

The City Directorate

Corporate Strategy
Business and Promotional Direction
Structuring Corporate Transactions
Board and Trust Appointments

2 February 2016

Competition & Markets Authority
Victoria House
37 Southampton Row
LONDON WC1B 4AD

Dear Sirs

Pensions on Divorce and Death

Allow me to introduce myself. I am a former senior member of the solicitors' profession and also a Member of the Society of Trust & Estate Practitioners (STEP) and was at one time a lay trustee of the Occupational Pensions Regulatory Authority (OPRA). I have worked with IFAs, solicitors and pension professionals over a number of years. I am writing to express concern in relation to pensions and look for a solution to the problem over solicitors conducting matrimonial causes and administering estates for dead and those in care.

The legal profession has become so broad that most specialise within the profession. The problem I am acquainted with is that the public do not seem to have easy access to what specialities and expertise a particular solicitor or firm of solicitors may have. Indeed, in some case on their website they will claim expertise which is not necessarily present. This has become a problem in relation to pensions where very few solicitors have much expertise.

Pensions is of course an area of some considerable complexity and not all IFAs will have wide pension experience or knowledge.

I have conducted a number of cases recently where the solicitors or IFAs involved were simply unable to deal with the complexities of pensions law, regulation and practice. They do not always like to admit that but that is to let down their client. For instance, in divorce the courts and legal profession have adopted a practice of simply taking actuarial reports of a spouse's pension entitlements for splitting. In fact today many individuals opt for alternative pension arrangements and assets locked into FURBs, URBs, offshore pension arrangements as well as SSASs etc. These will not have an independent professional able to issue a report and therefore the alternative pension assets are easily hidden. That is why there is a need for pension expertise in divorce.

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The same can be said for the administration of estates and those operating under powers of attorney for care patients and the elderly. Not all such people leave death nominations for their pension entitlements or other instructions with regard to their retirement arrangements or pension schemes. Once again, a solicitor is left to seek to administer the situation without necessarily having the requisite expertise.

This is something which needs to be addressed by the Law Society or the Solicitors Regulatory Authority (SRA). I also believe that STEP could have a separate and distinct section of its membership in the UK dedicated to pensions practice and I am therefore sending them a copy of this letter with a view to soliciting their thoughts on this subject, which is clearly one of growing importance. More and more individuals are going to turn to alternative pension arrangements and assets because of the loss of tax relief on contributions and the new £1million lifetime allowance.

I would particularly welcome the CMA's thoughts on this subject and how it can best be addressed and overcome. In the case of matrimonial causes, we have recently seen the necessity to reopen many cases due to faulty software. The problem in this case is not faulty software but inadequate expertise being employed, but the effect could be the same, meaning greater burdens on the court system.

I am particularly hopeful that STEP may be able to help provide a solution because pensions are not limited to UK provision but are on a global basis. STEP is a worldwide organisation whose tentacles stretch beyond our shores.

I look forward to hearing from you.

Yours truly

ROBERT M. JUSTICE
Fisk Strategies, for The City Directorate Group Ltd