Money Matters

NAVIGATING THE FINANCIAL LANDSCAPE

Winter 2018

Investors and the environment:

How individuals and institutions are prioritising planet earth

IN THIS ISSUE

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Welcome to the Winter 2018 edition of Money Matters.

As the timeline towards Brexit becomes shorter, it's becoming even more prominent in our sense of national direction and is dividing debate more fervently than ever before. As financial advisers, we're paying close attention to the process and working with our investment partners to make sure we're as prepared as we can be for the outcome.

Life does go on outside of Brexit of course, and our articles focus on a typically wide range of issues including an interesting trend among institutions and individuals towards investing and donating for the environment. I believe this adds a lot to the ongoing debate around the purpose of investments.

Cashflow planning has been in use for some time and thanks to advances in technology we can now visually demonstrate how decisions impact clients in later life. This will be hugely valuable for clients and advisers alike as it brings financial planning to life.

A number of our clients are entrepreneurial company directors, partners or self-employed, so there are interesting hints and tips from Rodliffe Accounting on best practice and technology when starting a business. Likewise, running a company comes with auto-enrolment responsibilities and the big area of focus for the regulator is scheme governance, amid concerns of failures throughout the industry.

There are valuable contributions from Freeths on reconciliation and James Hay tackles the increasingly relevant topic of acting under Power of Attorney. We've pushed this topic a few times because we believe in positive action to prevent distress at such times. It's a complicated area and one that certainly requires an expert.

As ever, should any of the articles in this magazine cause you to want to review your financial planning arrangements, please get in touch with your adviser directly.

Yours sincerely,

Ian Halley
Chief Executive Officer
Wren Sterling

How investors are supporting environmental and ethical causes

Nick Moules, Head of Marketing, Wren Sterling

When many of us think about our legacy, we think financially. How much could we leave our descendants and how should it be structured? Both very common questions for financial advisers, but increasingly people are considering the legacy of the planet and the society they're leaving behind and want to make a financial difference. This is being evidenced by their investment preferences and charitable bequests in Wills.

According to Smee & Ford, in its most recent edition of its Legacy Trends report, 6.1% of the population leave a charitable bequest in a Will.

The Legacy Trends report's five-year trends show how the pattern of giving is shifting over time as the proportion of legacies received from the 'greatest' generation (aged 92 plus) falls and the legacies left by the 'silent' generation (aged between 92 and 73) and 'baby boomer' generation (aged between 72 and 54) begin to emerge.

Key findings from the Legacy Trends report

- Legacy income is between £2.8 billion and £2.9 billion – the largest ever reported.
- There were 36,445 charitable estates in 2017 which is consistent with the number recorded in 2016.
- The general longer-term trend is that the number of charitable estates is increasing.
- Charitable estates were worth £17.9 billion in 2017 growing by over £1.8 billion over the year period, pushing up residual donations.
- 15.6% of the value of charitable estates (donor wealth) went to charities.
- 6.1% of the population leave a bequest in a Will.
- 122,144 bequests were contained in Wills in 2017[i].

Environmental causes on the rise

Overseas aid and environmental organisations have seen the most growth in supporters, and now sit within the top five causal areas for gains in legacy supporters. The cause of this could be increasing publicity through the media – for example David Attenborough's Blue Planet has been widely praised for drawing attention to the ocean's plastic problem.

However, the cause with the highest increase in legacy supporters is medical welfare, followed by sport and recreation, and rescue services. The report reveals that religious organisations have seen the largest fall in legacy supporters over the past five years. This is followed by hospitals, aged, children and youth, and disabled charities.[ii]

As financial planners, it's important that we mention the benefits of philanthropy, which could explain some of its growth. When ten per cent of an estate is left to a registered charity, the Inheritance Tax payable over the Nil Rate Band is reduced from 40 per cent to 36 per cent.

This trend is encouraging for supporters of environmental causes though. Back in 2007, less than two per cent of UK charitable grants went towards environmental concerns, and only five per cent of the £8bn donated annually by private individuals went to green charities.[iii]

At an individual charity level it is the most recognisable brands at the top with little emphasis on environmental or ethical causes.

Legacy income of top 10 charitable organisations in 2016/17

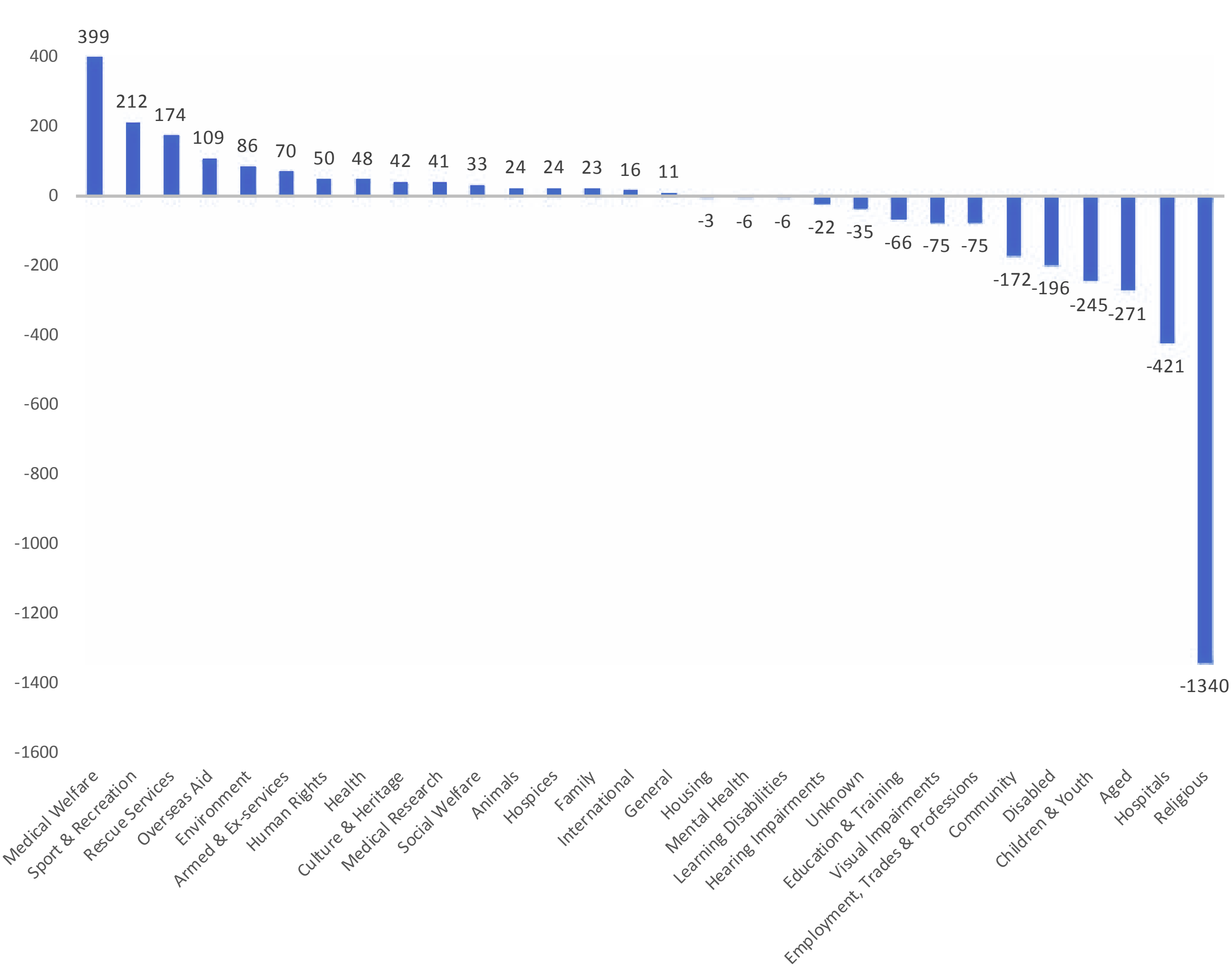
- Cancer Research £186.6m
- Royal National Lifeboat Institution £130.5m
- Royal Society for the Prevention of Cruelty to Animals £78.6m
- Macmillan Cancer Support £76.7m
- British Heart Foundation £73.3m
- The National Trust £61.6m
- Salvation Army Trust £50.4m
- The Guide Dogs for the Blind Association £47.9 m
- PDSA £45.1m
- Royal National Institute of Blind People £41.7m

