

FIAMs

**Financial
Neutral Self
Certification
Requirements**

Financial Neutral Self Certification (For Advisers)

It is a privilege for a Financial Adviser to be invited to provide assistance to lawyers / mediators and clients as a Financial Neutral.

In order to act as a Financial Neutral within divorce proceedings the Financial Neutral should meet the requirements and competencies that such a role demands. These are detailed below and should be confirmed by the Financial Neutral prior to accepting the instruction.

Qualifications (one of the following)

- Chartered Financial Planner
- Certified Financial Planner
- Advanced Diploma in Financial Planning with mandatory advanced pension qualifications -G60 or AF3 or AF7 plus AF8
- Associate of the Chartered Insurance Institute
- Resolution Accredited Financial Adviser

Knowledge

Divorce Options & Process

- An understanding of
 - the operation of the family law in financial remedy applications on divorce and the procedures followed in The Family Court for the resolution of financial cases on divorce
 - dispute resolution options, including mediation, collaborative law, arbitration and Early Neutral Evaluation
 - vulnerable clients, whether the clients require extra care and when to seek out the assistance of a family consultant or divorce coach to work with you.
- Have read and understood A Guide to The Treatment of Pensions on Divorce, the report of the Pension Advisory Group.

Neutrality

- An understanding that
 - Within either a mediation meeting or a collaborative meeting the Financial Neutral is not providing advice to either party.
 - The Financial Neutral is by nature, unbiased and is there to provide education and information
 - The Financial Neutral has been invited into the discussions to assist with reaching an agreement and is to provide options, in plain English, with the pros and cons of those options being explained
 - The Financial Neutral must work on a fee basis

Charges / Fees

- Fees should be estimated or advised in advance where possible
- Any charges should be met by parties directly.
- Fees should not be met from any adviser charges or commission, nor should the costs be contingent on the provision of future advice.

Future Advice

- It is a requirement that the Financial Neutral remains impartial throughout and acts entirely for the mutual benefit of both parties.
- The Financial Neutral can only be instructed in future by either party (post divorce) to provide personal advice as a separate engagement.

Technical Knowledge

There is a level of technical knowledge required to work within the divorce arena, particularly within pensions. **The adviser must know their professional limitations, and when to include another qualified party (such as an actuary) in the discussions**

Ideally the adviser should have an in depth knowledge of the subjects covered below.

Pension Benefits and the Taxation of Pensions

- A knowledge of the Statutory Instruments (and amendments) particularly pertaining to Pensions and Divorce namely;
 - SI 2000/1048 The Pensions on Divorce (Provision of Information) Regulations 2000
 - SI 2000/1049 The Pensions on Divorce (Charging) Regulations 2000
 - SI 2000/1052 The Pension Sharing (Valuation) Regulations 2000
 - SI 2000/1053 The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000
 - SI 2000/1054 The Pension Sharing (Pension Credit Benefit) Regulations 2000
 - SI 2016/289 The Pension Sharing (Miscellaneous Amendments) Regulations 2016
- An understanding of financial remedy case law.
- A knowledge of other legislation such as the WRPA 1999 sec 31 and FPR 2010
- An understanding of Pension Sharing Orders, Attachment Orders and Offsetting.
- An understanding of non shareable pension rights, and how to factor these into pension sharing calculations

