degree of variation has been seen in the private sector schemes, where some transfer values have fallen by 30% and others have nearly doubled in value!

If a pensions report has been prepared by a financial planner or consulting actuary based upon cash equivalent transfer values that were provided by the pension scheme before 1 October 2008, it is strongly recommended that the figures are checked before any orders are either issued by the court or implemented. There is likely to be a significant variation in the transfer payment that the former spouse will actually receive, as the transfer values will be calculated within the four-month implementation period based upon the new method.

### THE PENSIONS ACT 2008

The Pensions Act 2008 introduced new regulations that now enable an occupational pension scheme to pay pension credit benefits before the normal retirement age of the scheme.

However, whilst these regulations have been introduced it is important to remember that they do not compel individual schemes to allow a former spouse, who has been awarded 'shadow membership', to take these benefits before the normal retirement age of the scheme, which would commonly be between 60 and 65.

Probably one of the highest profile schemes that have introduced this new flexibility is the Armed Forces Pension Scheme – which will now enable the former spouse to take benefits from the age of 55. The pension will be reduced, however, to take into account the early payment. It is noticeable that at the present time the other public sector schemes have not followed the Armed Forces Pension Scheme's lead, however this is something that we are continuing to monitor.

### SAFEGUARDED RIGHTS

In April 2009, safeguarded rights were abolished. This means that a former spouse who has previously acquired safeguarded rights as part of a pension sharing order, is now able to take 25% of the fund as a tax-free cash lump sum and is able to take the benefits from the age of 50. It should be noted that the minimum retirement age is to be increased to 55 with effect from 6 April 2010, so for clients currently aged between 50 and 55 there is a time issue here.

For clients who have previously put their 'non-safeguarded rights' benefits into payment, this may provide them with an opportunity to increase their monthly income.

If you would like to know more about Wealth Management please call us on 020 8672 8945 or email us at [advice@menzieswm.co.uk](mailto:advice@menzieswm.co.uk)

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**If you have any queries or would like to discuss any of the issues raised in this newsletter, please contact your Menzies partner or one of the LegalPlus representatives listed below.**

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## WEALTH MANAGEMENT HOW IT CAN HELP YOU AND YOUR CLIENT RELATIONSHIPS



Wealth Management provides holistic financial planning to clients, offering advice on a range of services including inheritance tax, capital gains and income tax, pension planning, trusts and protection needs in order to meet your clients' financial objectives in both personal and business areas. Recommendations made are tailored to meet your clients' own specific requirements and the confidential advice given is totally independent.

It is a service that complements that already provided by you, adding an additional element of gloss to the already polished veneer that your law practice presents.

### HOW CAN THIS BENEFIT YOU?

Wealth Management can assist you within your own business and also with your clients' businesses.

It can help your own business by keeping you up to date with new budget legislation, bringing any changes to the forefront of your attention and making sure that you are remaining compliant. It can also be used to assess your business needs and review any requirements such as key man cover, group pension schemes and health care provisions and many other financial requirements for you and your staff.

For your clients, not only can this service provide the above benefits to their businesses, it can also be used to look after their personal financial objectives by providing them with a bespoke service that recognises their unique needs and provides them with solutions using the information from the whole of the marketplace.

By providing this service it demonstrates to your partners, employees and clients alike that you appreciate that this specialised area requires a specialised approach.

### HOW CAN THIS BENEFIT YOUR CLIENTS? – CASE STUDY

A client was referred to us to look at the options of shareholder protection.

The company has three shareholders; of the 90,000 shares, 89,989 are owned by one shareholder, with the remaining 11 shares held by two other shareholders.

Shareholder protection is a plan that provides a benefit on the death or critical illness of a shareholder, to ensure a speedy conclusion to finding a suitable successor to the business.

The sudden loss of a shareholder can disrupt a company, and as a result, the family of the deceased may sell the shares of the company to

a third party who can pay their worth or alternatively may wish to retain the shares and become involved in the business. Neither option may be welcomed by the remaining shareholders, however if they do not have the funds to buy the shares, it is a situation that can arise.

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By having a shareholder protection plan, the shareholder or their family will quickly receive the true worth of their shares, whilst resulting in minimum disruption to the business.

What is involved?

- 1 Determining the value of the company
- 1 Calculating the amount of protection required and for whom
- 1 Determining the term
- 1 Determining the tax position
- 1 Writing the application and having these accepted
- 1 Arranging a trust for the shareholders to determine what is to happen to the proceeds

How is it written?

There are three main methods:

- 1. Own Life plan under a business trust
- 2. Life of another plan
- 3. Company owned plan to effect the buy back of shares.

Each of these is best suited to a specific purpose or circumstance.

Summary:

It was determined that only the main shareholder required protection as in the event of their death, there would be serious repercussions on the business and the shareholder's family.

It was agreed that a sum of £1,500,000 would be paid on the death of the main shareholder. This was determined on a 'multiple of profit' basis. The term agreed was 5 years, due to the shareholder age.