It's possible that the recent report by the Intergovernmental Panel on Climate Change (IPCC), which issued a stark warning on the state of the planet, could influence the charitable giving decisions of people in life and when they consider the world they're leaving behind.

Investors making money talk

Perhaps surprisingly, investors are playing a key role in the lobbying effort to convince governments across the world to adhere to commitments made in the Paris accord. One might

Causes by the combined annual change in the number of supporters (2013-2017)



think of Greenpeace or Friends of the Earth as the natural leaders here, but money talks to those who might not otherwise listen. Some of the world's biggest investment houses controlling $30 trillion (£23 trillion) worth of funds have agreed to join forces to put pressure on governments to tackle climate change.

Ethical investments

Institutions such as Aviva, Schroders and Legal & General Investment Management will lobby governments around the world to adhere to the promises they made to tackle pollution in the Paris Agreement on climate change. A core group of 120 investors has also agreed to try to ensure their portfolios do not contain investments that might damage the environment.[iv]

These institutions realise they have the broad backing of their investors too. Increasingly, individual investors are looking for value in their investments and this is not limited to returns – they're making ethical investments. It is estimated that there is £16bn invested in ethical investments in the UK, and globally this figure is closer to $80bn.[v]

In research carried out in February 2018 by New Model Adviser, almost a third of respondents to a survey of 2,004 people said the ethical, social or environmental impact of the company they were investing in was just as important as the financial return.[vi]

What does the future hold?

It's reasonable to assume that the trend towards supporting environmental and ethical funds will increase. The key messages from the IPCC's report were that the planet's ecosystem is under threat without drastic measures to change the direction of travel towards a 2°C global temperature rise.

Medical welfare seems likely to keep its spot at the top of the charitable donations tree, as the vast majority of us are affected in some way by the conditions these charities work to fight against, either directly or via a friend or close relative. The difference with climate change especially, is that more of us can expect to be personally affected in the coming years by extreme weather.

Future generations increasingly conscious

According to statistics from Rathbone Investment Management, ethical investing is a practice gaining in popularity with younger investors. More than a quarter (27%) of millennials would take their investment out of a company if it faced allegations of misconduct or unethical behaviour, despite it achieving high returns, versus just 9% of those aged between 55 and 64.

High net worth (HNW) millennial investors are even more ethically minded, with 41% claiming they would remove their investment from a company if it received allegations of unethical behaviour.

In a world where the US government pursues a policy that doesn't acknowledge the manmade contribution to climate change and seeks to extricate itself from the Paris climate accord, actions of individuals and institutions become much more important.

Building an ethical investment portfolio

When we work with clients we ask what's important to them in all aspects of their lives so our plan sits comfortably with them, and the type of investments we can offer reflect that.

Wren Sterling's independent status allows us to recommend ethical funds to our clients as part or all of their investment solution. Working in partnership with our research providers, we can identify funds marked as sustainable and responsible and include these in our investment strategy recommendations.

For more information on ethical investments, please speak to your adviser.

It's important to emphasise that like all investments, ethical investment returns are not guaranteed and you may lose some or all of your initial investment.

[i] https://smeeandford.com/whitepaper/post?pitem=legacy-trends-2018
[ii] https://www.charityfinancials.com/charity-financials-insider/more-legators-now-leave-gifts-in-wills-to-overseas-aid-and-the-environment-1767.html
[iii] https://www.cafonline.org/docs/default-source/about-us-publications/caf-uk-giving-2018-report.pdf p13
[iv] https://www.telegraph.co.uk/business/2018/09/12/global-investors-launch-campaign-tackle-climate-change/
[v] http://www.eirisfoundation.org/wp-content/uploads/2017/11/Market-Sizing-press-release.pdf
[vi] https://citywire.co.uk/new-model-adviser/news/ethical-investing-takes-off-as-funds-outperform/a1095819

Cashflow planning: visualising financial journeys

Gareth Hope, Head of Research, Wren Sterling

Cashflow planning is a bit of a buzz phrase around financial planning at the moment as advisers seek to show clients how their financial journey will unfold if it continues its current trajectory or with positive and negative impacts.

In my mind, cashflow planning is simply showing whether a client's objectives are attainable using current and future assets and monies – with the goal of helping them lead the lifestyle they want to lead and not running out of money. It is a concept that has been around for a long time, but one that's gathering pace as a tool in a financial planner's armoury and Wren Sterling has committed to using cashflow planning with our clients.

