

Supplementary Material: Report of the Pension Advisory Group, 1st July 2019

Report of the Pension Advisory Group Online Survey of Solicitors and Pension
on Divorce Experts, 12th June – 10th August 2018

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Report of the Pension Advisory Group Online Survey of Solicitors and Pension on Divorce Experts, 12th June – 10th August 2018

1. This briefing note summarises the key points emerging from an online survey set up by the Pension Advisory Group (PAG) and open from 12th June until the 10th August 2018. The PAG had the backing of the Family Justice Council and the President of the Family Division and had received some funding from the Nuffield Foundation (but the views expressed are those of the authors and not necessarily the Foundation - for more information visit www.nuffieldfoundation.org). At the point of the online survey, the PAG had been working for approximately ten months on producing a good practice guide to pensions on divorce for the benefit of the judiciary, family practitioners and the divorcing public. PAG had published two consultation reports raising a number of questions of law and practice which were circulated widely for comment, and had run a number of small focus groups for a mix of family lawyers and pension experts, to inform the report. The aim of the online survey was to gather a wider range of views and capture the experiences of practitioners in the field of pensions on divorce, to assist us with understanding the wider context in which the PAG was operating, and to feed in to the final report.
2. The survey was run with the approval of the University of Cardiff Ethics Committee. A copy of the survey is attached at Appendix 3. The survey was analysed using IBM SPSS Statistics Version 22, specialist software for the analysis of survey data. It was very widely circulated to and via various interest and relevant groups, blogs and social media.

Survey Respondents

3. The survey received 155 responses but two people indicated that they did not want their responses used for PAG research and so their data has been eliminated from this analysis. The survey analysis is therefore based on 153 valid responses.
4. As this is not a random or probability sample survey (i.e. the survey is not designed to reflect the underlying population), it becomes very important to understand who has responded to the survey. All respondents were involved with family law financial remedies on divorce cases. The descriptions are shown in Table 1. It can be seen that:
 - Almost all respondents were lawyers, with only 7% of the sample identifying themselves as financial experts. Most of the financial experts were partners or directors of multi-practitioner firms, and most were financial advisors (two were actuaries). This will be reflected in this report: responses from financial experts need to be more cautiously interpreted as individual rather than group responses;
 - Of the lawyers, about half were barristers and about half solicitors;
 - More than half of the barristers, and about 40% of solicitors were situated in specialist family practices, but there are a fair number of respondents from more general practices;
 - There is a good spread of geographical location across England and Wales;
 - There is a good spread across type of location (major urban, city, town, rural);
 - Over 80% of respondents describe themselves as having more than 7 years of experience of matrimonial finance cases, and 40% describe themselves as having 80 –

100% caseload of financial matters on divorce (with 61% having 60 – 100% of their practice being financial). The survey is therefore quite heavily weighted towards experts.

Table 1: Description of Survey Respondents

Description of Survey Respondents					
	<i>n</i> =			<i>n</i> =	
Lawyers	136	89%	<i>Geographical location</i>		
Financial experts	11	7%	England: North-West	13	8%
Not Specified	6	4%	England: North-East	9	6%
	153	100%	England: Midlands	12	8%
<i>Of lawyers:</i>			England: South-West	18	12%
Solicitor	65	48%	England: East	3	2%
Legal Executive	4	3%	England: South-East outside London	23	15%
Barrister	66	49%	England: London	57	37%
Trainee barrister	1	1%	Wales	9	6%
	136	100%	Multiple locations	5	3%
			Missing	4	3%
				153	100%
<i>Of barristers:</i>			<i>Geographical location: type</i>		
Sole practitioner	4	6%	London, Manchester, Birmingham or Leeds/Bradford	60	39%
Specialist family set	36	55%	A city	51	33%
Generalist set	24	36%	A town	33	22%
Mediator	1	2%	A rural area	5	3%
Employed (pension scheme)	1	2%	Missing	4	3%
	66	100%		153	100%
<i>Of solicitors:</i>			<i>Years of experience of matrimonial finance cases</i>		
Partner/Director/Head of Dept specialist firm	15	22%	0 to 2 years	4	3%
Partner/Director/Head of Dept general firm	10	14%	2+ to 7 years	20	13%
Employee, specialist firm/team	12	17%	More than 7 years	124	81%
Employee, general firm	27	39%	Missing	5	3%
Other	5	7%		153	100%
	69	100%			
<i>Of financial experts</i>			<i>Percentage of caseload concerned with the resolution of financial matters on divorce</i>		
Actuaries	2		80%+ to 100%	61	40%
Financial expert providing pension valuations	1		60%+ to 80%	32	21%
financial advisors	8		40%+ to 60%	28	18%
	11		20%+ to 40%	8	5%
<i>Of financial experts:</i>			5.00 Less than 20%	14	9%
Director of sole practice	1		Missing	10	7%
Partner/Director of multi-practitioner firm	7			153	100%
Employee	3				
	11				

Analysis of Lawyers' Survey

- This section reports on the responses given by the lawyers answering the survey. For all questions, lawyers were asked to reflect on their experiences **over the last six months**.

Lawyers' experiences of pensions in divorce cases

- Given that the survey largely comprises specialist, experienced legal experts, with a large family law finance caseload, we gained an impression from the lawyers of the extent to which they encountered some of the problems under consideration. Figures 1 – 4 show the rough estimates of the proportion of caseload where the following phenomena were reported. Given the characteristics of the sample, we might think of this as representing what we might expect

to be best case or best practice, with less experienced and less specialised practitioners likely to show less expertise than the sample shown here.

7. These graphs reveal a number of important points. First, based on population distributions, we expect that in virtually all cases coming to lawyers, there will be pensions that should at least be put into the pot in a divorce case. Twenty-three percent of responding lawyers said that all their cases involved some pensions other than state pensions, and for almost all lawyers, at least three-quarters of their case-load contained cases involving pensions. Thirty per cent say that they were fully aware of the pensions of both parties in all cases. Twelve per cent suggested that pensions are not even noted as existing in more than half of their caseload.
8. When asked about the extent to which pensions “formed part of the thinking” in the case, 26% said that this was true in all their financial cases, with a further half of the sample saying that it was true in more than two thirds, but not all their cases. For almost a quarter of respondents however (22%), lawyers said that pensions formed part of the thinking in less than two thirds of their case-load. This may reflect that some individual lawyers are dealing largely with a distribution of clients for whom pensions are unimportant (e.g. a lawyer has mostly young clients with small pensions) but this could also reflect that thinking about pensions varies widely from lawyer to lawyer. Although these results did vary in expected directions, they did not differ very much according to whether respondents were solicitors or barristers, years of experience, or proportion of caseload [data not shown but are available].
9. Figure 4 shows the relative experiences of lawyers when acting for husbands and wives. Ten percent of respondents reported that in between a half and all their cases when acting for a wife, the wife did not want pensions taken into account in the case. A further 43% reported that this was the case in some of their cases, but less than a third. Overall this suggests a very substantial caseload where wives are asking for pensions not to be taken into account.
10. By comparison, emotions seem to run even higher for husbands, as is commonly reported anecdotally. Almost 20% of lawyers reported that in more than two thirds of their cases where they are acting for husbands, the husbands did not want pensions taken into account in the case. Overall this is an issue of varying severity for 75% of lawyers when acting for husbands.

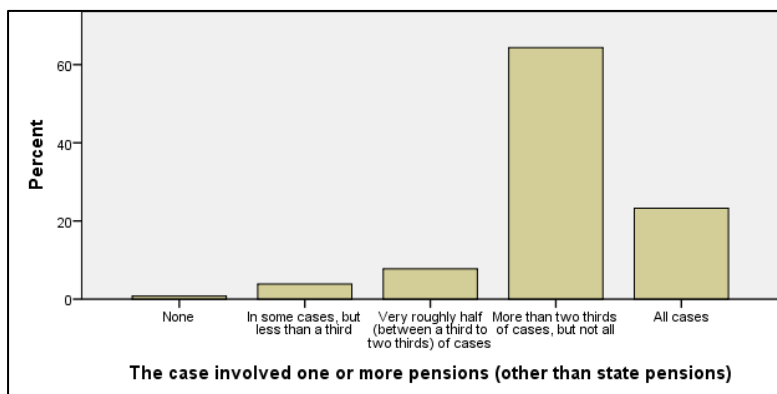


Figure 1: Extent to which caseload involved cases with one or more pension (apart from State Pension)

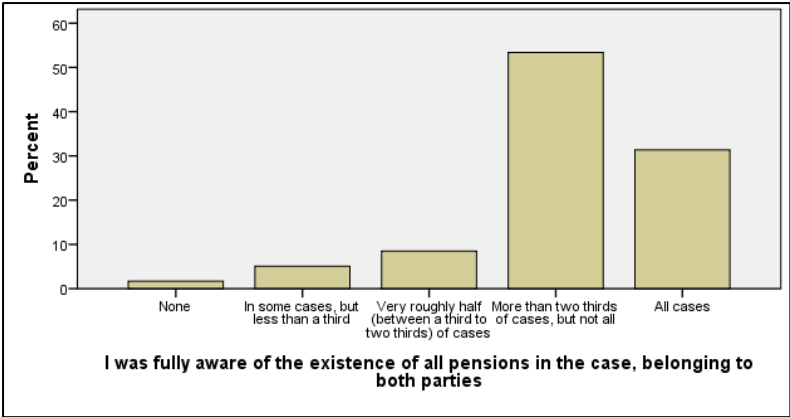


Figure 2: Extent to which lawyers are fully aware of all pensions in the case

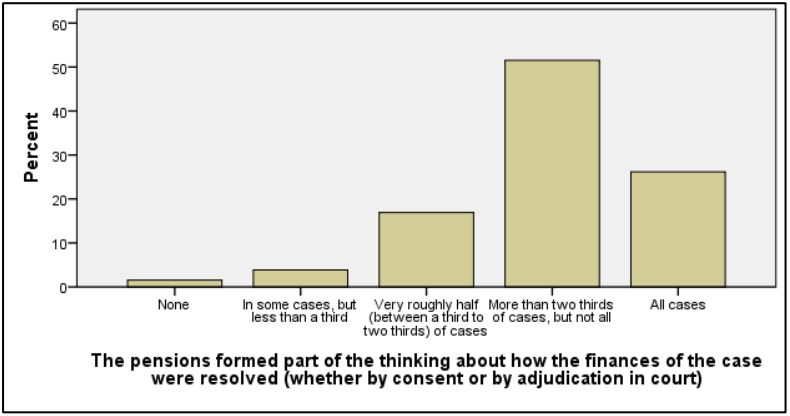


Figure 3: Extent to which the pension formed part of the thinking in the case

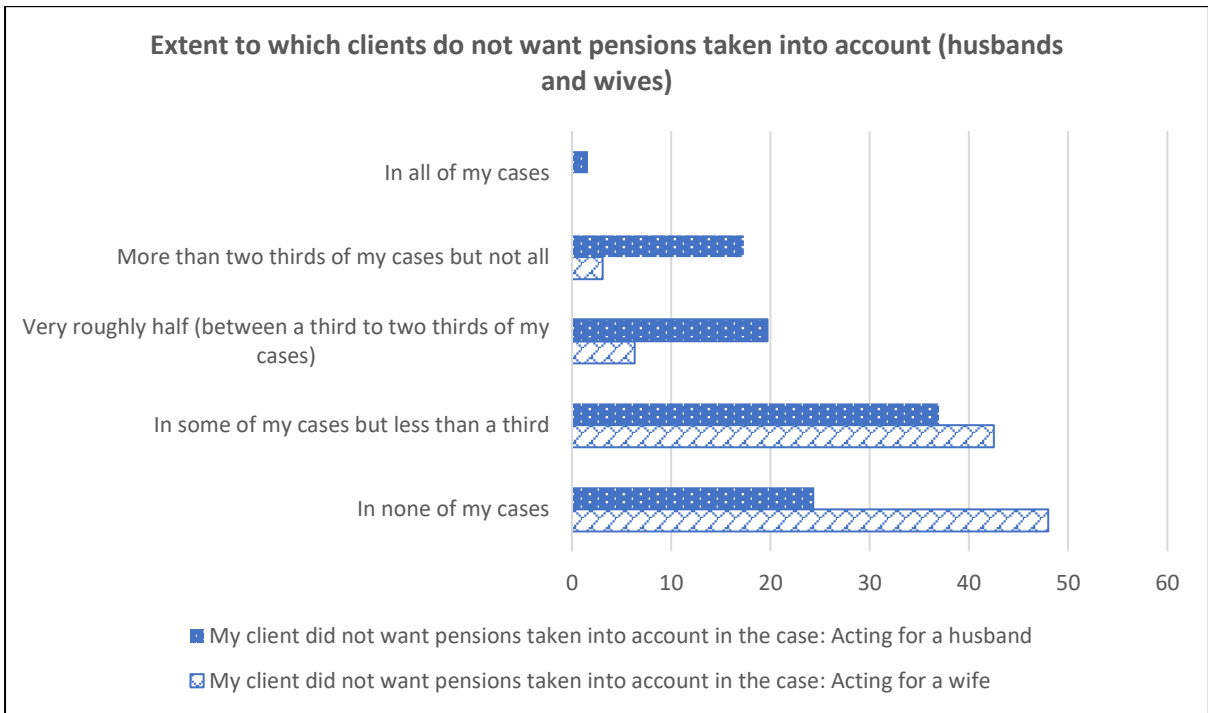


Figure 4: Extent to which husbands and wives do not want pensions taken into account

11. These issues were then explored further. Figures 5 to 8 illustrate the complex ways in which lawyers deal with these issues in practice. A number of points emerge.
12. In most cases (80% of lawyers say in all their cases) lawyers are able to find out about their own client's pensions, but this still reveals a small but important proportion of cases where lawyers are compromised in finding out information from their own client. We will turn to consider how confident they feel when faced with these situations in the next section.
13. A smaller proportion of lawyers, 68%, say that in all cases their instructions permit them to find out about their client's spouse's pension. However, this leaves just over 30% of the lawyers who responded here saying that in at least some, and in some cases in a high proportion of their caseload, their instructions prevent them from obtaining information about their client's spouse's pension.
14. Other reasons preventing lawyers from finding out about pensions include the cost of doing so, and the time taken to do so. Sixty per cent of lawyers responding to the survey said that in at least some cases, the costs had stopped them from investigating, and for 20% of lawyers this happened in about half of their cases or more. Forty per cent of lawyers reported that the time that would be taken to do so had stopped them from obtaining pension information, with about 10% saying this was the case in half of their cases or more.