- An understanding of the different types of pension schemes (all types of defined benefit and defined contribution) and the features of each type of scheme, including Additional Voluntary Contributions.
- An understanding of the nuances of the different public sector pension schemes, and the difference in underlying benefits for members and ex spouse.
- An understanding of the technical pension information required to provide the necessary analysis, including an awareness of the limitations & correctness of information supplied by scheme administrators and consultants
- An understanding of how pension credits and debits operate within pension schemes and the ability to understand the potential loss of value when pensions are shared.
- An understanding of guaranteed annuity rates, market value adjusters and terminal bonuses on certain types of plan
- Pension scheme definition of “spouse” and whether any death benefit restrictions apply to separated couples.
- The implications of pension valuation changes to both parties during the divorce process and “Moving Target Syndrome”. This would include the rules surrounding underfunded defined benefit schemes.
- The differences between the Pension Protection Fund and the Financial Assistance Scheme coupled with the implications of pension sharing against those schemes within the assessment period or already accepted into the PPF/FAS
- The ability to correctly analyse pension sharing credit options, where available, of internal (actuarial equivalent) and external (money purchase) sharing.
- An understanding of State Pension benefits, including how they can be shared (protected payments) or are otherwise affected by divorce.
- Whether Class 3 NI Contributions can be paid/made as part of the divorce settlement to help achieve income parity later in retirement.
- An understanding as to how health impacts on the retirement income available from the various types of pension scheme and the expertise to identify when specialist health or impaired life underwriting/annuity advice should be taken.
- An understanding of the tax regimes.
 - The Lifetime Allowance charge
 - How pension sharing affects the Lifetime Allowance for each party
 - How pension sharing can trigger the loss of Fixed and Individual Protection
 - How implementation can affect ongoing Lifetime Allowance protection
 - The Pension Credit Factor- When to use it, how it is obtained, and how it is applied.
 - Annual Allowance and rebuilding pension benefits
 - Future Pension Contributions using Carry Forward
 - Offsetting versus future pension contributions
- An understanding of how investments, such as property investments in SIPPs and SSAs, can impact on pension and pension sharing benefits, and the ability to identify when specialist advice should be taken.
- How to deal with foreign pensions, inc QROPS.
- The implications of Bankruptcy
- An understanding as to the wider regulatory environment for pension benefits.

- An understanding of how to instruct a PODE (Pension on Divorce Expert) and the ability to draft a letter of instruction for this purpose.
- An ability to explain an actuarial report /calculations
- An understanding of the timings of Pension Sharing Order implementation in conjunction with Maintenance Orders

Investments, Taxation and Trusts

The Adviser should understand the implications of the tax year of separation on transfer of assets/investments. Other factors to be considered are asset liquidity, inappropriate residual investment risk & future taxation consequences.

In addition, the adviser should have sound technical knowledge of

Investments

- Cash Deposits
- Fixed Income Investments
- OEICs
- Individual Savings Accounts
- Shares/Equities (and when to request external assistance)
- Investment Bonds
- Enterprise Investment Schemes/BPR
- Venture Capital Trusts
- Structured Investments & Structured Deposits
- Property investments (commercial and residential)
- Business valuations
- Debt investment

Taxation

- the taxation of income and gains from various investments
- Income Tax
- Capital Gains Tax
- Inheritance Tax
- Corporation Tax
- Stamp Duty
- Implications of international taxation on ex UK assets

Trusts

- the different types of trusts
- the features of different trusts
 - loan trusts
 - discounted gift trusts
 - discretionary trusts
- the taxation of a trust
- The role of the trustees
- The implications of discretionary & regular payments to beneficiaries

Life Assurance, Protection Contracts and Trusts

The adviser should have a thorough working knowledge of:

All types of Protection contracts, including

- Life Assurance
- Critical Illness policies
- Income protection (including Accident, Sickness and Unemployment)
- Whole of Life plans with investment content.
- Endowment policies
- Insurable interest and “Life of Another” plans
- Policy ownership and How plans can be assigned
- Future requirements for maintenance protection
- The advantages and limitations of Death In Service master trusts
- Death In Service master trusts and the interaction with Lifetime Allowance
- The implications of non disclosure in future policies and how to overcome this
- Implications of “Separation” options on some joint life insurance plans
- Trusts in relation to protection contracts
- the taxation (if any) of the benefits payable from protection contracts

Property, Mortgages and other Debt

The Adviser should understand the implications of the tax year of separation on transfer of assets/investments

In addition, they should have sound technical knowledge of

- How property can be shared within a divorce settlement
- The potential Capital Gains Tax on the Former Matrimonial Home
- How interest in a property can be maintained following divorce / separation including Mesher/Martin Orders
- The implications of divorce (including maintenance payments) on any existing or future mortgage borrowing.
- The various types of mortgage and loans that are associated with property purchase.
- When to introduce a mortgage expert to assist in the discussions and provide additional information.
- How to instruct a mortgage expert and the ability to draft a letter of instruction for this purpose.
- Debts of various forms (Loans, Credit Cards, Store Cards etc).
- How to check and rebuild a credit score

State Benefits

- Does either party qualify for any extra state benefits such as Universal Credit?
- If high earner, can child benefit be reinstated post divorce?
- The effect that a proposed settlement would have on the receipt of current or possible future state benefits.