Technological advances

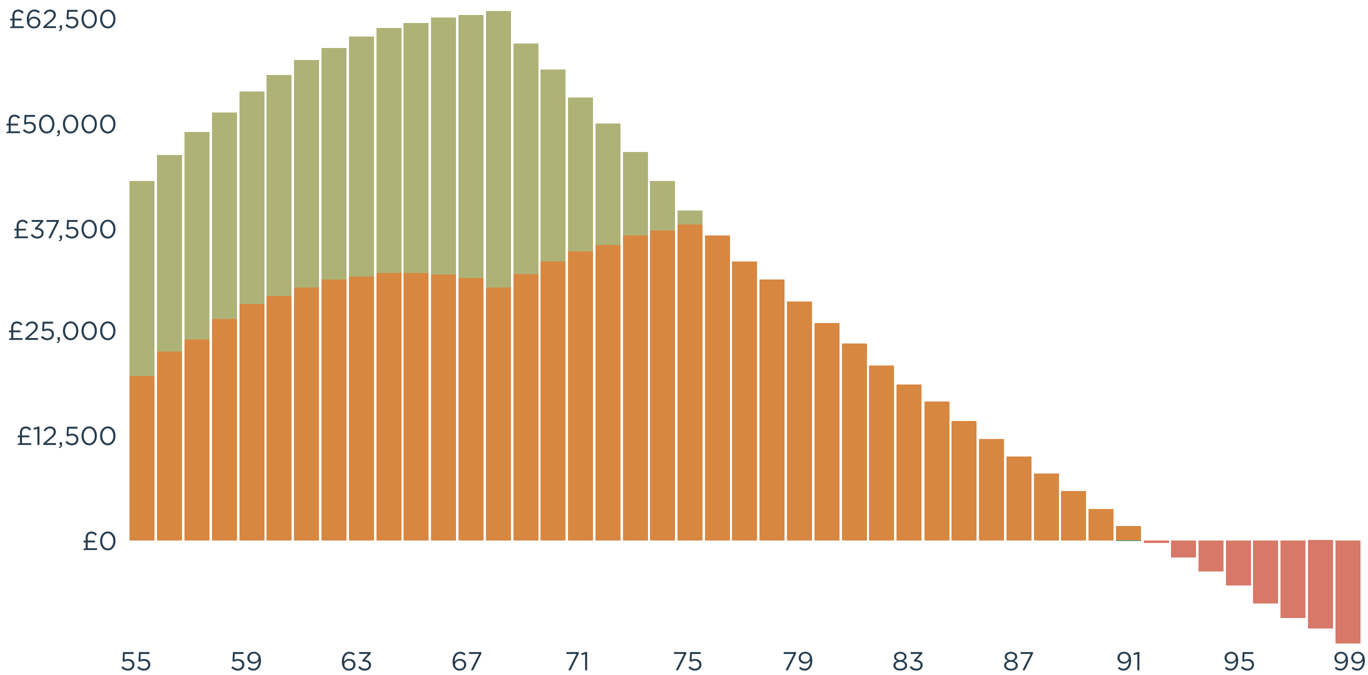
Understanding where a client is in their life and where they want to get to has been the cornerstone of financial planning for a long time. Since the proliferation of Microsoft Excel and spreadsheets, financial planners and their administrators have laboured to produce forecasts based on their clients' circumstances and aspirations.

However, the obvious flaws with this approach – such as human error, the difficulty in bringing a complex spreadsheet to life for clients and the ever-increasing list of variables in calculations – have made the method unreliable and threatened trust between advisers and clients.

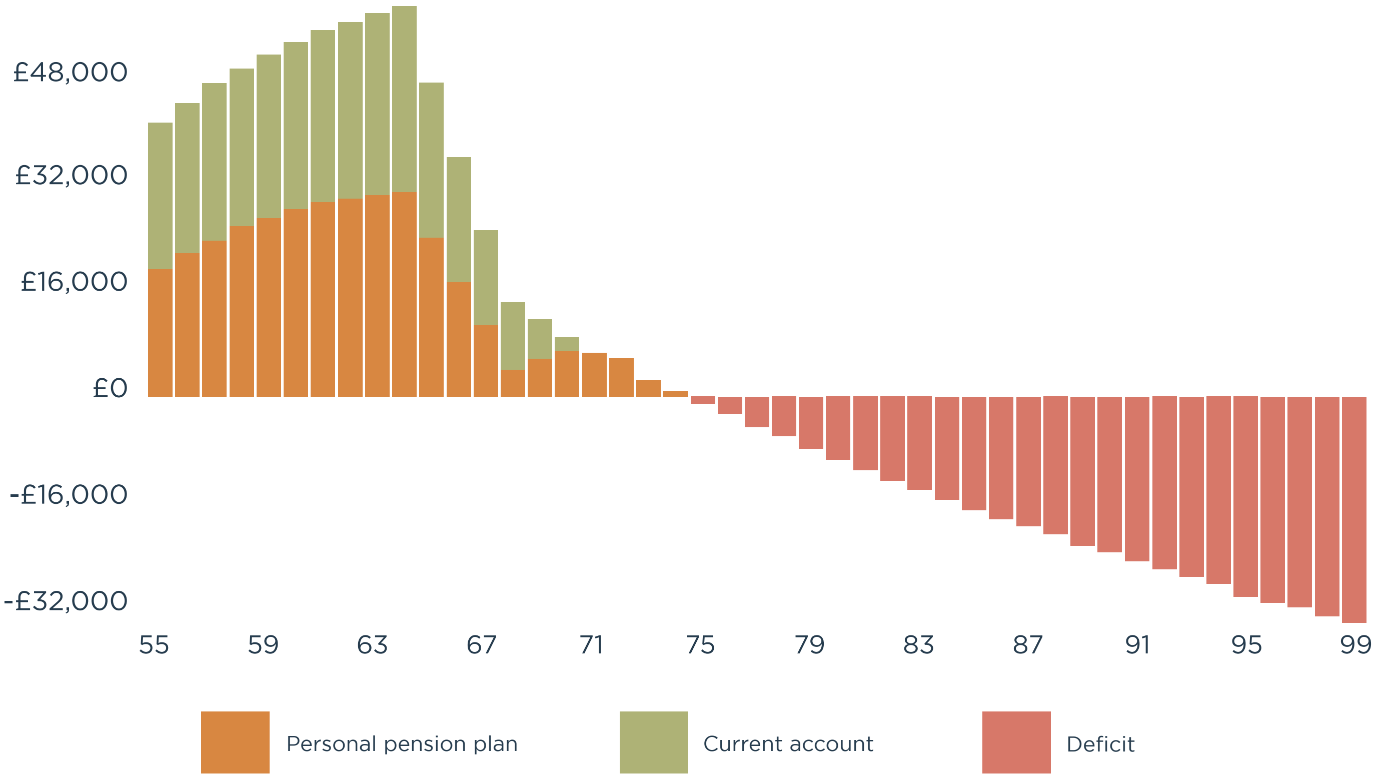
Like many aspects of life, technology has the potential to improve our experiences and cashflow planning has certainly benefited.

Increasingly sophisticated calculations to incorporate life events and the visual display of how these events can impact a plan, can aid conversations about objectives and help clients understand where they're going and the power they have to influence that trajectory.

Scenario 1
In this example, the client has managed to draw income from their personal pension and current account until the age of 91. If the client is in good health, 91 is higher than the current life expectancy, so the client might be well set for retirement.



Scenario 2
In this example, the client only has enough capital to support their lifestyle until they're 74. An early discussion with this client might focus on moving their retirement age back or making lifestyle decisions to extend the life of their capital, assuming the client is in good health and would like to pass a legacy on to future generations.