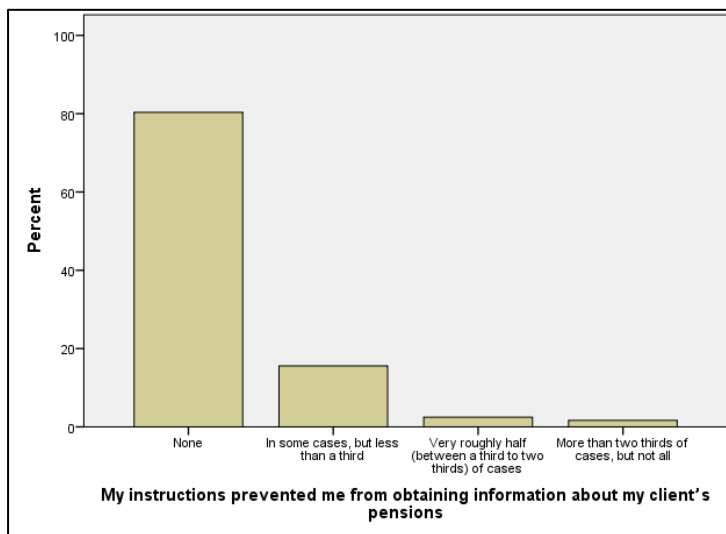


Figure 5: Extent to which instructions prevented lawyers from obtaining information about their own client's pension

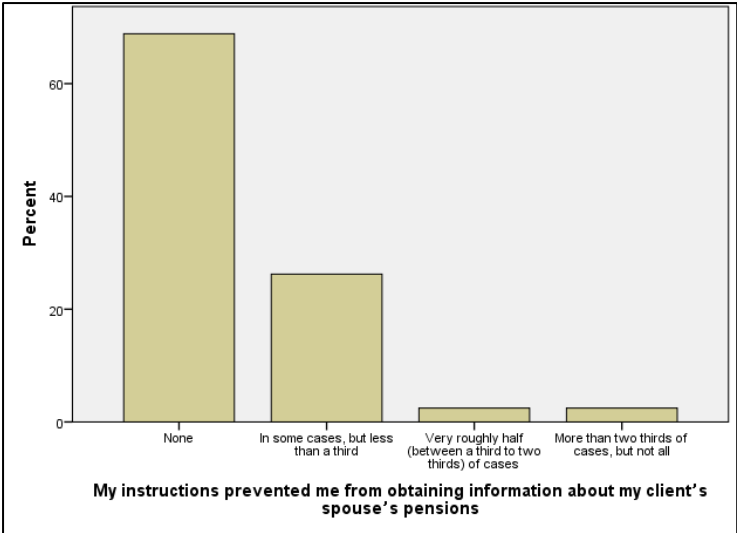


Figure 6: Extent to which instructions prevented lawyers from obtaining information about their client's spouse's pension

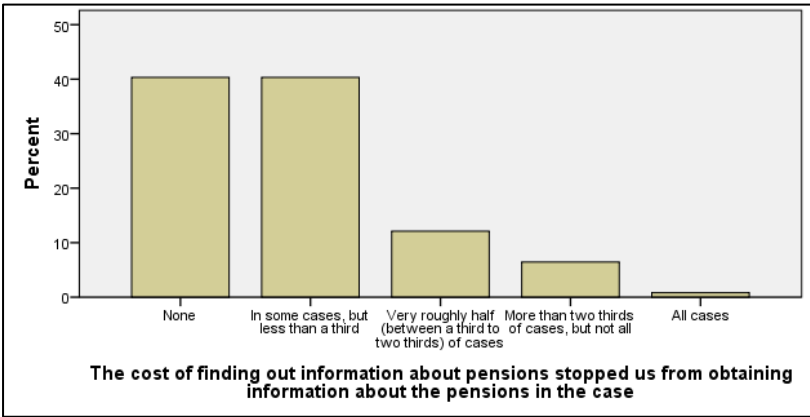


Figure 7: Extent to which costs prevented lawyers from obtaining pension information

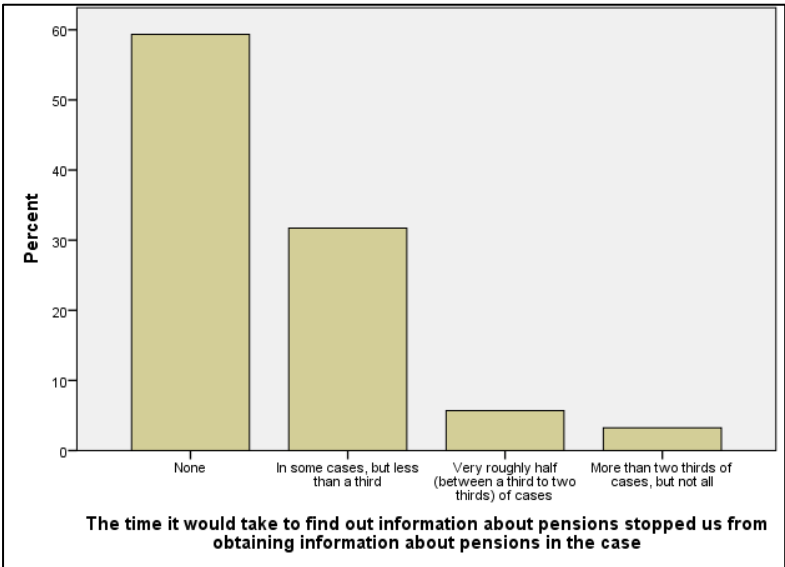


Figure 8: Extent to which time taken prevented lawyers from obtaining pension information

15. The vast majority of lawyers, 77%, say that in a proportion of their caseload, they are instructed to ignore the state pension. About 30% say that this is the case in more than two thirds of their cases.

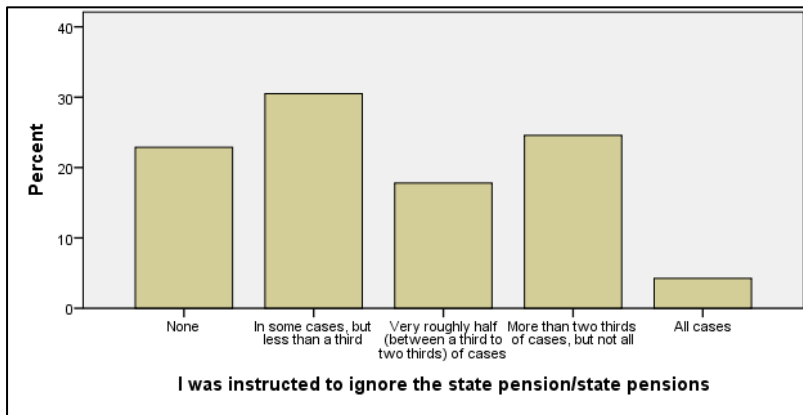


Figure 9: Extent to which lawyers were instructed to ignore the state pension

16. About 30% of lawyers also report that within the last 6 months they have been instructed to abandon or in their view inappropriately settle a claim against a pension because the emotional costs were too great for their clients. Most of these suggest that this happens in some cases, but less than a third of their caseload, but a small proportion suggest that this is an endemic problem for them, happening in about half of their cases. A higher proportion, about half, report that in at least some of their cases they have been instructed to abandon or inappropriately settle a claim against a pension because the financial costs were too great for their clients. Here almost 10% of lawyers say that this happens in more than a third of their caseload.

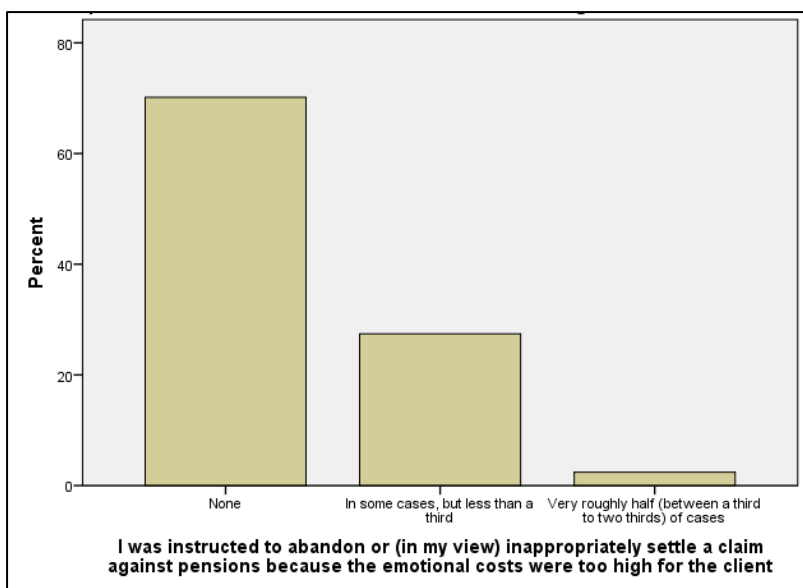


Figure 10: Extent to which lawyers are instructed to inappropriately abandon or settle pension claims because of emotional costs

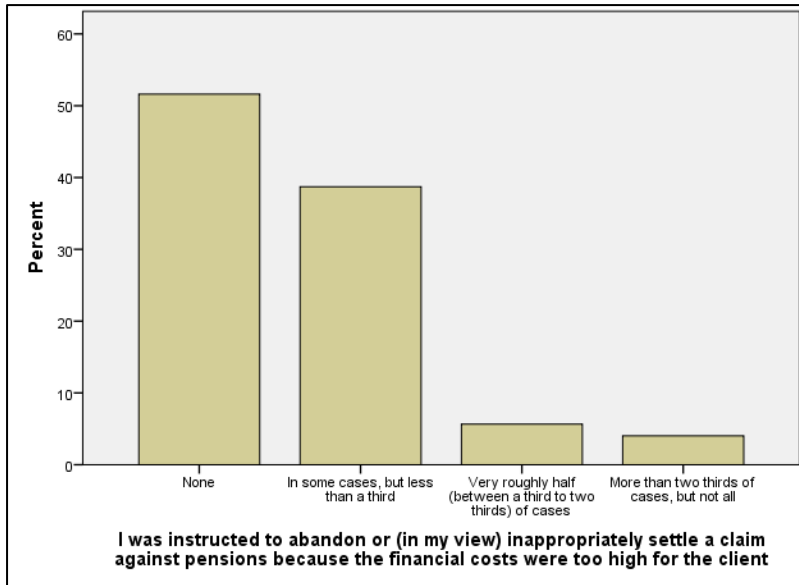


Figure 11: Extent to which lawyers are instructed to inappropriately abandon or settle pension claims because of financial costs

17. We asked lawyers how common their experience was of having their own clients sign a waiver because he or she had been advised to pursue the question of pensions but refused to do so. We discovered that this is a common experience, with more than a quarter (28%) of lawyers advising that in the previous 6 months they had had clients sign such waivers, about 5% saying this was the case in more than a third of their cases.

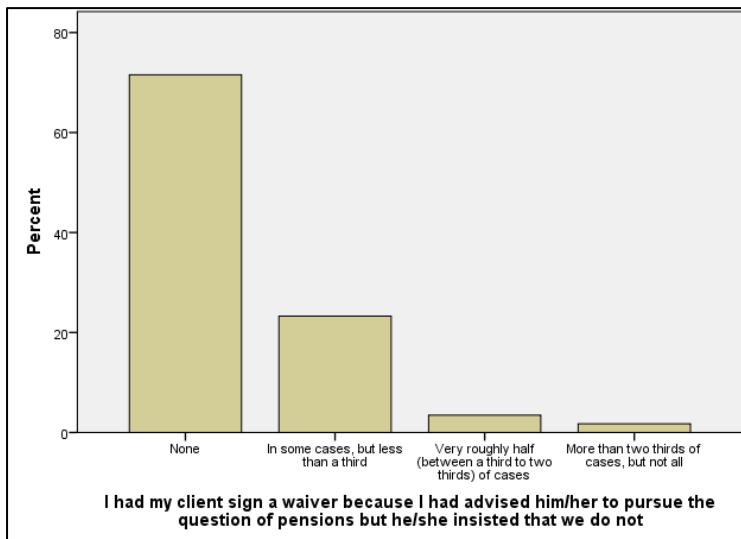


Figure 12: Extent to which clients are asked to sign waivers relating to claiming against a spouse's pension.

18. When we consider the extent to which the parties and the courts were presented with the correct paperwork, we find widespread reporting that the forms are not being filled in properly and therefore the appropriate information is not coming before the parties or the judges. These results are shown in Figures 13 to 16.

19. If we consider the proportion of lawyers who say that all forms were correctly filled in with up-to-date pension information in all their cases, this is only:

- 5% of lawyers for Form P
- 15% of lawyers talking about Form E for their own client
- 4% of lawyers talking about Form E for the other spouse
- 24% of lawyers talking about Form D81 for their own client, and to note here that a similar proportion (22%) said that Form D81 was *never* correctly filled in for their caseload.

20. These Figures reveal that it is a very common experience for forms not to be filled in, or to be filled in with incorrect and/or out of date information.

