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Pension Loss

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Why Consider Pension Loss?

- About half of the UK workforce is in an occupational pension scheme. (Source: Harvey on Industrial Relations and Employment Law, B-1171)
- Pension loss claims can be relatively large as they may span many years.
- Failure to consider – professional negligence – under-settlement of claim.

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How Does This Affect My Client's Claim?

- Pensions Act 2008
- Work Based Pension
- Adding Value

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Type of Pension Scheme

- State Pension and Pension Credit
- Defined Benefit Pension Scheme
- Defined Contribution Schemes:
 - Group Personal Pension, Stakeholder Scheme.
 - Individual Personal Pension, Stakeholder.
 - Work Based Pension Scheme.

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Proposed New State Pension

- Commencing April 2016
- Single tier - £148.40 per week
- Minimum Qualifying Period 7 -10 years
- Qualifying period for maximum pension – 35 years
- To include self employed for the first time (class 2 NICs)
- Not changing pension rules for Existing Pensioners

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State Pension Age

Planned increases brought forward:

- 2018 – Age 66
- 2026 – Age 67
- 2046 – Age 68

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State Pension Age

- Linked to longevity
- Continual review of state pension age
- Five yearly intervals.
- 10 years notice of further increases?!?!
- 69, 70.....

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Work Based Pensions

- Introduced between October 2012 and October 2018
- Employer contributions set at 3% minimum will be (phased in until 2018)
- Employee contributions of 4%
- Tax Relief of 1%
- Earnings more than £10,000 for auto enrolment.
- Minimum age 22
- Band earnings of £5,772 to £41,865.
- Basic Provisions in Section 20 (1) Pension Act 2008
- Scheme details updated in Pensions Bill 2011.

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Work Based Pensions (Having brought about)

- Legitimate claims for employer contributions throughout working life.
- Known loss for claims where the claimant is a child (life expectancy beyond 22).
- Existing Employer Pension Schemes must meet minimum requirements.
- Size of Employer (Currently 61 employees)

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Benefits in Kind

Important to remember the members of employers pension scheme often have other Benefits in Kind which have been lost:

- Death In Service
- Private Medical Insurance
- Critical Illness
- Discount cards

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Defined Benefit Pension Schemes

- A traditional pension plan that defines the benefit that an employee will receive.
- At retirement, the employee will receive a pension that is defined under the terms of their employment contract.
- Generally, these schemes are offered by the public sector and some very large private companies.
- Also known as: Final Salary, Superannuation and Career averaging schemes.

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Defined Benefit Pension Schemes

Benefits are based on the accrual rate, member's salary and number of years membership in the pension scheme. Therefore :

$$\text{Annual Pension Income} = \text{Salary} \times \frac{\text{Years of Service}}{\text{Accrual rate}}$$

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Defined Contribution Pension Schemes

- The vast majority of pension plans in future will be set up on a defined contribution basis.
- Certainty of the contributions going in.
- No certainty of the outcome as based on various factors:
 - Investment Returns
 - Annuity/GAD Rates
 - Mortality
 - Legislation
 - Competition

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Defined Contribution Pension Scheme

Annuity or Pension Fund withdrawal?

Up to 25% of the fund can be drawn tax free,
therefore:

$$\begin{aligned} \text{Annual Pension Income} &= \text{Member Contributions} \\ &+ \text{Tax Relief} \\ &+ \text{Employer Contributions} \\ &+ \text{Fund Growth} \\ &\times \text{Annuity/GAD} \end{aligned}$$

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Loss of Dependency Pension Claim

- Dependents of the deceased have a claim under the Fatal Accidents Act 1976 Section 4.
- Statutory Disregard of payments from a pension scheme which were made as a result of death:
 - Widows Pension
 - Lump Sum Benefit
- Unfair ?
- State Pension?

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March 2014 Budget



“Pensioners should be free to buy a Lamborghini with their life savings if they want to.”
Steve Webb MP,
Pensions Minister

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March 2014 Budget

- No requirement to buy an annuity
- Flexible drawdown at £12,000
- Increase Drawdown of 150% GAD
- Withdrawal of small pension pots
- Full access to your pension fund??

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Which Cases Should I Consider?

Applicable to those:

- Unable to ever return to work
- Who will be unable to work for an extended period
- Who will have a reduced earning capacity
- Minor cases where the child may never work or will have a reduced earning capacity, where life expectancy takes the child beyond age 22 years

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Which Cases Should I Consider?

(Cont...)

- Fatal accident cases - even where the deceased had a pension that has paid out a widows pension and/or a lump sum death benefit
- Catastrophic cases where a carer / carers will be employed by the claimant

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Conclusion

- Not every case will have Pension Loss
- Significant increase in applicable cases
- **TBA??**
- Can add considerable value
- Viability assessment

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Current Issues

- Proportionality
- Cost Budgeting
- Instructing an Expert

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Thank you
for listening

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