Please note, these charts are for illustrative purposes only and these forecasts do not include State Pension payments. Life expectancy source: https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/lifeexpectancies

Tough conversations

The facts are that our lives are getting longer and we're also seeing more 'significant' events, including divorce later in life and parents and grandparents looking to help out with property deposits, which can dramatically impact plans. Not to mention taxation and the impact that can have on financial planning.

Cashflow planning can facilitate the tough conversations that often come with asking really searching questions to accurately map a retirement journey.

For example, when a client says they want to take more holidays in retirement, how expensive will these holidays be? There's a world of difference between a walking holiday in the Lakes and a month-long cruise in the Caribbean. Advisers need to get to the bottom of these objectives to show how far money goes, and show their clients what is possible.

With cashflow planning, this can be plotted on charts and the impact of these contrasting holidays visualised. Cruising the Caribbean could require more saving now, a delayed retirement or sacrifices in other areas to keep the client on track. Maybe no more new cars after a certain age or downsizing a property will become options?

Many changes or no change at all?

Despite developments in calculations and display, in a sense nothing has changed. I always view financial advisers as wearing three hats.

1. The lifestyle planner. We get to the bottom of who you are and what you want to do by asking searching questions, not just filling out a form.
2. The number cruncher. Once we've agreed your objectives and discovered what's really important to you, we will drill down into what you have now and what might be available to you in the future, as well as your current and future liabilities.
3. The product chooser. Certainly the least important part of our job is choosing the right products for our clients. If we've done 1 and 2 properly, this should be very straightforward.

It's important to emphasise that cashflow planning is not rewriting the financial planning rulebook. Your current plans will have been created using the same principles.

The best outcome for clients

At the heart of Wren Sterling's decision to adopt cashflow planning across the board is because we believe it will help us explain our planning decisions to clients and jointly agree a path forward. Making our clients feel empowered and in control of their future is the value we seek to provide from all of our relationships.

It's not completely failproof of course. Assumptions have been made about influential factors including life expectancy and investment growth that may well prove to be wide of the mark, but that's why a regular review is so important. A review tests these assumptions and allows for recalibrations to reflect market movements or unforeseen events. It can also help with some of the tougher aspects of financial planning, like discussing insurance policies, because one can visualise the impact on investments if the client is out of work for a period of time and how that will affect their quality of life later on.

Again, a review isn't revolutionary, it's core financial planning. The benefit of cashflow planning, as I've discussed during this article, is that it helps to make the conversations around long-term planning easier. It compliments the soft skills of your adviser and links the product recommendations (which is often the final stage in the financial planning process) with the objectives.

Next steps

Your adviser has access to cashflow planning tools, so if you would like to see your retirement planning presented in this way, please get in touch with them directly.

Resolving financial issues in family disputes

Claire Colbert,
Family Lawyer, Freeths

As a family lawyer I have advised clients for over 15 years and seen a number of different trends and ways in which disputes are dealt with when there is any form of family separation or divorce.

These disputes are often focused on the division of matrimonial assets, arrangements for children, or in situations where parties are not married, negotiations about assets that are held jointly and claims that may be made against these. The legal position for unmarried and married couples is very different, and different again if an unmarried couple have children. However, in any of these scenarios the way in which matters can be resolved can be simplified into a number of options, the relevance of which will really depend on the issues, complexity and personalities involved.

1. Direct Negotiation

In some situations both parties come to an agreement on their own, and establish how they wish to divide assets and deal with the financial consequences of their separation. Having had financial advice and legal advice, and both understanding the consequences of their decision, lawyers can then draft these agreements into either separation agreements, consent orders within divorce proceedings or property transfers depending upon the nature of the agreement. Parenting plans can also be drawn up to deal with the arrangements for the children.

2. Mediation

If parties wish to reach an amicable solution, family mediation is often recommended by legal professionals as a way to try to reach an agreement on points of dispute. Family mediators meet with both parties (lawyers do not need to attend) to facilitate discussions with the hope of negotiating settlements after full financial disclosure.

Mediators are impartial and the process confidential, enabling the parties to discuss and progress ideas, concepts and options in the mediation space that they may not feel comfortable doing otherwise.

Mediation can avoid the costs and stress of Court proceedings. While Mediation is voluntary, at the conclusion a without prejudice, memorandum of understanding and a financial summary can be prepared by the mediator. This can then be endorsed into a Court Order, if the parties agree.

3. Solicitor Negotiation

Sometimes clients do not feel comfortable meeting with their former spouse/partner face-to-face and instead prefer solicitors to deal with the negotiation of the consequences of the breakdown of the relationship. This is predominantly the case where communication has deteriorated significantly or there are risks and concerns about power imbalances between the parties.

Solicitor-led negotiation is a way for the legal advisers to negotiate either through correspondence, or a series of without prejudice round table meetings. This option can enable the parties to secure an agreement that is reasonable to them both and can be endorsed into a Court Order.

4. Collaborative Law

The collaborative process offers an alternative to mediation or court for clients. Both parties must instruct a collaboratively trained lawyer and sign participation agreements.

The parties and lawyers will attend a series of meetings where advice is provided to achieve a settlement that meets the needs of both parties without having to go to court. If agreements are reached, these can be enforced into a Court Order.

5. Arbitration

If the above options are not suitable, or do not reach the resolution necessary to bring all matters to a conclusion, it is possible for parties to instruct an arbitrator. An arbitrator can adjudicate and give a binding judgment on specific points or all of the issues in dispute.

An arbitrator is employed by the clients and funded privately outside of the Court process. They produce a binding arbitration decision which is then drafted into a Court Order. The benefit of arbitration is often the confidentiality and timetabling of the process and ability to select an arbitrator agreed on between the parties, unlike the court process where the judge selection and availability of the court is outside of our control.

6. Early intervention

In some situations it is sensible and possible to have a voluntary negotiation hearing which attempts to see whether matters can be negotiated before a privately employed "Judge". This early intervention tries to resolve issues before Court proceedings become protracted and enables resolution of discreet issues or all matters depending on the issues in dispute.

7. Court proceedings

Unfortunately in some situations none of the alternative dispute resolution methods mentioned are suitable or successful and in those situations Court proceedings may become necessary.

If this is the case, the Court will set a timetable and series of steps and actions that the parties must take, leading to a series of court hearings. The court process will require financial disclosure and possibly the appointment of single joint experts. Each party would be advised by their own solicitor through this process, with barrister representation at court hearings where appropriate.

Which route is right for each case really depends upon the issues, timescales and complexity. Mediation is now more widely used than in the past as it provides a cost proportionate alternative to solicitor negotiation. How long each process takes will depend on the circumstances, but the court process can take much longer than the other options outlined.

I am able to assist clients through all of these alternative methods, and am an accredited family mediator able to conduct mediations on all family issues. It is always my preference to try to reach resolution without the need for Court proceedings, in an effort to deal with matters quickly and cost-effectively for my clients. However, this is not always possible and in some situations using the alternative dispute resolution methods are required.