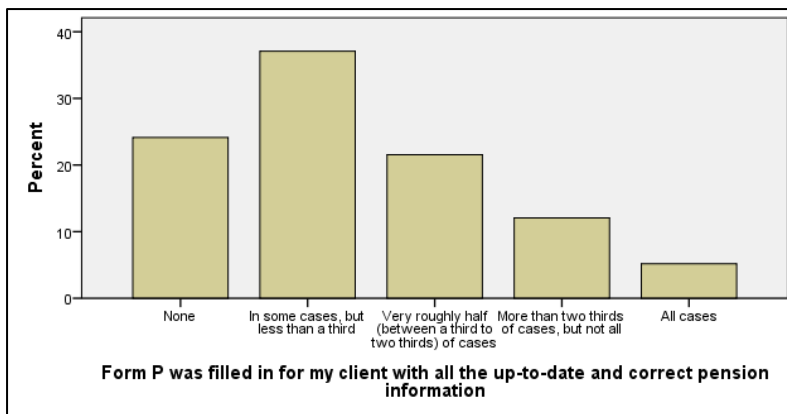


Figure 13: Extent to which Form P was filled in correctly for own client

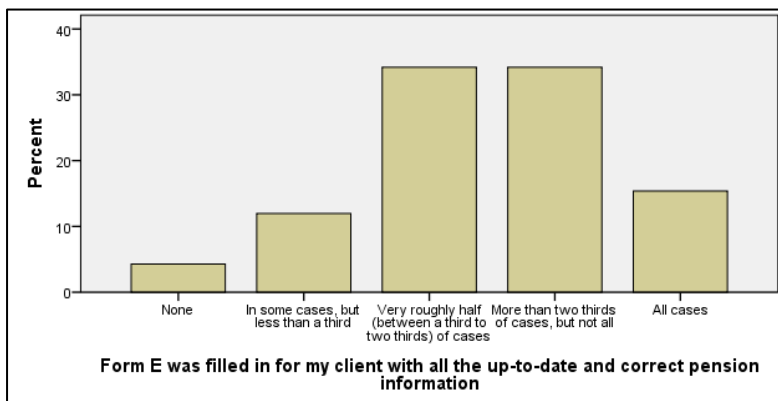


Figure 14: Extent to which Form E was filled in correctly for own client

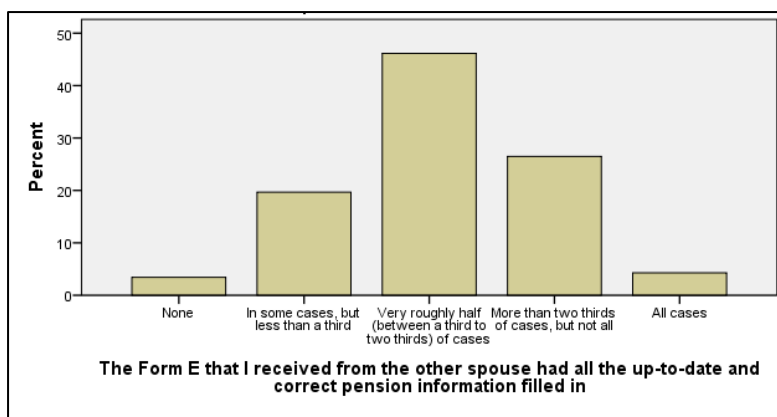


Figure 15: Extent to which Form E received from the other side had correct information

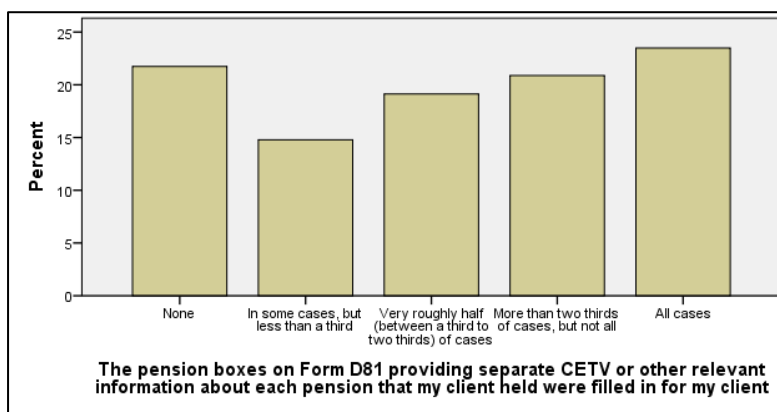


Figure 16: Extent to which Form D81 was correctly filled in for own client

Confidence

21. We asked our respondents a series of questions to gauge how confident they feel when faced with a variety of typical situations presenting in financial cases involving pensions, answering on a Scale of 1 to 7. Bearing in mind that most of our respondents were experienced and specialised lawyers, the answers reveal that there are some issues where even these practitioners lack confidence in dealing with the situation, revealing the uncertainties that exist in this area of law and practice. It is likely that lawyers with less experience and lower proportions of their practice made up of family law finance would have even less confidence in issues across the piece. It should also be borne in mind that confidence might be overinflated if people do not realise how complex the area of pensions on divorce can get.
22. The results are shown in Table 2, which is ordered by average scores. The standard deviation is also shown which indicates the degree of variability in the answers to that question – i.e. was there a lot of variation or were scores clustered more closely around the average, with higher scores showing more variation. On the whole, issues where there was lower average confidence also showed more variation. The full distributions are set out in a series of graphs in Appendix 2.
23. Lawyers overall felt most comfortable dealing with:
 - Assessing whether a case is a ‘needs’ case within the current meaning of the law
 - When pension sharing orders might be the most appropriate resolution
 - When it might be appropriate not to take account of pensions in the case

- Deciding when it is important to instruct an expert and choosing the expert
- Understanding expert reports
- Understanding the law and practice

24. Areas where there are middling levels of confidence are:

- Writing letters of instruction, and assessing whether a letter of instruction written by an opponent might benefit their client inappropriately or serve to the detriment of your client in the case
- Understanding the differences and the implications for the parties between Defined Benefit (DB) and Defined Contribution (DC) schemes, understanding the meaning of a Cash Equivalent (CE) value for a *Defined Contribution* scheme, and understanding statements of pension benefits¹
- Apportioning the pensions in a case of pension sharing
- Knowing when pension offsetting might be the most appropriate resolution for the pension aspects of a case
- What to do when their client tells them that her/his spouse does not want to investigate the pensions in the case

25. The areas causing the most problems for lawyers, and also where the most variation in confidence is seen, are:

- When faced with a CE value for a *Defined Benefit* pension fund, understanding what that means
- When their client is not sure whether there are any pensions to investigate in the case
- When their client is instructing them not to investigate the pensions in the case
- When their client or their client's spouse will not pay for pension valuations in the case
- Knowing when a pension attachment order might be the most appropriate resolution for the pension aspects of a case
- How to offset the value of a pension in a case of offsetting
- The implications of the new pension freedoms for resolving pensions on divorce cases
- The tax implications for any issues relating to pensions on divorce including lifetime allowance issues

¹ As the main report, where these issues are extensively discussed, demonstrates, these are technical and tricky issues

Table 2: Confidence levels in dealing with various issues relating to pensions on divorce, Scale of 1 - 7

Confidence levels of lawyers in dealing with pension issues in divorce cases	Mean	Standard Deviation
High levels of Confidence with less variation		
Assessing whether the case is a "needs" case within the current meaning of the law	5.94	1.18
When a pension sharing order might be the most appropriate resolution for the pension aspects of a case	5.75	1.13
Deciding when it is important to instruct an expert to value the pensions and provide related expert advice in divorce cases	5.67	1.23
Understanding an expert pension valuation report that has been produced by an expert in a case involving pensions on divorce	5.37	1.18
Understanding how the law operates in practice in this area	5.31	1.31
Choosing the right expert for the case	5.16	1.54
Knowledge of the law (including case law) in this area	5.13	1.40
When it might be appropriate not to take account of pensions in a case	5.06	1.53
Middling levels of confidence with higher variation		
Assessing whether a letter of instruction to an expert written by your opponent in the case might benefit their client inappropriately or serve to the detriment of your client in the case	4.99	1.47
Writing the letter of instruction to the expert	4.95	1.51
How to apportion the pensions in a case of pension sharing	4.87	1.53
When pension offsetting might be the most appropriate resolution for the pension aspects of a case	4.86	1.36
When faced with a Cash Equivalent value for a Defined Contribution pension fund, understanding what that means	4.82	1.67
Understanding the differences and the implications for the parties between Defined Benefit and Defined Contribution schemes	4.73	1.75
When obtaining a statement of pension benefits for the schemes the parties are involved in, understanding the information contained in the statement	4.65	1.48
My client tells me that her/his spouse does not want to investigate the pensions in the case	4.58	2.15
Low levels of confidence with high variation		
When faced with a Cash Equivalent value for a Defined Benefit pension fund, understanding what that means	4.50	1.63
My client's spouse will not pay for pension valuations in the case	4.49	2.01
When a pension attachment order might be the most appropriate resolution for the pension aspects of a case	4.36	1.81
The implications of the new pension freedoms for resolving pensions on divorce cases	4.35	1.53
My client will not pay for pension valuations in the case	4.17	2.06
How to offset the value of a pension in a case of offsetting	4.17	1.63
My client is not sure whether there are any pensions to investigate in the case	4.17	2.22
My client is instructing me not to investigate the pensions in the case	4.13	2.28
The tax implications for any issues relating to pensions on divorce including lifetime allowance issues	3.50	1.71

Experience of instructing experts in pension cases

26. We then asked lawyers to focus on those cases in the last six months where pensions had specifically been taken into account by way of pension sharing, pension attachment, or pension off-setting. Almost all the lawyers in the survey (98%) had experienced at least one case in the previous six months where this had happened, and almost all respondents (91%) had instructed an expert in at least some of their cases.

27. Litigants in person were routinely encountered by lawyers dealing with family finance – in cases involving pensions in the previous six months, 45% of lawyers said that they had had litigants in person on the other side of the case in at least some of their cases.

Table 3: Extent to which lawyers have a litigant in person on the other side in cases involving pensions

Litigant in person on the other side in cases involving pensions:	
In none of my cases involving pensions	55%
In some, but less than a third	39%
In about half (between a third and two thirds)	5%
In more than two thirds of cases but not all	1%
In all of my cases involving pensions	0%

28. As shown in Table 4, the extent to which experts are being involved in pension cases varied widely – some lawyers more routinely get an expert involved on behalf of their own client, and a reasonable proportion involve jointly appointed experts with 20 per cent saying that they jointly instruct experts in all pension cases. While this is likely to vary widely with type of practice and value of cases and pensions, it does show a great deal of variation in routine practice as between lawyers.

Table 4: Extent to which lawyers are involving experts in pension cases

Expert instruction in cases involving pensions:	
<i>On behalf of my client:</i>	
In none of my cases involving pensions	45%
In some, but less than a third	12%
In about half (between a third and two thirds)	15%
In more than two thirds of cases but not all	18%
In all of my cases involving pensions	10%
<i>Jointly with the other spouse:</i>	
In none of my cases involving pensions	5%
In some, but less than a third	18%
In about half (between a third and two thirds)	26%
In more than two thirds of cases but not all	32%
In all of my cases involving pensions	19%

29. Table 5 shows that even in those cases that specifically accounted for pensions in the case, pension information was not obtained in all cases. The CE value was the most likely piece of information to be obtained, with three quarters of lawyers saying that this was obtained in all their cases involving pensions (although still leaving 25% of lawyers where this was not the case). Only 38% of lawyers reported obtaining statements of pension benefits in all cases involving pensions, and only 11% collected state pension information in all cases.

Table 5: Proportion of lawyers saying they had full pension information in cases involving pensions

Proportion of lawyers saying they obtained the following information in <i>all cases</i> where pensions were specifically taken into account:	
CEs for all pensions in the case, for both parties	75%
Latest statement of benefits for all pensions in the case for both parties	38%
A value for both parties' state pension entitlements	11%

30. Figures 17 and 18 reveal that there is a fairly even split between actuaries and financial advisers being instructed, and that these are mostly found through personal experience or word of mouth.

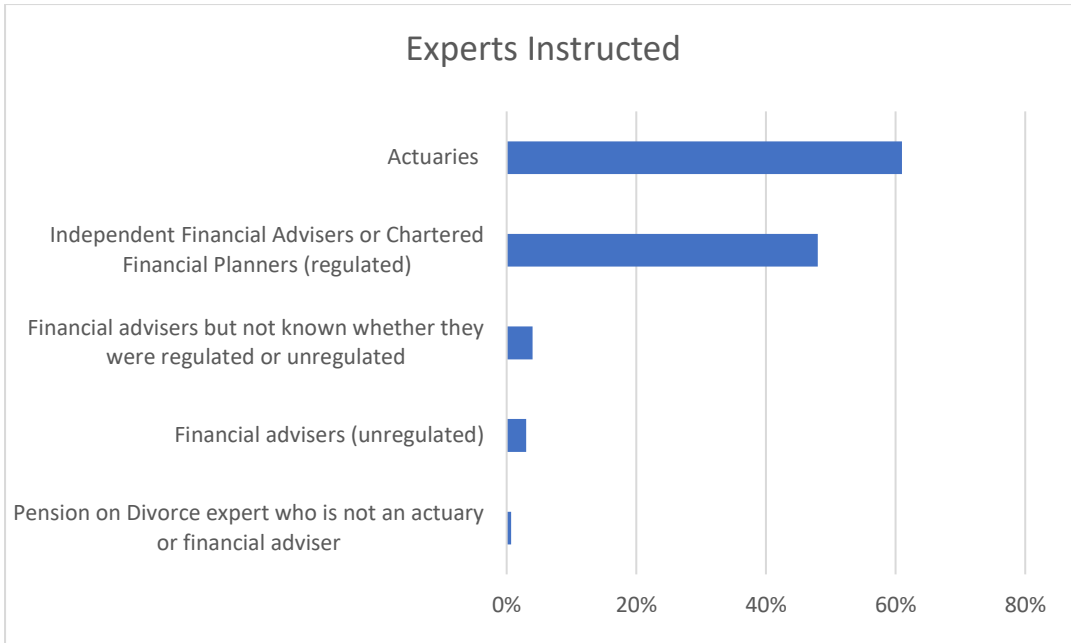


Figure 17: Types of expert instructed

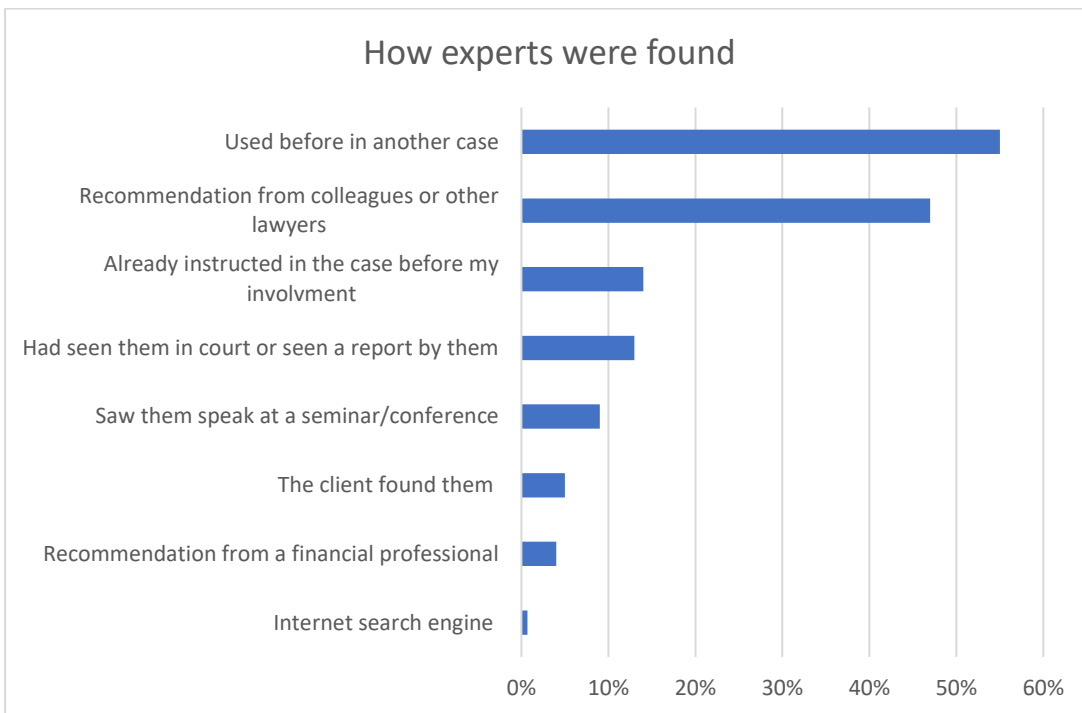


Figure 18: How experts were found

31. There was much more ambiguity about professional regulation in this sector. While 64% of lawyers said that it was essential or very important that experts instructed in the case belonged to a professional body such as the Institute and Faculty of Actuaries, the Chartered Insurance Institute or the Chartered Institute for Securities Investment, they were much less able to say whether experts that they had instructed belonged to one of these, or any other body.