A cross option agreement was also put in place by the law practice to ensure that in the event of a claim the policy proceeds ended up in the hands of the family.

The client was very impressed with the service provided as not only had the work conducted been to a highly professional standard from the law practice, but the additional action taken by the Wealth Management associate meant that the client received the correct advice in a timely manner, thus reducing the risk to the business in the event of their death.

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**Eric Norman-Walker, Managing Director**  
 Menzies Wealth Management



## Lawyers need advisors who understand their business – LegalPlus

Given the current economic climate and the regulatory and legal services market changes – lawyers need specialist accountants more than ever before.

This means accountants who:

- 1 Understand the causes and the impact of the current issues.
- 1 Understand the opportunities that the changes will bring.
- 1 Understand how professional firms work, and why they sometimes don't.
- 1 Are used to dealing with the requirements of professional firms, assisting them to develop and implement business plans.
- 1 Are aware of the threats and opportunities which impact the strategic objectives of the business.
- 1 Understand the issues relating to the various trading structures available to solicitors.
- 1 Are able to add value rather than perform mere annual compliance.

LegalPlus is an association of Solicitor Specialist Accountants that are members of the Praxity Alliance within the UK. LegalPlus firms act for a combined total of approximately 250 firms of solicitors in England & Wales.

LegalPlus allows member firms to:

- 1 Exchange technical knowledge, thereby ensuring that all members are fully up to date and allowing them to pro-actively advise firms on issues before they actually arise.
- 1 Produce regular newsletters through

LegalPlus which comment on developments in the legal sector.

1 Take part in the annual LegalPlus roadshow – a series of approximately 20 seminars throughout the whole country. The topic in 2008 was appropriate strategy in response to the Legal Services Act whilst Law Firm Mergers & Acquisitions were covered in 2007.

1 Access a large benchmarking database – helping clients to improve their profitability. The database allows firms to focus on and potentially improve problems areas which may be highlighted by particular expenses being materially different to those expected. The figures could then be interrogated to determine whether the problem is confined to certain departments or is widespread throughout the firm.

LegalPlus accountancy firms have a wealth of experience in advising solicitors, particularly with the detailed specific strategic issues that are of most concern to solicitors in the current climate.

Perhaps now is the time to examine whether you have the right accountant. To survive and prosper it is vital that a law firm has professional advisors that understand the legal services market. If your accountant has never heard of the Legal Services Act or Alternative Business Structures, now might be the time to look around and speak to accountants who do understand the market in detail.



## Outsourced bookkeeping

We receive many requests for assistance with the day-to-day bookkeeping for firms of solicitors. As we would not be able to report directly on our own work, we are not in a position to do this ourselves. We have therefore had requests for information on the potential benefits of outsourcing this work.

These articles have been prepared as a guide to topics of current financial and business interest. We strongly recommend that you take professional advice before making decisions on matters discussed here. No responsibility for any loss to any person acting or refraining from acting as a result of this publication can be accepted by us.

### About Praxity

Organised as an international not-for-profit entity under Belgium Law, Praxity has its administrative office in London. As an alliance, Praxity does not practice the profession of public accountancy or provide audit, tax, consulting or other professional services of any type to third parties. The alliance does not constitute a joint venture, partnership or network between participating firms. Because the alliance firms are independent, Praxity does not guarantee the services or the quality of services provided by participating firms.

Legal bookkeeping can be a headache for small or new firms, or following the departure of a cashier. Firms may find it difficult to find a suitably experienced legal cashier or one that is willing or able to work part-time.

A common cause of firms finding themselves in trouble with the SRA is that their accounts are not properly maintained. The Law Society Gazette contains numerous examples of this every week. Firms that cannot find a cashier or choose one without the correct experience are risking their practice and/or their practising certificate. Alas, it is no defence to blame the cashier if irregularities are later found.

So what are the options? Many solicitors will be unaware that a small number of companies exist that take care of all the day-to-day bookkeeping requirements of law firms and keep accurate records that help the firm comply with the Solicitors Accounts Rules.

### HOW DOES IT WORK?

It can be very simple. As with an in-house cashier, payments and receipts slips are sent to the bureau together with copy bills and bank statements. The information is posted to the accounts and the ledgers can be viewed in real-time at the solicitor's office. At the end of every month a full set of reports is provided to the firm which includes all ledgers, client, office and deposit account reconciliations, VAT analysis, billing summary, aged debtors list and profit and loss and balance sheet. At the end of the year a more comprehensive set of reports is provided which the firm can pass on to the accountants to prepare the final accounts and deal with the SAR report.

### WHAT ARE THE BENEFITS?

- 1 For a fixed monthly fee the bureau should take care of all the accounts postings so the firm doesn't need to worry about employing a cashier, cover for sickness or holiday or paying for software, training or annual maintenance.
- 1 Postings should all be done in accordance with the Solicitors Accounts Rules and any errors or omissions should be identified quickly.
- 1 The costs are often paid for by the reduction in in-house staff and computer hardware/software.