Next steps

If you require any advice relating to the options for dealing with financial issues with your partner/ spouse, or any other issues following separation or divorce, please do not hesitate to contact Claire Colbert on **0845 128 6961** or email **claire.colbert@freeths.co.uk**

This article has been compiled by Freeths LLP in association with Wren Sterling, the Financial Conduct Authority does not regulate legal services.

How to spot a pension scam

Pension scams are becoming more frequent and costing victims an average of £91,000. According to recent data from Action Fraud, more than £23m was lost to scammers in 2017.

Pension freedom has created many opportunities for scammers to target people approaching retirement to get access to their retirement funds.

Too good to be true

The majority of people with the option to access their pension do not have a financial adviser, leaving them vulnerable to scammers because they can't tell who is genuine and who isn't.

Between November 2012 and September 2014, 245 victims were cold-called or lured by a series of scam websites to transfer their pension savings into one of 11 scam schemes operated by David Austin, Susan Dalton, Alan Barratt and Julian Hanson as Friendly Pensions Limited (FPL).

Vince Smith-Hughes, retirement income expert at Prudential, said: "Pension Freedoms, though enormously popular with consumers, have created a potentially lucrative opportunity for fraudsters and people need to be vigilant to safeguard their hard-earned retirement savings.

"If it sounds too good to be true then it usually is and people should be sceptical of investments that are offering unusually high rates of return or which invest in unorthodox products which may be difficult to understand.

If you are in any doubt, seeking independent advice from regulated professional advisers will help ensure they won't get caught out."
- Vince Smith-Hughes[2]

Tips for avoiding scams

- Reject unexpected pension offers, whether made online, on social media or over the phone.
- Check who you're dealing with before changing your pension arrangements. Check the FCA Register or call the FCA contact centre on 0800 111 6768 to see if the firm you are dealing with is authorised by the FCA.
- Don't be rushed or pressured into making any decision about your pension.
- Consider getting impartial information and advice.[3]

Awareness campaigns

The government has indicated that the long-overdue pension cold calling ban is due to come in later this year and the Financial Conduct Authority is releasing a series of TV adverts to reiterate warnings about scammers.

Former Pensions Minister Baroness Ros Altmann told FT Adviser that "The need for a ban is widely recognised. The sooner cold-calling for pensions is outlawed, the sooner people will be better protected against being scammed and losing their life savings. So many people have already suffered from such pension frauds – and they almost all start with a cold-call."[4]

"Having worked so hard in the Lords stages of the Bill to get a proper ban on pensions cold-calling, only to then see the measures watered down significantly, it is really disappointing that even these weaker protections will not be put in place on time. I urge the government to ensure these regulations are ready and enacted very quickly."

Pension scams in numbers

253 victims reported a loss of **£23m** to Action Fraud in 2017

This would be an average loss of **£91,000** per victim

107,000 people aged 55 to 64 could potentially have been victims of pension scams last year[1]

Case studies: People duped out of thousands by 'Friendly Pensions'

David Austin, Susan Dalton, Alan Barratt and Julian Hanson squandered the money after 245 members of the public were persuaded via cold-calling and similar techniques to transfer their pension savings into one of 11 scam schemes operated by Friendly Pensions Limited (FPL).

Austin laundered funds from the schemes into his bank account and the accounts of family members and a number of businesses that he had set up in the UK, Cyprus and the Caribbean, including FPL. The Pensions Regulator showed the High Court evidence of how members of Austin's family had lived a life of luxury using the money – including showing off their spending on expensive goods, ski holidays and trips to Dubai and the Mediterranean on social media sites.

This case study and stories from the victims of the FPL on this page is from an article from The Pensions Regulator. The names have been changed to protect the victims' identities.

Susan Dalton convinced Donald and his wife to transfer £17k

Donald, 57, was cold-called by Susan Dalton in February 2013 and told that if he transferred his pensions from two companies to her scheme he would get a guaranteed return of at least 5% a year, plus a 10% cash lump sum upfront.

But while one of his pension providers agreed to the transfer of his £17,000 pot, the other refused to transfer his £58,000 pot. Instead, ReAssure rejected a series of letters from companies linked to the scammers, saying it was not satisfied that the receiving scheme was a valid one. Eventually, the scammers gave up trying to persuade ReAssure to make the transfer.

When he reached 55 in 2015, Donald contacted Susan Dalton to ask to draw down 25% of his pension. But she claimed he had never transferred his pension and then ignored his calls and emails – prompting Donald to call Action Fraud.

Donald said: "If ReAssure had allowed my pension to be transferred it would have been a disaster. I would have lost everything. I have had a very lucky escape.

"My wife and I were council tenants so Susan Dalton should have realised that we did not have lots of money and that our pensions were an important source of income to us. She totally misled me into transferring my pension and paid no regard for my financial well-being.

"She told me what I wanted to hear and I believed it. Looking back now, everything was basically a lie or a betrayal. I was naive. I was conned by a professional con merchant."[5]

Alan Barratt released £11.8k and stole the rest of John and Samantha's pension savings

John and Samantha, from Hereford, were persuaded in 2013 that if they transferred their funds to Barratt's pension scheme they would get better returns on their investments.

Their pension provider warned them that they believed the transfer could be pension liberation fraud, but Barratt convinced them to carry on, saying they would get a lump sum as commission for transferring their funds.

The couple then transferred a total of more than £78,000 – receiving £11,800 as their "commission". But while they had been assured the funds would be invested in low-risk investments, they were sent details of a truffle trees firm in the West Country.

The couple were so concerned they contacted police. HMRC later contacted the couple to tell them the "commission" had come out of their pension – and handed them a tax bill of thousands of pounds.

John, 46, said: "As a result of my dealings with Alan Barratt my final salary pension is in a scheme that I don't understand the status of but which I have been told is a scam.

"As far as I know, the majority of my pension fund is invested in truffle trees but I doubt whether that is legitimate. My partner appears to have lost her pension too.

"I deeply regret ever listening to Mr Barratt."[5]

Accessing pension benefits early may impact on levels of retirement income and your entitlement to certain means tested benefits. Accessing pension benefits is not suitable for everyone. You should seek advice to understand your options at retirement.

[1] https://www.bbc.co.uk/news/business-45170408
[2] https://www.pru.co.uk/pdf/pensionsfreedom-fraud.pdf
[3] ScamSmart
[4] https://www.ftadviser.com/pensions/2018/06/29/cold-calling-ban-rules-delayed/
[5] http://www.thepensionsregulator.gov.uk/press/pension-scammers-ordered-to-repay-137m-they-took-from-victims.aspx

The constraints of making gifts under a Power of Attorney

Neil MacGillivray, Head of Technical Support at James Hay

A frequent question asked by clients who have been appointed as attorneys is whether they can they make gifts on behalf of the person for whom they act for (the donor)?

The answer is yes, but there are strict rules which have to be adhered to. It cannot be emphasised enough that attorneys have very limited powers in this regard and may need to seek the authority of the Court of Protection (C of P). Failure to comply with these rules without getting the prior approval from the C of P may lead to anything from being suspended as an attorney to criminal prosecution.