Table 6: Importance to lawyers of experts belonging to a professional body, and whether experts instructed did belong to a professional body

How important is it to you that an expert instructed in the case belongs to a professional body such as the Institute and Faculty of Actuaries, the Chartered Insurance Institute or the Chartered Institute for Securities Investment, or another such body

Essential	29%
Very important	35%
Important	29%
Not very important	2%
I don't know	5%

Did the experts that you instructed belong to professional bodies which regulated their conduct?

Don't know or not sure	63%
Institute of Faculty of Actuaries	32%
Chartered Insurance Institute	4%
Chartered Institute for Securities Investment	0.7%

Note: Two respondents mentioned Resolution

32. Similar ambiguities are revealed in Table 7. Eighty-six percent of lawyers felt that it was essential or very important that experts take a consistent approach to each other in the way that they reach pension valuations. However, when asked to assess how consistent they had found expert reports that they had seen in the previous six months, 42% said that they did not know how to judge this, or were not sure. A further 16% said that they found reports to be not very consistent in their approach. Only 8% said that they found reports to be very consistent, with 35% finding them 'consistent enough'.

Table 7: Importance to lawyers of experts taking a consistent approach in pension valuation, and how consistent they have found experts to be

How important do you think it is that experts take a consistent approach to each other in the way that they reach pension valuations?

Essential	49%
Very important	37%
Important	12%
I don't know	2%

In expert reports that you have seen in the last six months providing pension valuations for use in divorce cases by parties and/or the courts, how consistent have you found experts' approaches to the ways that they have valued the pensions in those cases to be?

I don't know how to judge this	28%
Not sure	14%
Very consistent	8%
Consistent enough	34%
Not very consistent	16%

33. When considering the way that the market for expert reports is operating, the view from the lawyers responding to the survey was generally that it is not operating well as shown in Table 8. People believe that many more cases should have experts valuing the pensions, that there is not sufficient supply of experts for demand, and that prices are too high providing a barrier to obtaining reports. They generally do find it easy to find suitable experts, however, but also overwhelmingly say that it would be helpful to have some form of certification indicating expert competence to undertake valuations of pensions for divorce cases.

Table 8: Lawyers’ perceptions of the operation of the market for experts on pensions in divorce cases

Operation of the market for experts	Agree strongly or agree	Not sure	Disagree or disagree strongly
Many more cases should have expert reports valuing the pensions	60%	23%	17%
There is sufficient supply of experts for the demand	30%	30%	40%
Cost of the expert is a factor for me in advising whether experts should be instructed in a case involving pensions	71%	5%	24%
I would advise the use of experts more often in cases if their charges were lower	65%	15%	20%
I find it easy to identify suitable experts to value pensions for the purposes of divorce cases	67%	16%	17%
It would be helpful for there to be some form of certification indicating the competence of experts to undertake valuations of pensions for divorce cases	85%	11%	4%

Problems

34. This section reports on the extent to which the respondents to the survey encounter a number of problems in their daily practice. Respondents were asked to rate the severity of the problem as they perceived it on a scale of 1 – 7, where 1 represents this not being a problem for the respondent and 7 this being a really serious problem. The mean (average) and median (middle – the point at which there are many answers below and above) scores, and the standard deviation (a measure of the extent of variability in the data – i.e. a measure of how much variation there was in the answers to that particular question with higher numbers showing greater variation) are all shown in Table 9. In the first set of answers, these are ordered by the highest to lowest mean scores – i.e. the issues perceived as most problematic at the top. In the second Table, the issues are ordered by those with the highest variability first – i.e. the issues where there was a large diversity of experience at the top.

35. Graphs showing the full distributions for each answer are set out in Appendix 1.

36. This table shows that the most problematic issues for lawyers are

- that litigants in person don’t understand the issues surrounding pensions
- that in offsetting cases it can be hard to take account of the value of the pension
- that pension providers are slow to provide information, and that it is hard to get information from them, and that they are slow to implement orders
- that expert reports take too long and that they are not standardised
- that it can be too easy for a knowledgeable solicitor to take advantage of one less knowledgeable where pensions are involved, and that lawyers don’t understand the issues surrounding pensions, and

- that Judges endorse consent orders without sufficient scrutiny of pensions, and that Judges don't understand the issues surrounding pensions

37. Around some of these issues we also perceive a lot of variability², indicating that experiences vary widely. These include dealing with pension providers, experience of more knowledgeable solicitors taking advantage of those less knowledgeable, dealing with litigants in person, the degree of standardisation of expert report, and judicial scrutiny of and knowledge of pensions.

38. Areas which seemed to give the respondents far less concern, i.e. that were not on the whole perceived as problematic were:

- knowing when to get an expert report
- agreeing the letter of instruction
- persuading opponents and Judges of the need for an expert report
- implementing orders after they have been made.

Table 9: Extent to which lawyers experienced problems, ordered by mean value and extent of variation

ORDERED BY MEAN VALUE	Mean	Median	Standard Deviation	ORDERED BY STANDARD DEVIATION (EXTENT OF VARIABILITY IN THE	Mean	Median	Standard Deviation
Litigants in person don't understand the issues surrounding pensions	5.38	6.00	1.78	Pension providers are slow to implement orders	3.95	4.00	1.83
In offsetting cases it can be hard in practice to take account of the value of the pension	4.98	5.00	1.64	It can be too easy for a knowledgeable solicitor to take advantage of one less knowledgeable where pensions are involved	4.09	4.00	1.79
Pension providers are slow to provide information	4.79	5.00	1.60	It takes too long to get information about the State Pension	3.72	4.00	1.79
Expert reports take too long	4.64	5.00	1.59	Litigants in person don't understand the issues surrounding pensions	5.38	6.00	1.78
It's hard to get information from pension providers	4.37	4.00	1.64	Pension providers won't always provide the information we need	3.47	3.00	1.73
It can be too easy for a knowledgeable solicitor to take advantage of one less knowledgeable where pensions are involved	4.09	4.00	1.79	Pension providers are difficult to deal with	3.41	3.00	1.73
Lawyers don't understand the issues surrounding pensions	4.00	4.00	1.45	Expert reports are not standardised	3.74	4.00	1.72
Pension providers are slow to implement orders	3.95	4.00	1.83	Judges endorse consent orders without sufficient scrutiny of pensions	3.88	4.00	1.69
Judges endorse consent orders without sufficient scrutiny of pensions	3.88	4.00	1.69	Judges don't understand the issues surrounding pensions	3.73	4.00	1.69
Expert reports are not standardised	3.74	4.00	1.72	Expert reports are too complex	3.47	3.00	1.67
Judges don't understand the issues surrounding pensions	3.73	4.00	1.69	In courts where I practise, it's hard to persuade the judge of the need for a pension report	3.14	3.00	1.67
It takes too long to get information about the State Pension	3.72	4.00	1.79	Expert reports contain too many permutations and calculations	3.50	4.00	1.65
Expert reports contain too many permutations and calculations	3.50	4.00	1.65	It's hard to get information from pension providers	4.37	4.00	1.64
Pension providers won't always provide the information we need	3.47	3.00	1.73	Implementing orders after they have been made is problematic	3.08	3.00	1.64
Expert reports are too complex	3.47	3.00	1.67	In offsetting cases it can be hard in practice to take account of the value of the pension	4.98	5.00	1.64
Pension providers are difficult to deal with	3.41	3.00	1.73	Pension providers are slow to provide information	4.79	5.00	1.60
In courts where I practise, it's hard to persuade the judge of the need for a pension report	3.14	3.00	1.67	Expert reports take too long	4.64	5.00	1.59
Implementing orders after they have been made is problematic	3.08	3.00	1.64	In courts where I practise, it's hard to persuade an opponent of the need for a pension report	2.93	3.00	1.49
In courts where I practise, it's hard to persuade an opponent of the need for a pension report	2.93	3.00	1.49	Lawyers don't understand the issues surrounding pensions	4.00	4.00	1.45
It's difficult to agree the letter of instruction	2.72	2.00	1.26	It's hard to know what the triggers should be for needing an expert report	2.33	2.00	1.33
It's hard to know what the triggers should be for needing an expert report	2.33	2.00	1.33	It's difficult to agree the letter of instruction	2.72	2.00	1.26

39. When we look at some of these issues according to category of respondent, we observe statistically significant variation for some problems across some categories. These are shown in Table 10. This means that given the different ways respondents in these categories answered the question, and the extent of the differences between groups, these are unlikely to be chance observations.

40. When looking at the differences between barristers and solicitors, we see that while litigants in person's general lack of understanding is a problem for all, this is a far stronger problem for solicitors. Solicitors also perceive persuading opponents of the need for an expert report to be more of a problem than barristers do, and have far more serious and worse experience of dealing with pension providers and implementation in all respects than barristers.

² As indicated by high standard deviations

41. No significant differences were observed according to caseload of matrimonial finance work, but a significant difference was seen between less experienced and more experienced lawyers in knowing what the triggers should be for needing an expert report.
42. A number of significant differences in these experiences were seen according to the two geographical differentiators in the survey – whether people are practising in a major urban conurbation, city, town or rural area, and then in which region of England and Wales they practice.
43. Those who practise in a town or rural area (as opposed to in a major urban conurbation or city) perceived the non-standardisation of expert reports as more of a problem, and the length of time to get an expert report much more of a problem. They also reported far higher scores for slowness of getting information from pension providers, pension providers being slow to implement orders, and the implementation of orders after they have been made being problematic. However, those in major urban conurbations and cities returned significantly higher scores for judges not understanding the issues surrounding pensions, and for judges endorsing consent orders without sufficient scrutiny of pensions, than those practising in towns and rural areas.
44. In terms of regional differences, the major observed differences are between London and outside London, with a lot of regional variation. Experts reports taking too long was seen as a problem by all but worse outside London, and dealing with litigants in person, again a problem for all, was perceived as a much more severe problem outside London. Similarly, on four questions about dealing with pension providers both before and after orders, the experiences outside London were on the whole perceived as much more problematic, especially in slowness of providing information and slowness in implementing orders.

Table 10: How experience of problems in pensions on divorce cases varies by type of lawyer and location

		It's hard to know what the triggers should be for needing an expert report	Expert reports are not standardised	Expert reports take too long	Litigants in person don't understand the issues surrounding pensions	Judges don't understand the issues surrounding pensions	Judges endorse consent orders without sufficient scrutiny of pensions	In courts where I practise, it's hard to persuade an opponent of the need for a pension report	Implementing orders after they have been made is problematic	Pension providers are difficult to deal with	Pension providers are slow to provide information	Pension providers are slow to implement orders
		Mean	Mean	Mean	Mean	Mean	Mean	Mean	Mean	Mean	Mean	Mean
Solicitor or Barrister	Solicitor or legal exec				5.83			3.16	3.51	3.88	5.10	4.76
	Barrister				4.85			2.65	2.57	2.87	4.47	3.04
	<i>Significance</i>				**			^	**	**	*	**
Years of Experience	up to 7 years	3.07										
	more than 7 years	2.21										
	<i>Significance</i>	**										
City/town/rural	Major urban or city		3.55	4.45	5.2	3.95	4.05		2.86		4.6	3.53
	Town or rural		4.32	5.24	5.92	3.08	3.36		3.72		5.36	5.16
	<i>Significance</i>		**	**	^	*	^		*		*	***
Region	England: North-West			5.22	6.22				3.22	3.44	5.44	4.89
	England: North-East			4.88	5.63				3.29	4.13	5.13	4.14
	England: Midlands			5.20	6.20				4.40	5.00	6.00	4.80
	England: South-West			5.29	5.79				2.43	3.00	4.29	3.36
	England: South-East outside London			4.74	5.79				3.47	3.68	4.89	4.53
	England: London			3.89	4.46				2.57	2.82	4.29	3.12
	Wales			5.86	5.57				4.67	4.50	5.86	5.50
	England: East			3.33	6.67				4.00	4.00	4.00	4.67
	<i>Significance</i>			**	*				**	*	*	**

Notes: ***p<0.001 **p<0.01 *p<0.05 ^p<0.1

4 people practising in multiple locations have been excluded from regional analysis