The Office of the Public Guardian for England and Wales (OPG) has recently provided updated guidance in Practice Note PN7 on how attorneys should approach making gifts on behalf of the donor. The practice note applies to all attorneys appointed under a registered lasting power of attorney (LPA) for property and affairs, or under an enduring power of attorney (EPA). The key points covered in the updated guidance are as follows;

What is a gift?

The formal definition of a gift is when an attorney moves ownership of money, property or possessions from the donor, whose affairs they manage, to themselves or to other people, without full payment in return.

Some gifts may not be as obvious as others and can include such things as:

- making an interest free loan from the donor's funds (the waived interest counts as a gift)
- creating a trust with the donor's property
- selling a property for less than its value

Donor's mental capacity to make a gift

Before making any decision on gifting, the attorney must establish whether the donor has the mental capacity to make the decision themselves. If they do, then the donor should make the gift because an attorney is restricted by the legal limits on the donor's gift-making authority. This is still the case even if the donor has the capacity and has instructed the attorney to make a gift on their behalf.

In order for the donor to have capacity to make a decision the donor has to be able to:

- understand the information relevant to the decision
- retain that information
- weigh up or use that information
- communicate their decision

If in any doubt a medical opinion about the donor's capacity should be obtained.

Where it is considered that the donor has capacity to make a gift, the attorney should keep a record of the steps taken to establish the donor's mental capacity. The Public Guardian can ask the attorney at any stage to explain their decision, or others could challenge them later.

Involving the donor in the decision

It is important, even where the donor lacks capacity to decide about a gift, that the attorney still consult with them and encourage them to participate in decision making. Records should be kept of any discussions with the donor.

Rules on gifting

The general rule is that attorneys should not make gifts from the donor's estate, but there are general exceptions.

For attorneys acting under an LPA exception, the gift must satisfy all three points below. It must be:

1. given on a customary occasion for making gifts within families or among friends and associates (for example, births, birthdays, weddings or civil partnerships, Christmas, Eid, Diwali, Hanukkah and Chinese new year)
2. to someone related or connected to the donor or to a charity the donor supported or might have supported
3. of reasonable value, taking into account the circumstances in each case and, in particular, the size of the donor's estate.

For attorneys acting under an EPA, the exceptions are slightly narrower than for an LPA. Point 1 above is substituted by:

- a gift of a seasonal nature (for example, a Christmas present) or given on the anniversary of a birth, marriage or civil partnership

Attorneys must also follow any restrictions set out in the EPA or LPA about gifts. If an attorney wants to make a gift that falls outside the general exceptions or restrictions in the EPA or LPA, they must apply to the C of P for approval. The C of P has the power to either approve or decline the application.

What is a reasonable gift?

To work out whether or not a gift is reasonable the attorney must consider:

- the impact of the gift on the donor's financial situation. The attorney must consider not only the donor's current and future income, assets, capital and savings but also their present and future needs. They must also consider whether the donor's income covers their usual spending and will continue to do so in the future and whether the gift would affect that.
- whether making the gift would be in the donor's best interests.

The "best interests" test

A best interests decision is not the same as asking what the donor would decide if they had capacity. The attorney will have to think about issues such as:

- whether the donor was in the habit of making gifts or loans of a particular size before they lost capacity
- the donor's life expectancy
- the possibility that the donor will have to pay for care costs or care home fees in future
- the amount of the gift - it should be affordable and no more than would be normal on a customary occasion or for a charitable donation
- the extent to which any gifts might interfere with the inheritance of the donor's estate under his or her will
- the impact of inheritance tax on the donor's death.

If the attorney does accept a gift from the donor's estate, the Court of Protection can look carefully at whether the donor had capacity and may decide the attorney went beyond their authority.

Providing for others' needs

Legislation allows EPA attorneys to benefit themselves or others if the donor might have provided for those needs.

Legislation does not directly say that an LPA attorney can benefit themselves or other people by providing for their needs. However, the C of P has confirmed in some cases that an LPA attorney may provide for the needs of family members if the donor is legally obliged to maintain them – for example, in the case of the donor's husband or wife, civil partner or a dependent child. This may include the attorney themselves, if they are a dependant.

The attorney should apply to the C of P if there is any doubt about whether they can rely on this provision to make payments to someone who is financially dependent on the donor.

What happens if an attorney makes an unauthorised gift?

OPG can investigate any gifts or financial transactions attorneys make on behalf of the donor.

The attorney should make sure that they keep the donor's money and property separate from their own or anyone else's. There is an exception and this is where they have had long-held joint accounts. It is extremely important that the attorney keeps a record of all transactions they make on the donor's behalf. This includes a record of gifts and the reason for making them.

The OPG has the power to investigate complaints and concerns about the way an attorney is carrying out their duties and take appropriate action.

As can be seen, attorneys have little power to make gifts on behalf of the donor without having to seek the approval of the C of P. The main test is whether it is in the donor's best interests and the attorney must abide by the terms of the specific EPA or LPA they are acting under.

The responsibility of being an attorney should not be taken lightly and failure to act within the rules and maintain full records could prove costly.

Best practice in running a business, key financial reports and cloud efficiencies

Steve Blissett, Director,
Rodliffe Accounting

A growing trend in working life is for people to begin businesses later on in life, sometimes to phase their retirement or to earn extra income in retirement. Steve Blissett of Rodliffe Accounting, a London-based firm specialising in small business accounting, outlines best practice for starting a new business and sheds light on the technology simplifying accountancy for business owners.

In this article I want to cover best practices in running a business from starting out and then establishing your business. Getting used to running management reports and having the right information at your fingertips at the right time can really help you understand your business and allow you to grow.

A huge part of automating reports and generating accounting efficiencies is cloud-based technology. This is not just cloud bookkeeping, but also the ecosystem that has grown up around accounting software, so I'll walk through this too.

Starting out

When starting out, it's best to engage with an accountant right at the beginning of the process. Accountants will often meet you for an hour or so free of charge and they will be able to provide invaluable insight on how to pull together your business plan.

When you have this plan you will need to decide on the most appropriate business structure. For example, should you start a limited company? If the answer is yes, then there are other things to consider at this point too, like shareholders, directors, etc, all of which your accountant can help with.

Your business plan needs to be robust and your accountant can check this for you. At Rodliffe, we have helped businesses with hundreds of plans like this to make them easier to understand and, importantly, realistic.

If you're considering looking for external investment, then banks and other external investors will require a robust plan. Your plan needs to show not only profit but also your cashflow as this will determine the level of investment you may need (and when this will be repaid).

Keeping records and management reporting

Now you have started you need to keep complete records, but the good news is that bookkeeping is much easier these days than it was ten years ago. Now you can keep an eye on your income and expenses by using cloud software that runs on your laptop, tablet or smartphone. Ask your accountant to suggest the best software to use and to show you the slickest way to keep your books up to date.