Report On Experts' Survey Responses

45. Only 11 experts filled out the survey, and so in this section we are not reporting percentages or proportions as there are too few respondents to be able to do so with any real meaning. Instead we report the counts for individual responses and will comment briefly; variation across answers can be taken as potentially signalling something interesting to explore further with a larger sample.
46. Table 11 shows the extent to which our respondents reported problems in pensions on divorce cases, on a scale of 0 to 7, where 0 indicates something is not a problem and 7 indicates it is a really serious problem. For most issues, answers were fairly evenly spread across the spectrum, showing that experiences of experts are varying widely.
47. However for some of the answers, the answers of our 11 experts did cluster quite markedly towards one of the scale, and these are issues potentially to explore. Our experts conveyed a strong feeling that:
- Experts get involved too late
 - Expert reports are too long
 - Expert reports are too complex
 - Parties don't get the financial advice that they need where pensions are involved
 - When orders are made without expert help, this considerably disadvantages people financially
48. While there was a diversity of views on the following, some experts expressed very strong feelings (4 out of 11 experts rating at the extreme end of the scale, 7, a really serious problem) that:
- There is not enough focus on getting the right solution for the client
 - Judges don't understand the issues surrounding pensions
 - Judges endorse consent orders without sufficient scrutiny of pensions

Table 11: Financial experts encountering problems in pensions on divorce cases

How much of a problem are the following issues?	Column2	Column4	Column6	Column8	Column10	Column12	Column14	Column15	
	Not a problem							Really serious	Total
Letters of instruction allow for too many permutations/variations	1	1	0	2	4	2	0	10	
Lawyers don't really know what to ask for in a letter of instruction	1	1	0	0	4	3	1	10	
Experts should be allowed to feed back much more strongly on the letter of instruction	1	1	1	1	4	2	0	10	
Letters of instruction can advantage one party at the expense of the other	2	0	2	2	2	2	0	10	
There is not enough focus on what the parties are trying to achieve	1	1	0	2	2	1	3	10	
There's not enough focus on getting the right solution for the clients	1	1	1	1	2	0	4	10	
Our expertise is often under-used in cases	1	3	0	1	1	1	3	10	
Experts get involved too late	0	0	1	3	0	3	3	10	
Parties don't get the financial advice that they need where pensions are involved	0	1	0	1	1	4	3	10	
Expert reports are too complex	1	0	2	1	0	4	2	10	
Expert reports are not standardised	1	1	2	1	3	0	2	10	
Assumptions to be used in expert reports are not standardised	1	2	1	0	3	0	3	10	
Expert reports take too long	0	0	1	0	3	3	2	9	
Lawyers don't understand the issues surrounding pensions	2	0	0	1	3	1	3	10	
Judges don't understand the issues surrounding pensions	2	1	1	0	2	0	4	10	
The 'Lifetime Allowance' is not sufficiently accounted for in cases	1	2	0	4	2	0	1	10	
Judges endorse consent orders without sufficient scrutiny of pensions	1	1	1	2	1	0	4	10	
When orders are made without expert help this considerably disadvantages parties financially	1	0	0	1	4	0	3	9	
I never know what has happened in a case that I have been involved in	1	1	1	1	2	2	2	10	
Implementing orders after they have been made is problematic	1	1	4	2	0	1	1	10	
Pension providers are difficult to deal with	0	3	3	3	0	0	1	10	
Pension providers won't always provide the information we need	0	2	2	2	1	1	1	9	
Pension providers are slow to provide information	0	2	1	1	3	2	1	10	
Pension providers are slow to implement orders	1	0	3	2	0	3	0	9	
The profit margins from this work are too low	2	3	1	0	2	2	0	10	

49. Table 12 shows that on the whole our experts viewed it as very important or essential that experts in pension cases belong to a professional body that regulates their conduct such as the Institute and Faculty of Actuaries, the Chartered Insurance Institute or the Chartered Institute for Securities Investment, echoing the views of the lawyers from this survey.

Table 12: Importance of belonging to a body regulating conduct

	Frequency
Essential	5
Very important	2
Important	1
Not very important	1
Not important at all	1
I don't know	1
<i>Total</i>	<i>11</i>

51. Table 13 explores the way that the responding financial experts feel that the markets are operating in this field, again indicating wide variation in views, but with a few points worth taking further:

- Strong agreement that many more divorcing parties should involve experts in pension valuation
- Strong agreement that some formal certification of expertise would be helpful to professionals seeking to compete in this market
- A fairly strong feeling that there won't be enough experts for future demand
- A fairly strong feeling that clients are not willing to pay reasonable fees for this work.

Table 13: Financial experts' views of the operation of these markets

	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree	Total
Many more divorcing parties should involve experts in valuing the pensions	6	3	1		1	11
There is sufficient supply of experts for current demand		4	3	2	2	11
There won't be enough experts for future demand	2	5	3	1		11
Clients are not willing to pay reasonable fees for this work	1	7	1	1	1	11
The degree of specialist expertise required in valuing pensions for divorce cases prevents experts from entering this market	1	2	4	3	1	11
The degree of specialist expertise required in understanding how divorce law operates prevents experts from entering this market	2	3	2	2	2	11
It is hard to demonstrate the appropriate skills to compete in this market	2	2		7		11

Some formal certification of expertise would be helpful to professionals seeking to compete in this market	5	5	1	11	
Too much is expected of experts in this market for too little reward	2	2	6	1	11
If there were a requirement to belong to a professional body, that would act as a barrier to entry into this market		3	5	3	11
Appropriate training would help experts to enter this market		10	1	11	

52. Table 14 reports on experts' perceptions of preparation, competence and outcomes and Table 15 on how important experts feel it is that they take a consistent approach to pension valuations. Areas potentially of note are:

- Some experts had substantive experiences of cases where they lacked confidence that both parties and their lawyers had sufficient understanding to negotiate a fair results. Five of the 11 experts said this was true in more than two thirds or all of their cases – a deeply concerning result.
- Experts generally are not informed of the final resolution or outcome of their cases
- Where they were told of the outcome, it was also a common experience across these respondents to feel that the outcome of the case was unfair to one of the parties.
- Echoing the lawyers' survey, some experts reported very poor information being obtained prior to their involvement in a fair proportion of their cases, and widespread experience of letters of instruction not being clear.
- Eight out of ten experts answering the question on consistency felt that it was essential or very important that experts take a consistent approach to each other in the way that they reach pension valuations.

Table 14: Experts' perceptions of preparation, competence and outcomes

	In none of my cases	In some but less than a third	In about half (a third to two thirds)	More than two thirds but not all	All of my cases
I had confidence that both parties/lawyers in the case had sufficient understanding of the pension issues to negotiate a fair result		4	1	4	1
The person instructing me had a good grasp of the important issues for the case relating to valuations of the pensions		4	3	2	1
I was informed of the final resolution/outcome in the case	5	2	2	1	
Of those cases where I was informed of the final resolution in the case, I felt that a fair result had been obtained in terms of pensions for both sides	2	1	1	2	1

Before I was instructed, the person instructing me had obtained CEs for all pensions in the case	3	2	4	1
Before I was instructed, the person instructing me had obtained the latest statement of pension benefits for all non-state pensions in the case	4	2	3	1
The letter of instruction was clear	1	2	4	2
The letter of instruction was biased towards one party	4	2	1	3

Table 15: Whether experts perceive it to be important that they take a consistent approach to valuations

A key function of experts in pensions cases on divorce is to value the pensions. Whether you yourself undertake pension valuations or not, how important do you think it is that experts take a consistent approach to each other in the way that they reach pension valuations

	Frequency
Essential	4
Very important	4
Important	1
Not very important	1
<i>Total</i>	<i>10</i>

Report on Joint Lawyer and Expert Survey Responses

53. A number of questions were then asked jointly of lawyers and financial experts. This section reports on those responses.
54. A PAG report setting out the legal and practice issues for lawyers and experts surrounding the treatment of pensions on divorce was thought to be a very useful enterprise by 76% of respondents and 'very' or 'quite' useful by 94%. Proportions that would find the following elements *very useful* are:
- A clear statement of the law in this area: 67%
 - Help with deciding when an expert is needed in cases involving pensions: 60%
 - A standardised letter of instructions from solicitors to experts with relevant options that can be tailored to a case: 70%
 - A clear statement of core competencies that experts are expected to have in this area: 64%
 - A clear statement of how experts are expected to approach valuations in cases where they are instructed: 74%
 - Recommendation of a single, consistent approach to be adopted by experts to valuations in pensions cases: 73%
 - A short guidance document aimed at helping litigants in person navigate this field: 72%
55. We also asked respondents what else they would like to see from the PAG report, and the answers are shown in Table 16. A word frequency count reveals that off-setting is a frequently mentioned area.

Table 16 : What else would people like to see from the PAG report?

Get a ball park quote in principle for a final salary pension. Multiply the pension income in payment or forecast income by 20 to get a ball park CETV. Actual figure after consent order should not be too far off. Avoid double charging clients one for a quote then again to implement the consent order
Addition to Form A to indicate if pension issues to be decided relate to state/ defined contribution pensions. Addition to D81 to require net effect schedule of any proposed orders concerning pensions, to ensure that the court is aware and approves them.
Guidance as to a consistent approach on off-setting. My preference would be to see within each report recognition of the range of options with calculations for each and standard notes as to caveats.
Experts should not work 100% on divorce matters wider practice is essential
Standardised layout of the report, a push for pension providers to speed up their CE's and also to ensure the providers update the solicitor when the share has been implemented. I mostly have to rely on my client to update me!
Clarity of reporting to address client/lawyer resistance to appoint an expert
The context of wider financial advice alongside pensions - especially in view of tax planning for pre-retirement couples. It can make money go further.
Consistent approach Uniform assumptions Simple guide to how calculations undertaken
Less complex explanations in reports and more assumption of a lower level of understanding in the reader.

As a result of changes in the pensions rules, Judges now tend to equate CEVs of defined contribution pensions with liquid capital. Some guidance as to the circumstances in which this is appropriate would be helpful.
If it makes proposals to standardise the valuation of pensions for the purposes of offsetting, the basis and assumptions should be made explicit and fully explained, given the absence of any legal criteria for this exercise and the importance of subjective elements (eg the parties' own priorities).
A clear statement of principle concerning offsetting.
A recognition that all valuations (particularly re offsetting) makes assumptions about rates of return etc and do not guarantee the figures. The experts often report on the basis that there is a mathematical answer to the utility argument which is misleading to clients because it does not recognise the particular circumstances of a client which might mean cash as opposed to pension is more or less important to the client than the pure monetary value.
Guidance on off setting
Clear advice on how offsetting should be approached. For example is there an excepted approach on what discount there should be between pension and cash?
The right approach to offsetting and the right approach to the utility discount argument!
Clear guidance on the H v H/Harris v Harris approaches.
Reports that provide clear understanding of Fair Value as opposed to CEV's. Consistency in approach to offsetting. Clear guidance about transferring out of family pension arrangements.
I would use as training tool for junior staff
Recommendation to judges. Deputies especially who may not have practiced in family law do not always understand the position or importance of pensions.
Advice/ guidance on how to calculate an off set figure
Basic information about tax considerations
Most important points (1) drop the acronym PODE (mmm, Expert from Midlands who wants term PODE dropped. I wonder who this may be), (2) recognise the differing backgrounds from which "PODEs" come, and try and force establishment of Overarching body to accredit such experts. Resolution may be an interim body, but longer term, a proper professional body with real teeth is required.
More explanation of the pitfalls involved in pension sharing. Terminology and approach when pensions are already in payment.

Approach to Ogden-style tables

56. We asked respondents a series of questions about whether there is any merit in pursuing 'Ogden-style' tables for use in pensions on divorce cases, as follows:

The Pensions Advisory Group is considering whether it would be useful to the professions (both legal and financial) to have available a bespoke set of Ogden tables similar to those used in personal injury and employment tribunal cases, to produce rough values of pensions for the purposes of consideration in divorce, in cases involving Defined Benefit schemes, or for schemes where the Defined Contribution scheme has complexities associated with it. The experts on the PAG are considering whether values calculated this way would better represent the underlying value of the pension for the purposes of thinking about that pension in divorce cases than the Cash Equivalent value.

57. We then asked whether respondents thought that this would be a better basis than the Cash Equivalent value to reach a rough valuation of pensions for the purposes of divorce in cases involving Defined Benefit schemes, or for schemes where the Defined Contribution scheme has complexities associated with it:

- 48% of respondents said yes
- 10% said no
- 42% said they were not sure.

58. We asked how useful respondents would find a set of Ogden-style tables designed to assist with valuing pensions in divorce cases for their own practice in this area:

- 39% said *very useful*
- 31% said *quite useful* [70% saying quite or very useful]
- 10% said *not very useful*
- 4% said *not at all useful*
- 16% said *I don't know*

Continuing professional development and training

59. Seventy-seven per cent of respondents said that they were able to access continuing professional development courses that provide sufficiently for their own training needs in this area of pensions on divorce. Those who felt they were not able to do so had the following suggestions for training:

Table 17: Training needs identified by respondents

A directive to standardise the process of getting a CETV based on Ogden tables
more courses in Lancashire & Cumbria
Training is never practical enough looking at case studies
More webinars
I have been to a couple of great training courses on pensions, but in general I think they are few and far between, and I would benefit from more frequent updates. Training on how to interpret reports and how to understand pension valuations and tax implications would be useful.
Considering different scenarios and understanding the best approach to address those scenarios from start to finish.
Essentially the matters that you have proposed are included in the report
A course from an actuary about their role, what they consider when reporting and useful questions to ask/information to obtain
There should be a course on the basics in first few years of practice and then updating courses every 5 years to deal with changes in pensions
Training on these issues provided in Wales for the Wales and Chester Circuit
Practical training - different types of pensions and different factual scenarios and how to approach them.
locality of training is always an issue
Pension CPD courses specifically
I don't know of any specialised training in pensions - so anything in the south west would be appreciated
Current and continuous update on pensions on divorce with a focus on instructing experts, pitfalls of valuations, splits of pensions and implementing Sharing Orders
Updates
Too often the advertised courses are very expensive and during the working day. Would be good to liaise with the Family Law Bar Association

60. Respondents were given a final chance to comment and a few chose to do so. Their comments are set out in Table 18.

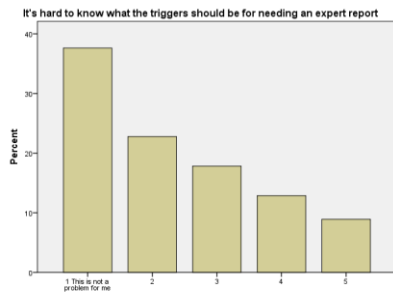
Table 18: Final comments

Pensions are very flexible now and should be considered liquid assets in cases where there is a surplus of pension after retirement income is decided upon
Some practitioners are 'afraid' of pensions and try to avoid having to deal with them fully, especially the details of different final salary schemes (e.g. index linking) and that lump sum/income arising from defined benefit/defined contribution schemes can be very different where similar CE figures apply.
I have answered some of the questions on the assumption that I have obtained expert evidence, which I would always seek to do when DB pensions are involved
I am not sure that I understood question 17. I would not be particularly confident advising clients on specific settlement terms (ie details on percentages or figures) in any of those situations. However, I would be very confident in advising them more broadly on their options on how to approach the situation etc.
My concern is for the low take up of advice/reporting on pension matters on divorce, which in turn impacts upon outcomes especially for women. Ideally, any changes should simplify matters not add to the complexity of our reporting. This in turn could help lawyers to improve take up
Finding barristers to help in complex pension cases is tricky.
Pension reports take too long (16 weeks at the moment) and the clients think they cost too much.
Consistency is key. I am a financial adviser who invariably it asked to implement a PSO. It is quite common to hear from clients "I have received a PSO but I do not know why and I do not understand it". A question I ask myself is, why are solicitors clients making such comments?
re some of my answers re advice - i am confident advising in these areas - but part of that may involve input from experts! I have also considered the draft guidance and thought it was excellent.
Offsetting is the really tricky issue but it is also an area where I consider guidance could end up misleading people or causing clients to 'dig their heels in' resulting in fewer settlements with increased costs which may not be in the client's best interests.
there is no clear guidance or standardisation from the judiciary on their approach to pension cases
e.g the scheme trustees are very slow to respond to requests in situations where pensions are in payment e.g. Teachers Pensions are very slow at present
The level of judicial knowledge about pensions is pathetically low and there should be more training for them
Well done for the hard work
My answers on confidence in advising relate to advising on pension not potential terms of settlement my answers would be different. In many cases it would simply be must get expert advice and disclaimer if they refuse.
Judicial training in relation to understanding what are frequently the most complex financial instrument most people will ever has must be improved. Even when there are expert reports and pension literate lawyers on both sides, mane judges, especially at DJ level simply do not have a grasp of the subtleties nor time afforded to them to learn them.
No further comments. Very detailed questions.

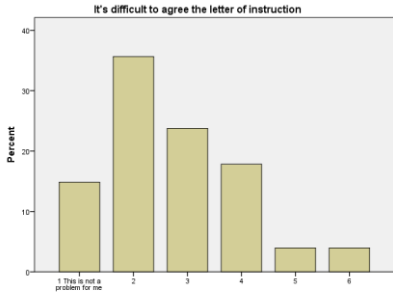
Published by the Pension Advisory Group

19th September 2019

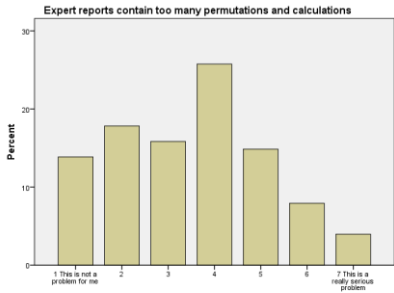
Appendix 1: Extent To Which Problems Are Encountered By Lawyers



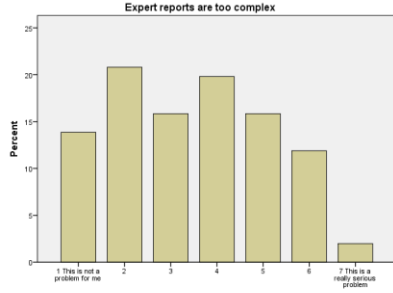
It's hard to know what the triggers should be for needing an expert report



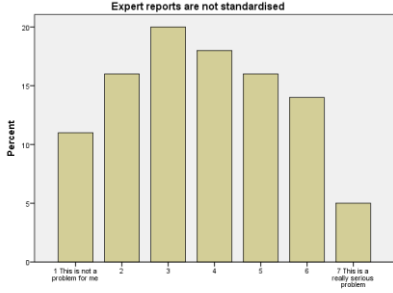
It's difficult to agree the letter of instruction



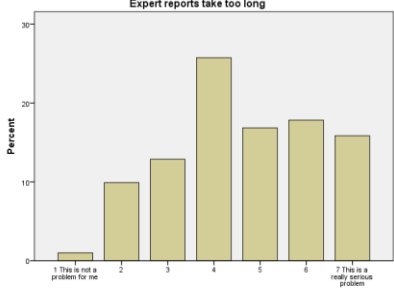
Expert reports contain too many permutations and calculations



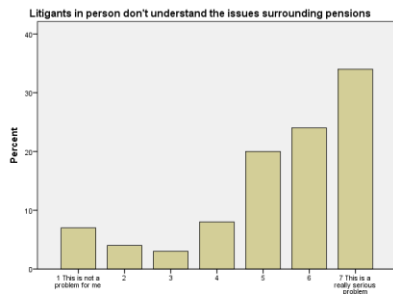
Expert reports are too complex



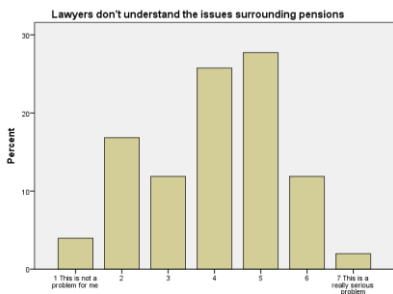
Expert reports are not standardised



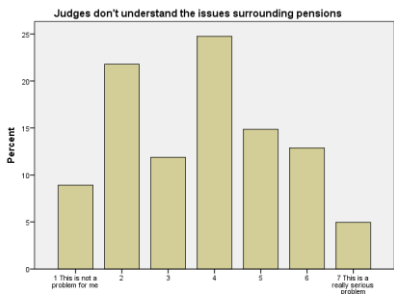
Expert reports take too long



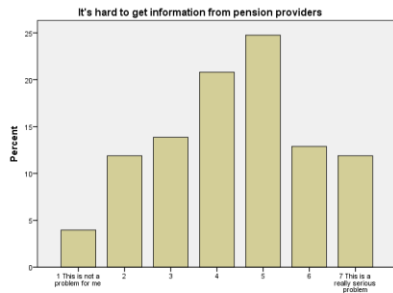
Litigants in person don't understand the issues surrounding pensions



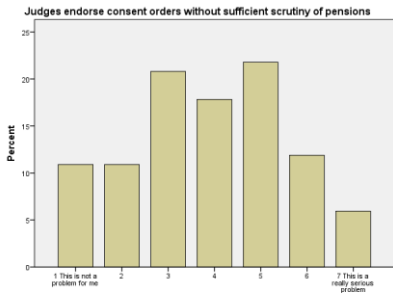
Lawyers don't understand the issues surrounding pensions



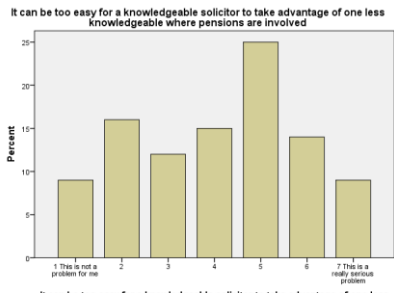
Judges don't understand the issues surrounding pensions



It's hard to get information from pension providers

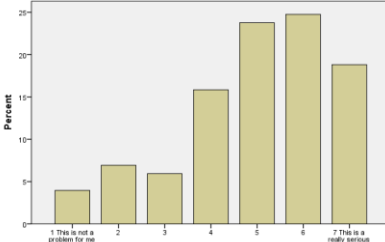


Judges endorse consent orders without sufficient scrutiny of pensions



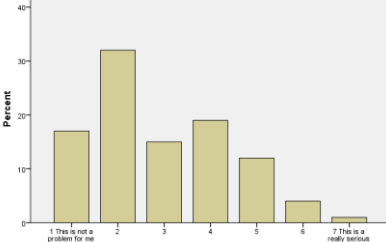
It can be too easy for a knowledgeable solicitor to take advantage of one less knowledgeable where pensions are involved

In offsetting cases it can be hard in practice to take account of the value of the pension



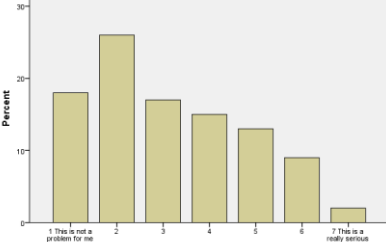
In offsetting cases it can be hard in practice to take account of the value of the pension

In courts where I practise, it's hard to persuade an opponent of the need for a pension report



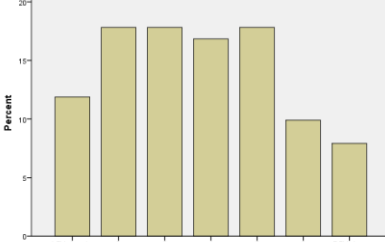
In courts where I practise, it's hard to persuade an opponent of the need for a pension report

In courts where I practise, it's hard to persuade the judge of the need for a pension report



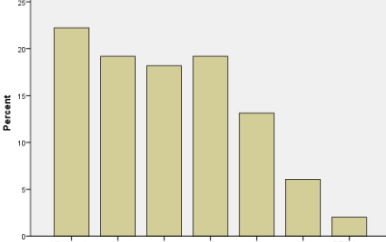
In courts where I practise, it's hard to persuade the judge of the need for a pension report

It takes too long to get information about the State Pension



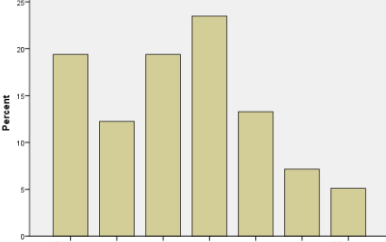
It takes too long to get information about the State Pension

Implementing orders after they have been made is problematic



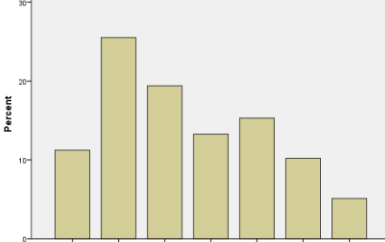
Implementing orders after they have been made is problematic

Pension providers are difficult to deal with



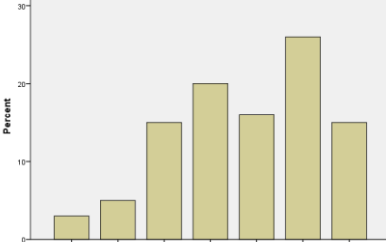
Pension providers are difficult to deal with

Pension providers won't always provide the information we need



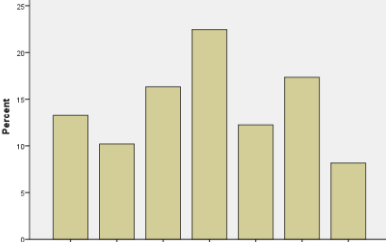
Pension providers won't always provide the information we need

Pension providers are slow to provide information



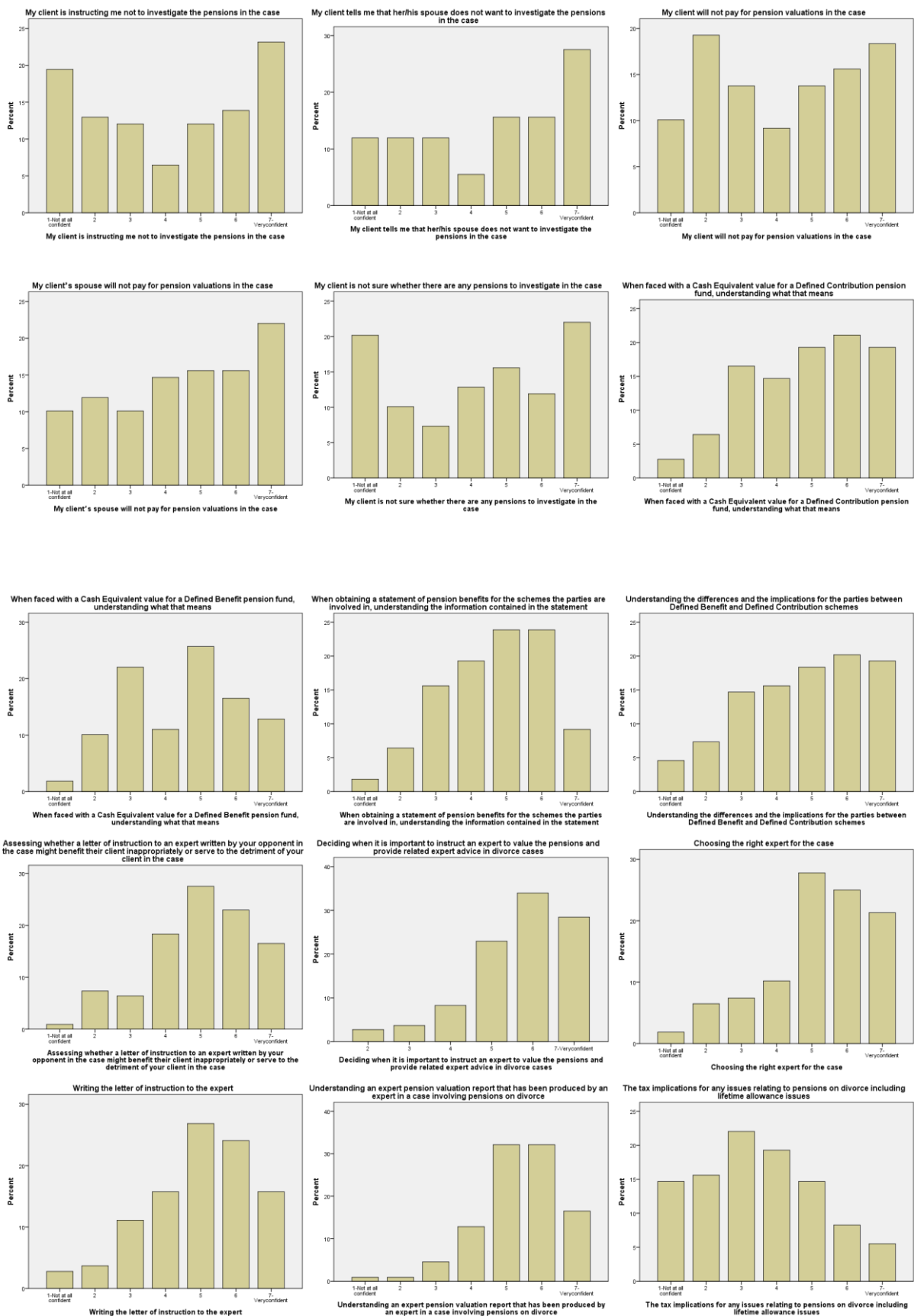
Pension providers are slow to provide information