At Rodliffe we recommend Xero. Cloud software like Xero has a dashboard that keeps key information up to date in real time, e.g. who owes you money, how are your sales tracking, and so on.

You should be looking to get up-to-date accurate reports regularly that compare your progress to your plan or budget. These management accounts keep you on track. Keeping digital records in this way also means you are ‘Making Tax Digital’ compliant ready for this legislation that’s introduced in April 2019.

Making Tax Digital is a key part of the government’s plans to make it easier for individuals and businesses to get their tax right and keep on top of their affairs - meaning the end of the annual tax return for millions.

Businesses will not now be mandated to use the Making Tax Digital for Business system until April 2019 and then only to meet their VAT obligations. This will apply to businesses who have a turnover above the VAT threshold - the smallest businesses will not be required to use the system, although they can choose to do so voluntarily.

As you grow you will need to formalise the management accounts process and make it part of your board or management meeting process. You may have obligations to investors, shareholders, joint ventures or banks who will expect a regular set of accurate and reliable accounts each month or quarter. These management accounts need to be robust and will probably need to be in a consistent and prescribed format showing not only the accounts but also highlighting:

- year-to-date progress
- impact on year-to-go
- variances to budget (or forecast)
- explanation of these variances
- highlight one-off or exceptional costs.

Management may also require more analysis of key performance indicators (KPIs) which should be split between financial and non-financial. These KPIs should reflect the key measures of the business. For example, a retail outlet's KPIs could be:

- like-for-like sales
- gross margin trends
- average sale per customer
- footfall
- core wages trends.

Now you have a set of management accounts and management information reports. If set up correctly these reports should be relevant and quickly generated so you can make decisions about your business.

Looking for efficiencies

Using cloud accounting software provides opportunities for efficiencies elsewhere, saving you valuable time to concentrate on your business. For example, you can set up direct bank feeds and also investigate the Xero Ecosystem to see what other cloud software integrates with Xero.

Excellent cloud systems to consider would be:

- Chaser and GoCardless – to get paid faster
- Receipt Bank – to manage your bills and expenses
- electronic point of sale (EPOS) systems to link your sales and stock to Xero.

Accounts, forecasts and strategy

In the past, the annual accounts process was often so time consuming there was little opportunity to discuss the future plans of the business with your accountant. Now, with the efficiencies and software benefits mentioned above, the end-of-year accounts should be quicker leaving more time to consider the strategy of your business.

> In fact, by reviewing management accounts and the business dashboard during the year there should be no surprises in the end-of-year accounts and your tax bill should be more or less as expected.

At Rodliffe, we discuss the accounts with small business clients two or three months before the year end and use this meeting as an opportunity to plan next year and to discuss strategy. This really helps to add value for the business so they have more clarity on the key issues that will affect future performance. Again, software can help the planning process as there is integration of cash flow and forecasting software with Xero, such as FUTRLI and Float.

The accounts for larger SMEs (small and medium enterprises) who are growing may need to be formalised and signed off by the board. The accounts need to include the profit and loss account and balance sheet. Also, they need to provide insight into the health of the business's cash flow and liquidity. For example, is the net assets position of the business improving or getting worse?

A good relationship with your accountant can help you focus on doing what you do best, which for a lot of small businesses is creating a product or service of value. What's more, the accounting technology referred to in these articles can save you time with your accountant and give you the chance to tap into their wealth of experience.

This article has been compiled by Rodliffe Accounting in association with Wren Sterling, the Financial Conduct Authority does not regulate legal services.

The importance of pension scheme governance

Paul Mitchell, Director of Corporate Solutions, Wren Sterling

In October 2012, the UK saw the introduction of auto-enrolment, which was a huge shake-up for workplace pensions. This changed the way employees are joined to a workplace pension and also made it compulsory for employers to provide a qualifying workplace scheme and pay into their employees' pensions (assuming they meet certain criteria).

To a large extent, auto-enrolment has improved the take up of workplace pensions. Although some sceptics predicted large numbers of employees would decide not to participate in their workplace pension, the actual opt-out rates have been lower than expected, with government predictions as high as 25 per cent. Even with the first raft of increases to the minimum level of employee and employer contributions (in April 2018), the opt-in rates were hardly impacted.

So a great success story...

Sleepwalking into retirement

However, auto-enrolment has also introduced a fear that workers are not participating in some important decisions on their own retirement planning. As the majority of employees are now in defined contribution pension schemes (mainly group personal pensions among small and medium-sized employers), these decisions become even more important.

Prior to auto-enrolment, if an employer offered a pension to its employees, the employees typically had to complete a joining form, which asked questions about the employee's anticipated retirement date, how much they wanted to contribute to their pension, and where they would like to invest their contributions.

With auto-enrolment, there is no form filling, and in turn potentially very little conscious input from employees. Therefore, there is a danger that individuals are now sleepwalking towards their retirement, perhaps wrongly assuming somebody else is making sure they're on track.

So how can an employer ensure that they are abiding by the law on auto-enrolment, while also determining whether its employees are taking an active role in their retirement planning? This is where good pension scheme governance comes in.

Who is responsible for good outcomes?

Since 2013, The Pension Regulator has been encouraging employers to conduct annual governance on their workplace pension, which should focus on providing good member outcomes for the employees.

Firstly, the employer needs to decide who should be responsible for conducting governance. In many organisations, this will be carried out by a governance committee, consisting of senior individuals within the business as well as employee-nominated representatives. Establishing a committee is voluntary, but it is a good way of formalising the governance of a workplace pension.

The committee will usually act in an advisory capacity to the employer and can make recommendations to the employer on the future of the scheme. However, they would not typically have any powers to make decisions themselves.

The committee can ask for professional advice to help them in their role. Often this advice is sought from employee benefit advisers or corporate independent financial advisers. Depending on the size and complexity of the workplace pension, they may only require an annual governance meeting.

So once the committee is in place, what do they need to do?

Ideally, they would review and monitor the five aspects of the workplace pension on the right. There are more aspects of the scheme that the committee can monitor, but these areas are the most common we see as advisers when helping committees fulfil their duty.

> When a committee is in place, it should lead to an increased understanding among employees of this incredibly important workplace benefit.

Through a better understanding, it is logical that the employees place a higher value on their pension scheme and are more likely to take positive action to provide for their retirement.

From an employer's perspective, measuring engagement and demonstrating the steps it has taken to facilitate this are central to fulfilling the governance requirements discussed earlier in this article.

Next steps

To find out more on how Pension Scheme Governance can help your employees understand and appreciate their workplace pension, please contact your adviser, or email marketing@wrensterling.com to arrange an initial consultation.

5 key aspects to monitor in a workplace pension

1. Value for Money

In April 2016, the government introduced a cap on the charges pension providers could impose on the default fund of workplace pension plans. This cap currently stands at 0.75 per cent.