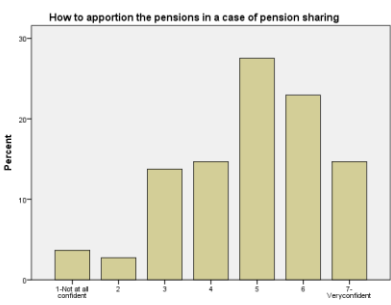
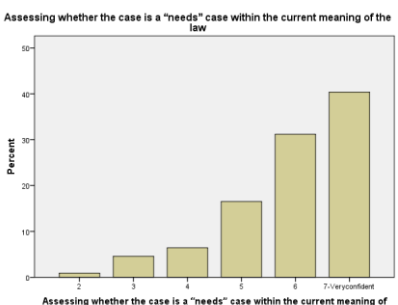
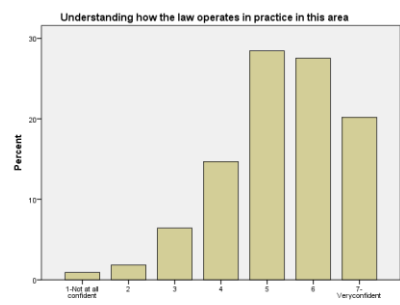
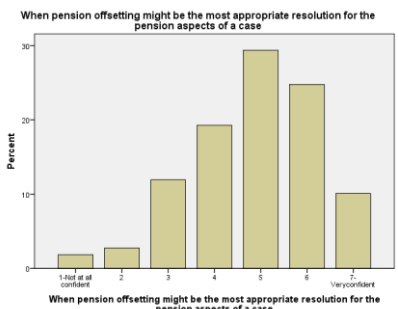
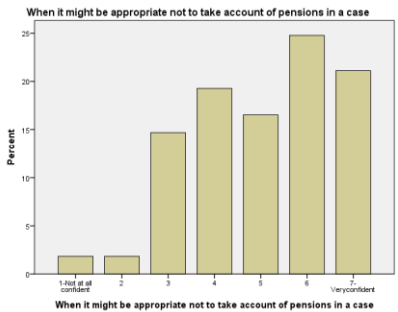
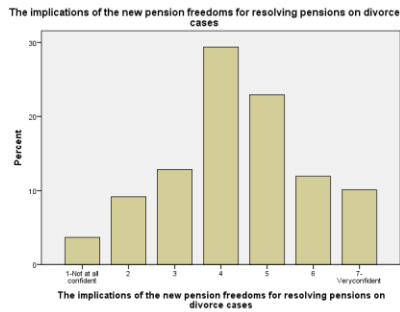
Pension providers are slow to implement orders



Pension providers are slow to implement orders

Appendix 2: Levels Of Confidence About Issues Arising In Pension On Divorce Cases





Appendix 3: Surveymonkey Survey

1. Welcome and thank you for participating

Thank you very much for agreeing to take part in the Pensions Advisory Group Survey.

The Pensions Advisory Group is a group of judges, lawyers, financial experts and academics who are preparing a report about the law and practice of the treatment of pension rights on divorce. The Nuffield Foundation is part- funding the project; the remainder is unfunded with individuals contributing their time voluntarily. The project is led by Hilary Woodward at Cardiff University. You can read more about the project here: [Pensions Advisory Group](#).

This survey is aimed at:

**(i) legal experts in England and Wales who deal with ANY matrimonial finance cases, and
(ii) those financial experts who have been or are involved in valuing pensions or providing reports about pensions for divorcing couples and/or the court in matrimonial finance cases, in England and Wales.**

This does not need to be your main business – we are looking to hear from you if it forms any part of your practice.

The survey is in tick-box format and will take approximately 15 - 25 minutes to complete.

This survey is completely anonymous and entirely confidential. We will not be asking you for any identifying data. No individual level data will be reported to the Pensions Advisory Group. All data will be aggregated in ways that mean it is not possible for anyone reading the report to know how any individual answered the questions.

If you would like your individual views to be identified, then do email Hilary Woodward, her details are on the next page. You are also very welcome to respond individually or together with colleagues, to our formal consultation papers which are available on the Nuffield Foundation website here: [Pensions on Divorce Interdisciplinary Working Group](#).

On the next window we will give you some information about the project and then after that we have a number of boxes for you to tick regarding consent to our use of the data that you enter when filling out this survey.

2. Some information about the project

This survey is part of a research project into how legal and financial professionals deal with pensions on divorce. It is an interdisciplinary collaboration. It is led by Hilary Woodward of Cardiff University who has a great deal of experience in conducting research in this field.

We aim to benefit the legal and financial professions and the operation of family justice by improving understanding and consistency of the treatment of pensions on divorce.

Your participation in this online survey is entirely voluntary. You are under no obligation to complete the survey and can exit at any time.

We will use our analysis of the answers to this survey to inform our final report and recommendations.

We are not gathering any personal, sensitive or identifying data about you in this survey. All the survey answers will be held securely and will be destroyed after 2 years at the latest.

This project has received ethical approval from the Cardiff School of Law and Politics Research Ethics Committee (SREC) on 17th May 2018 (Internal Reference: SREC/080518/13).

If anything goes wrong or you would like to contact someone about any aspect of how the research has been conducted, please contact Hilary Woodward at Cardiff University on WoodwardHD@cardiff.ac.uk. You can also contact the Chair of the School Research Ethics Committee at the University of Cardiff at: School Research Officer, Cardiff School of Law and Politics, Cardiff University, Law Building, Museum Avenue, Cardiff CF10 3AX; email: LAWPL-Research@cardiff.ac.uk

3. Consent to our use of your answers

* 1. I agree that you can use the answers that I give to this survey in your research

Yes

No

* 2. I understand that the anonymised survey data will be available to Pensions Advisory Group members only and will be stored securely in accordance with the Data Protection Act 1998 and General Data Protection Regulations, for a maximum of two years

Yes

No

* 3. I understand that my answers will contribute to aggregated survey responses that will form part of the final Pensions Advisory Group report

Yes

No

* 4. I am filling out this online survey voluntarily and I understand that I am under no obligation to complete it

Yes

No

4. About You

Please answer all the questions in this survey on behalf of yourself as an individual rather than thinking about your firm or your colleagues. If you have colleagues who also practise in these areas, please also ask them to fill in the survey. Thank you!

5. Are you (whether part-time or full-time) a:
(if you are a mediator in addition to or as your only role, please fill this in reflecting your current or former profession)

- Solicitor
- Legal executive
- Trainee solicitor
- Barrister
- Trainee barrister
- Financial expert providing valuations of pensions for the purposes of divorce (not an actuary)
- Actuarial expert providing valuations of pensions for the purposes of divorce
- Financial Advisor who provides pension reports (but not pension valuations) for the purposes of divorce
- Other (please specify)

6. If you are a barrister, are you:

- (I'm not a barrister)
- A sole practitioner
- Other (please specify)
- In a specialist family set of chambers
- In a generalist set of chambers

7. If you are a solicitor or legal executive, are you:

- (I'm not a solicitor or legal executive)
- A sole practitioner/Director of sole practice
- Partner/director, specialist firm dealing with family law
- Partner/director, general firm
- Other (please specify)
- Employee, specialist firm dealing with family law
- Employee, general firm
- Trainee in a specialist firm dealing with family law
- Trainee, general firm

8. If you are a financial or actuarial expert, are you:

- (I'm not a financial or actuarial expert) Partner/director of a multi-practitioner firm
- Sole practitioner/Director of sole practice Employee
- Other (please specify)

9. All:

Is your main practice based in:

- England: North-West England: South-East outside London
- England: North-East England: London
- England: Midlands Wales
- England: South-West
- Other (please specify)

10. Would you describe your practice as being situated in:

(Please tick the single option that best fits where your practice is)

- A major urban conurbation in one of London, Manchester, Birmingham or Leeds/Bradford
- A city
- A town
- A rural area

11. For how many years have you been practising in the field of matrimonial finance cases?

- 0 to 2 years
- 2+ to 7 years
- More than 7 years

5. Your experience of matrimonial finance cases

For the remainder of this survey, we would like you to think broadly about the cases that you have been involved in in the last 6 months that involve the resolution of financial matters on divorce. Please just take a minute to think about that body of cases, as we are going to ask you to make a number of rough estimations about these cases. We are not asking for precision here, but we are trying to get an idea of your practice in these areas.

12. Thinking about the last 6 months, what percentage of your overall caseload is concerned with the resolution of financial matters on divorce?

- 80%+ to 100%
- 60%+ to 80%
- 40%+ to 60%
- 20%+ to 40%
- Less than 20%

13. Please now click on the category below that best describes you. This is so that you can be routed through the rest of the survey in the right way.

- Lawyer
- Financial expert

6. Questions about the body of cases that you have been involved in

We now want you to think just about **the body of cases that involved financial resolution on divorce over the last 6 months** . We assure you that this survey is anonymous and confidential, and we have no way of identifying you or your clients. We very much want people to be as honest as possible about how they feel and about the reality of practice in this area.

14. We would like you to think about the proportion of your cases involving financial resolution on divorce to which the following statements applied. Please just do your best to provide an estimate. So, of your cases involving financial resolution on divorce over the last six months, the proportion of cases for which this statement would be true is:

	None	In some cases, but less than a third	Very roughly half (between a third to two thirds) of cases	More than two thirds of cases, but not all	All cases
The case involved one or more pensions (other than state pensions)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The pensions formed part of the thinking about how the finances of the case were resolved (whether by consent or by adjudication in court)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Of the cases where I was acting for a wife, my client (wife) did not want pensions taken into account in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Of the cases where I was acting for a husband, my client (husband) did not want pensions taken into account in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

7.

15. Of your cases involving financial resolution on divorce over the last six months, the proportion of cases for which this statement would be true is:

	None	In some cases, but less than a third	Very roughly half (between a third to two thirds) of cases	More than two thirds of cases, but not all	All cases
I was instructed to abandon or (in my view) inappropriately settle a claim against pensions because the emotional costs were too high for the client	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I was instructed to abandon or (in my view) inappropriately settle a claim against pensions because the financial costs were too high for the client	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The cost of finding out information about pensions stopped us from obtaining information about the pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The time it would take to find out information about pensions stopped us from obtaining information about pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My instructions prevented me from obtaining information about my client's pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My instructions prevented me from obtaining information about my client's spouse's pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

8.

16. Of your cases involving financial resolution on divorce over the last six months, the proportion of cases for which this statement would be true is:

	None	In some cases, but less than a third	Very roughly half (between a third to two thirds) of cases	More than two thirds of cases, but not all	All cases
I was instructed to ignore the state pension/state pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I was fully aware of the existence of all pensions in the case, belonging to both parties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Form P was filled in for my client with all the up-to-date and correct pension information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Form E was filled in for my client with all the up-to-date and correct pension information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The Form E that I received from the other spouse had all the up-to-date and correct pension information filled in	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The pension boxes on Form D81 providing separate CETV or other relevant information about each pension that my client held were filled in for my client	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I had my client sign a waiver because I had advised him/her to pursue the question of pensions but he/she insisted that we do not	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

9. Your confidence level

17. We would now like to find out how confident you feel in giving advice when you are faced with a divorce case that involves pensions. On a scale of 1 – 7, where 1 is not confident at all and 7 is very confident, how confident would you say you feel in giving advice in the following circumstances:

	1-Not at all confident	2	3	4	5	6	7- Very confident
My client is instructing me not to investigate the pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My client tells me that her/his spouse does not want to investigate the pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My client will not pay for pension valuations in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My client's spouse will not pay for pension valuations in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
My client is not sure whether there are any pensions to investigate in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

18. On a scale of 1 – 7, where 1 is not confident at all and 7 is very confident, how confident would you say you feel in giving advice in the following circumstances:

	1-Not at all confident	2	3	4	5	6	7- Very confident
When faced with a Cash Equivalent value for a Defined Contribution pension fund, understanding what that means	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When faced with a Cash Equivalent value for a Defined Benefit pension fund, understanding what that means	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When obtaining a statement of pension benefits for the schemes the parties are involved in, understanding the information contained in the statement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understanding the differences and the implications for the parties between Defined Benefit and Defined Contribution schemes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

19. On a scale of 1 – 7, where 1 is not confident at all and 7 is very confident, how confident would you say you feel in giving advice in the following circumstances:

	1-Not at all confident	2	3	4	5	6	7-Very confident
Deciding when it is important to instruct an expert to value the pensions and provide related expert advice in divorce cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Choosing the right expert for the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Writing the letter of instruction to the expert	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Assessing whether a letter of instruction to an expert written by your opponent in the case might benefit their client inappropriately or serve to the detriment of your client in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understanding an expert pension valuation report that has been produced by an expert in a case involving pensions on divorce	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

20. On a scale of 1 – 7, where 1 is not confident at all and 7 is very confident, how confident would you say you feel in giving advice in the following circumstances:

	1-Not at all confident	2	3	4	5	6	7-Very confident
The tax implications for any issues relating to pensions on divorce including lifetime allowance issues	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The implications of the new pension freedoms for resolving pensions on divorce cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When it might be appropriate not to take account of pensions in a case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1-Not at all confident	2	3	4	5	6	7-Very confident
When a pension sharing order might be the most appropriate resolution for the pension aspects of a case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When a pension attachment order might be the most appropriate resolution for the pension aspects of a case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When pension offsetting might be the most appropriate resolution for the pension aspects of a case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Knowledge of the law (including case law) in this area	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Understanding how the law operates in practice in this area	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Assessing whether the case is a "needs" case within the current meaning of the law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
How to apportion the pensions in a case of pension sharing	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
How to offset the value of a pension in a case of offsetting	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

10. Resolution of cases involving pensions:

In the last 6 months, have you been involved in any cases where the pension aspects of the case have been dealt with in the final agreement or order in the following ways:-

21. A pension sharing order

- Yes
- No
- Not sure

22. A pension attachment order

- Yes
- No
- Not sure

23. Offsetting the pension or pensions against other assets

- Yes
- No
- Not sure

24. We now need to route you to the right part of the survey. Did you answer "Yes" to any of the questions on this page (titled 'Resolution of cases involving pensions')?

- Yes, I answered yes to one or more of the questions on this page
- No, to none of them

11.

25. You have said that you have dealt with at least one case in the last 6 months where the pension aspects of the case were dealt with by a pension sharing order, a pension attachment order, or by offsetting the value of the pensions. We would now like you to think **about these cases** and we are going to ask you some questions about them. In what proportion of these cases did you do the following:

	None	In some cases, but less than a third	Very roughly half (between a third to two thirds) of cases	More than two thirds of cases, but not all	All cases
I obtained CEs for all pensions in the case, for both parties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I obtained the latest statements of benefits for all pensions in the case, for both parties	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I had a value for both parties' state pension entitlements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I instructed an expert to value the pensions in the case on behalf of my client	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I jointly instructed an expert with the other spouse to value the pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The other spouse was a litigant in person	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

26. Did you instruct an expert in any of these cases?

- Yes
- No

12.

27. You have said that you have experience in the last 6 months of experts being instructed to assist with the pension aspects of divorce cases that you were involved in. Which kinds of experts were involved in these cases [please tick all that apply]

- Actuaries
- Independent Financial Advisers or Chartered Financial Planners (regulated)
- Financial advisers (unregulated)
- Other (please specify)
- Financial advisers, but I don't know if they were regulated or unregulated
- Not sure

28. How did you find the expert or experts to instruct? [please tick all that apply]

- Had used them before in another case
- Recommendation from colleagues/other lawyers
- Had seen them in court/seen a report by them
- Recommendation from financial professionals
- The client found them
- Other (please specify)
- Already instructed in the case before my involvement
- From a directory
- From an internet search engine (e.g. Google or Bing)
- I saw them speak at a seminar/ conference
- Not sure

29. Did the experts instructed belong to professional bodies that regulated their conduct?

- Don't know/ not sure
- Yes all of them did
- Some did and some didn't
- None of them did

30. If your answer to the question above was Yes (to all, or some), which professional bodies did they belong to? [tick all that apply]

- (Not applicable as my answer to the question above was I don't know/not sure or none)
- Chartered Insurance Institute
- Don't know/not sure
- Chartered Institute for Securities Investment.
- The Institute and Faculty of Actuaries
- Other (please specify)

13. Function of Experts

31. How important is it to you that an expert instructed in the case belongs to a professional body such as the Institute and Faculty of Actuaries, the Chartered Insurance Institute or the Chartered Institute for Securities Investment, or another such body that regulates their professional conduct?

- | | |
|--------------------------------------|--------------------------------------------|
| <input type="radio"/> Essential | <input type="radio"/> Not very important |
| <input type="radio"/> Very important | <input type="radio"/> Not important at all |
| <input type="radio"/> Important | <input type="radio"/> I don't know |

32. A key function of experts in pensions cases on divorce is to value the pensions. How important do you think it is that experts take a consistent approach to each other in the way that they reach pension valuations?

- | | |
|--------------------------------------|--------------------------------------------|
| <input type="radio"/> Essential | <input type="radio"/> Not very important |
| <input type="radio"/> Very important | <input type="radio"/> Not important at all |
| <input type="radio"/> Important | <input type="radio"/> I don't know |

33. We would like you to now think about expert reports that you have seen in the last six months providing pension valuations for use in divorce cases by parties and/or the courts. How consistent have you found experts' approaches to the ways that they have valued the pensions in those cases to be?

- | | |
|------------------------------------------------------|-------------------------------------------|
| <input type="radio"/> I don't know how to judge this | <input type="radio"/> Consistent enough |
| <input type="radio"/> Not sure | <input type="radio"/> Not very consistent |
| <input type="radio"/> Very consistent | |

34. When you communicate with experts in cases involving pensions about their reports, for example querying something in the report, or seeking an explanation of a part of the report, how easy do you find it to understand the responses you receive?

- | | |
|-----------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <input type="radio"/> I haven't had this kind of communication with experts | <input type="radio"/> Easy |
| <input type="radio"/> Very difficult | <input type="radio"/> Very easy |
| <input type="radio"/> Difficult | <input type="radio"/> It depends on the expert instructed – some communicate well and others poorly |
| <input type="radio"/> Neither easy nor difficult | |

14. Possible problem areas

35. We are trying to find out the extent to which practitioners agree that the following areas are problems for them in practice when dealing with pensions on divorce. Please indicate how much of a problem you find these issues, where 1 is not a problem at all and 7 is a really serious problem:

	1 This is not a problem for me	2	3	4	5	6	7 This is a really serious problem
It's hard to know what the triggers should be for needing an expert report	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It's difficult to agree the letter of instruction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Expert reports contain too many permutations and calculations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Expert reports are too complex	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Expert reports are not standardised	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Expert reports take too long	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Litigants in person don't understand the issues surrounding pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lawyers don't understand the issues surrounding pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges don't understand the issues surrounding pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It's hard to get information from pension providers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges endorse consent orders without sufficient scrutiny of pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It can be too easy for a knowledgeable solicitor to take advantage of one less knowledgeable where pensions are involved	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 This is not a problem for me	2	3	4	5	6	7 This is a really serious problem
In offsetting cases it can be hard in practice to take account of the value of the pension	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In courts where I practise, it's hard to persuade an opponent of the need for a pension report	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In courts where I practise, it's hard to persuade the judge of the need for a pension report	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It takes too long to get information about the State Pension	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Implementing orders after they have been made is problematic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers are difficult to deal with	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers won't always provide the information we need	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers are slow to provide information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers are slow to implement orders	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

15.

36. We are now going to ask you some questions about how you think the market operates in this field. Please indicate the extent to which you agree or disagree with the following statements:

	Strongly Agree	Agree	Not sure	Disagree	Strongly Disagree
Many more cases should have expert reports valuing the pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is sufficient supply of experts for the demand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cost of the expert is a factor for me in advising whether experts should be instructed in a case involving pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I would advise the use of experts more often in cases if their charges were lower	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I find it easy to identify suitable experts to value pensions for the purposes of divorce cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would be helpful for there to be some form of certification indicating the competence of experts to undertake valuations of pensions for divorce cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* 37. Please click here to continue with the survey

Click here

16. Professional Bodies

38. Do you belong to any of the following professional and/or expert bodies? [tick all that apply]

- | | |
|------------------------------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Don't know/not sure | <input type="checkbox"/> Financial adviser regulated by the FCA |
| <input type="checkbox"/> The Institute and Faculty of Actuaries | <input type="checkbox"/> Academy of Experts |
| <input type="checkbox"/> Chartered Insurance Institute | <input type="checkbox"/> Expert Witness Institute |
| <input type="checkbox"/> Chartered Institute for Securities Investment | |
| <input type="checkbox"/> Other (please specify) | |

39. How important is it to you that an expert instructed in the case belongs to a professional body such as the Institute and Faculty of Actuaries, the Chartered Insurance Institute or the Chartered Institute for Securities Investment, or another such body that regulates their professional conduct?

- | | |
|--------------------------------------|--------------------------------------------|
| <input type="radio"/> Essential | <input type="radio"/> Not very important |
| <input type="radio"/> Very important | <input type="radio"/> Not important at all |
| <input type="radio"/> Important | <input type="radio"/> I don't know |

40. We are going to ask you some questions about how you think the market operates in this field. Please indicate the extent to which you agree or disagree with the following statements.

	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
Many more divorcing parties should involve experts in valuing the pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is sufficient supply of experts for current demand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There won't be enough experts for future demand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Clients are not willing to pay reasonable fees for this work	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The degree of specialist expertise required in valuing pensions for divorce cases prevents experts from entering this market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The degree of specialist expertise required in understanding how divorce law operates prevents experts from entering this market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

41. We are going to ask you some further questions about how you think the market operates in this field. Please indicate the extent to which you agree or disagree with the following statements.

	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
It is hard to demonstrate the appropriate skills to compete in this market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Some formal certification of expertise would be helpful to professionals seeking to compete in this market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Too much is expected of experts in this market for too little reward	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If there were a requirement to belong to a professional body, that would act as a barrier to entry into this market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Appropriate training would help experts to enter this market	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

17. Your involvement in pensions on divorce cases

We are going to ask you to think about pensions on divorce cases that you have been involved in over the last 6 months. Please take a minute to think about that body of cases –we are going to ask you to make some rough estimations about these cases. We are not asking for precision here, but we are trying to get an idea of your practice in these areas.

We assure you that this survey is anonymous and confidential, and we have no way of identifying you. This is because we very much want people to be as honest as possible about how they feel and about the reality of practice in this area

42. We would like you to think about the proportion of these cases that the following statements applied to. Do not worry if you are not completely sure, just do your best to estimate based on your thinking about these cases.

	None	In some but less than a third of cases	Very roughly half (between a third to two thirds)	More than two thirds of cases, but not all	All cases
I was instructed by one party	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I was a jointly instructed expert	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I had confidence that both parties/lawyers in the case had sufficient understanding of the pension issues to negotiate a fair result	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The person instructing me had a good grasp of the important issues for the case relating to valuations of the pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I was informed of the final resolution/outcome in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Of those cases where I was informed of the final resolution in the case, I felt that a fair result had been obtained in terms of pensions for both sides	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	None	In some but less than a third of cases	Very roughly half (between a third to two thirds)	More than two thirds of cases, but not all	All cases
Before I was instructed, the person instructing me had obtained CEs for all pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Before I was instructed, the person instructing me had obtained the latest statement of pension benefits for all non-state pensions in the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The letter of instruction was clear	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The letter of instruction was biased towards one party	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

43. A key function of experts in pensions cases on divorce is to value the pensions. Whether you yourself undertake pension valuations or not, how important do you think it is that experts take a consistent approach to each other in the way that they reach pension valuations?

- Essential
- Very important
- Important
- Not very important
- Not important at all
- I don't know

18.

44. We are trying to find out the extent to which practitioners agree that the following areas are problems for them in practice when dealing with pensions on divorce. Please indicate how much of a problem you find these issues, where 1 is not a problem at all and 7 is a really serious problem:

	1 This is not a problem for me	2	3	4	5	6	7 This is a really serious problem
Letters of instruction allow for too many permutations/variations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lawyers don't really know what to ask for in a letter of instruction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Experts should be allowed to feed back much more strongly on the letter of instruction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Letters of instruction can advantage one party at the expense of the other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There is not enough focus on what the parties are trying to achieve	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
There's not enough focus on getting the right solution for the clients	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Our expertise is often under-used in cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Experts get involved too late	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parties don't get the financial advice that they need where pensions are involved	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Expert reports are too complex	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Expert reports are not standardised	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Assumptions to be used in expert reports are not standardised	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	1 This is not a problem for me	2	3	4	5	6	7 This is a really serious problem
Expert reports take too long	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lawyers don't understand the issues surrounding pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges don't understand the issues surrounding pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The 'Lifetime Allowance' is not sufficiently accounted for in cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Judges endorse consent orders without sufficient scrutiny of pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
When orders are made without expert help this considerably disadvantages parties financially	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I never know what has happened in a case that I have been involved in	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Implementing orders after they have been made is problematic	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers are difficult to deal with	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers won't always provide the information we need	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers are slow to provide information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pension providers are slow to implement orders	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The profit margins from this work are too low	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

19.

45. How useful would you find a report from the Pensions Advisory Group that sets out the legal and practice issues for lawyers and experts surrounding the treatment of pensions on divorce?

- Very useful
- Quite useful
- Not very useful
- Not at all useful
- I don't know

46. How useful might the following elements of the PAG report be to you personally?

	Very useful	Quite useful	Not very useful	Not at all useful	I don't know
A clear statement of the law in this area	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Help with deciding when an expert is needed in cases involving pensions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A standardised letter of instructions from solicitors to experts with relevant options that can be tailored to a case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A clear statement of the core competencies that experts are expected to have in this area	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A clear statement of how experts are expected to approach valuations in cases where they are instructed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Recommendation of a single, consistent approach to be adopted by experts to valuations in pensions cases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
A short guidance document aimed at helping litigants in person navigate this field	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

47. Are there any other elements that you would particularly like to see from the proposed PAG report?

(free text)

20. Ogden style tables

The Pensions Advisory Group is considering whether it would be useful to the professions (both legal and financial) to have available a bespoke set of Ogden tables similar to those used in personal injury and employment tribunal cases, to produce rough values of pensions for the purposes of consideration in divorce, in cases involving Defined Benefit schemes, or for schemes where the Defined Contribution scheme has complexities associated with it. The experts on the PAG are considering whether values calculated this way would better represent the underlying value of the pension for the purposes of thinking about that pension in divorce cases than the Cash Equivalent value.

48. Do you think that this would be a better basis than the Cash Equivalent value to reach a rough valuation of pensions for the purposes of divorce in cases involving Defined Benefit schemes, or for schemes where the Defined Contribution scheme has complexities associated with it?

- Yes
- No
- I don't know/not sure

49. How useful would you find a set of Ogden-style tables designed to assist with valuing pensions in divorce cases for your own practice in this area?

- Very useful
- Quite useful
- Not very useful
- Not at all useful
- I don't know

21. Training

We would now like to ask you about training in the areas that we have covered in this survey.

50. Are you able to access continuing professional development courses that provide sufficiently for your own training needs in this area of pensions on divorce?

Yes

No

51. If no, please tell us what training you require or might require in the future (free text):

22. Conclusion

52. Is there anything else you would like to say or add about any of these issues?

23. Thank You!

Thank you very much for completing this survey.

The Pensions Advisory Group is currently consulting on the content of two reports, one by the Legal Working Group, and the other by the Expert and Valuation Working Group.

If you would like to read the draft reports or get in touch with us, please see details of the consultation on the [Pensions on Divorce Interdisciplinary Working Group web-page](#).