The committee needs to ensure that the costs and charges taken from members' pension savings are competitive when considered against the benefits and services that the members receive, as well as being compliant with the 0.75 per cent charge cap. They should also consider whether members actually need extra services that are included and whether members know what they're getting for their money.

Periodically, it is wise for a company to perform a review of the group pension marketplace to compare costs and charges against other providers that offer similar services. There may be costs involved in carrying out such a review (should an adviser be asked to conduct it) so the committee can make a recommendation to the employer to perform this.

2. Performance and Appropriateness of the Default Fund

In most workplace pension schemes, the majority of employees do not make a decision on where to invest their contributions. Instead, most opt for the scheme's default fund.

Therefore, it is important that the committee reviews the appropriateness of the default fund, in terms of risk and investment strategy, to ensure it is meeting the needs of the employees. It is vital for performance to be monitored to ensure the chosen fund is providing satisfactory returns, when compared to its peers. As ever with investments, the value of the investment can go down as well as up due to market fluctuations and returns are not guaranteed, which the committee needs to bear in mind.

3. Pension Provider Performance

If an employee has a poor experience with the pension provider, this can lead to that employee having little faith in their retirement planning. Therefore, it is important that the committee monitors the service levels, along with any complaints made by the employees to ensure the provider is offering a satisfactory and appropriate service to the workforce.

4. Provider Communications

Unfortunately, correspondence from pension providers can be littered with jargon. So it is important that the committee reviews what the pension provider communications look like to ensure they provide adequate information to members, and that it is communicated in a clear, balanced and fair way.

For example, where a member is approaching retirement, any promotion of the provider's own annuity needs to be fairly balanced with the availability of annuities and alternative choices that can be sourced from other providers.

5. Employee Engagement

As mentioned previously, auto-enrolment has led to many employees setting their contributions levels and investment selection to the default choices under the scheme. The real value in auto-enrolment is that "lightbulb moment" when employees finally understand their workplace pension, and they can visualise their retirement. They then see the sense in contributing towards it, rather than seeing it as an avoidable deduction from their salary.

To ensure members value their workplace pension and are made aware of the benefits of paying more into their pension, as well as having access to alternative funds, the committee should review how to make best use of the available resources to promote better employee engagement.

These resources can be:

- on-site workshops from the pension provider or adviser on the workplace pension
- pension clinics, where employees can attend a 1:1 meeting with an adviser to address any questions they have on the workplace pension
- internal communications from the employer
- online tools, typically offered by the pension provider
- mobile phone app.

About Wren Sterling

Wren Sterling is a nationwide independent financial planning business that specialises in all aspects of investments, protection, and retirement planning. We pride ourselves on navigating clients through their financial journey by providing uncompromised and objective advice. Our advisers are committed to developing longstanding client relationships that span generations to achieve our clients' lifetime financial goals.

Where we are

We have advisers throughout the UK, based in eight regional offices including our head office in Nottingham.

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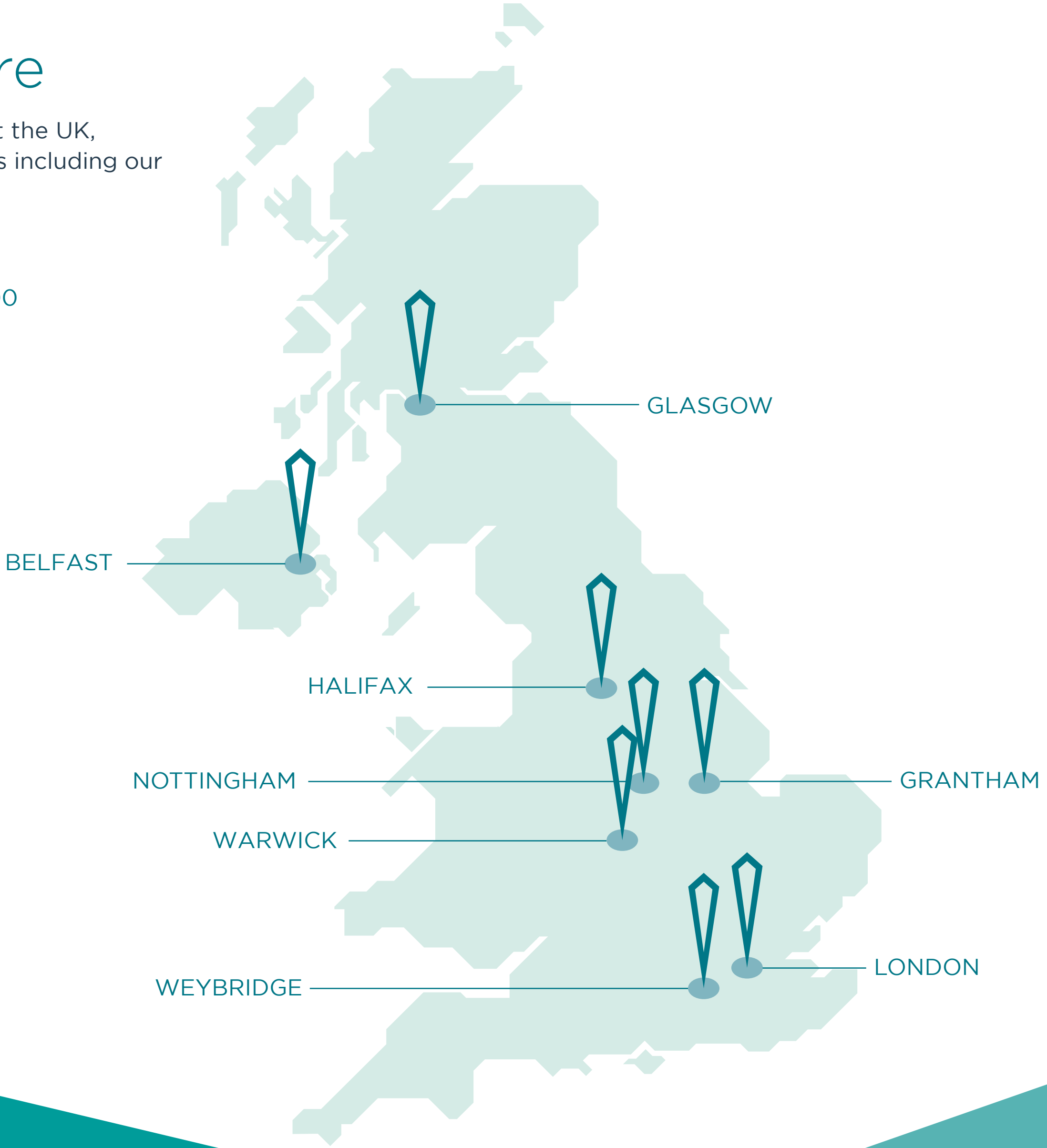
- London 0370 1432 100
- Weybridge 01932 481069
- Belfast 0370 1432 100



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