

FDR TRAINING SCENARIO: NOT CONFIDENTIAL

[3PB Barristers](#)

JONES v JONES

Applicant Wife

Age: 50

Accommodation: FMH (4 bed house)

Work: NHS Care Support Worker

Health: Good

Respondent Husband

Age: 51

Accommodation: 3 bed house (owned
by new partner)

Work: Pilot

Health: Good

Children

No children of the index relationship. W has 3 independent children from a previous marriage who lived with the parties during their minority; they have a good relationship with H.

Georgia (aged 26): Married.

Alex (aged 23): Left university last year and started a career in retail. Lives at FMH and pays W £400 pcm rent.

Sophie (aged 21) About to start final year at university. Lives at FMH during holidays.

Marriage

15-year marriage. Separated 1 year ago.

Financial Summary

	Wife	Husband	Joint
FMH (net) ¹			£600,000
Buy-to-Let Property	£200,000	Nil	
Other capital (savings/ISAs)	£30,000	£80,000	£15,000
Inheritance	£150,000		
Liabilities	-£10,000	-£30,000	
Non-Pension Total: £1,035,000	£370,000	£50,000	£615,000
Outstanding legal fees	-£30,000	-£15,000	
Pension Total: £990,000	£40,000	£950,000 ²	
Income (net pcm)	£1,300 salary ³ £600 Buy to Let <u>£400 Sophie</u> £2,300 Total	£8,000 salary ⁴	
Income Need w/o m/g (pcm)	£4,000	£3,500 ⁵	

Housing needs

H for both parties: 3-bed houses (£425,000 - £475,000)

W for W: Remain in FMH or 4-bed house (£500,000 - £550,000)

W for H: 2-bed houses/flats (£275,000 to £325,000)

Mortgage-raising capacity

H: £350,000 (14-year term with 10% deposit). Monthly repayments £2,600 pcm.

¹ Value £950,000, mortgage £332,000 (15-year term remaining, repayments £1,500pcm), CoS £18,000 (2%)

² Airline (defined benefit) pension not yet in payment. H has not drawn down a lump sum. Anticipated pension at 65 £55,000 pa

³ £18,000 gross pa.

⁴ £160K gross pa.

⁵ Without maintenance liability.

W: £40,000 (15-year term with 10% deposit). Monthly repayments £286 pcm.

Other Information

- H is a pilot. For 25 years, he was employed by a commercial airline, FlyMe; he was made redundant in 2017. With W's encouragement and £50,000 of savings, he trained up to become a commercial pilot instructor: working freelance. He accepts that his net income will rise to £12,000 pcm net⁶ from next year. W says that she should share in this rise.
- W originally trained as a nurse. She was a homemaker during the marriage and has only recently returned to working as a Healthcare Assistant. H says that she could retrain as a nurse with a salary of £2,000 pcm⁷ by aged 55; revalidation would take 2 years.
- The FMH was acquired for £700,000 at the start of the marriage. H contributed the proceeds of his 1st marriage in the property (£250,000): W made no contribution. The balance was funded by a mortgage (c. 10 years still to run⁸). W wants to stay in FMH: H wants it sold.
- A year before the marriage W invested £100,000 in a buy to let property. This was bought in her sole name with a mortgage. Historically, the rent paid the mortgage and outgoings and there was no surplus. The mortgage was discharged 3 years ago at which time the rent paid for joint expenditure. The property is now worth £200,000; it provides a net income (after maintenance costs and tax) of £600 pcm which since separation W has retained.
- In 2016 W inherited £250,000 from her mother. Although it is held in an account in W's sole name, it has paid for joint expenditure and H's retraining as a commercial flying instructor. £150,000 is left.
- W contends that both the buy to let and the inheritance are non-matrimonial assets: H says that they are not.
- H has a substantial defined benefit pension scheme from his employment with FlyMe. Both parties have a state pension age of 67. H wants to *ringfence* pre-marital contributions (12/20 years of his contributions were marital): W says that the whole fund should be shared. A pension report illustrates W's pension income based on a spectrum of possible awards (with no capital drawdown):

⁶ £250,000 gross.

⁷ £25,000 pa gross.

⁸ £450,000: payable over 25 years (£2,500 pcm)

BASIS	% SHARE OF H's PLAN TO W	INCOME TO W
Equalise <u>CEVs</u> (whole pensions)	48.8%	Depends on draw date
Equalise <u>CEVs</u> (marital acquired pensions)	32.2%	Depends on draw date
Equal Incomes of Whole Pensions		
Equal Incomes if draw at 65	47%	£27,246
Equal Incomes if draw at 60	48.1%	£19,325
Equal Incomes if draw at 55	47.8%	£14,135
Equal Incomes Marital Acquired Pensions		
Equal Incomes if draw at 65	31.2%	£18,381
Equal Incomes if draw at 60	32%	£13,081
Equal Incomes if draw at 55	31.8%	£9,568

Parties' Positions

	<u>W: Without Prejudice</u>		<u>H: Without prejudice</u>
1.	Transfer of FMH to W and pays to lump sum of £120,000.	1.	Sale of FMH. Net equity divided 60% to H (£360K), 40% to W (240,000)
2.	W retains her Buy to Let and Inheritance.	2.	W retains Buy to Let and Inheritance but W pays to H a lump sum of £100,000 to achieve a global 50/50 split on non-pension capital.
3.	Joint savings transferred to H. Parties retain individual savings and liabilities.	3.	Joint savings split. Parties retain individual savings and liabilities.
4.	H provides a pension to W of 32% [Whole pension is subject to sharing (47%) but offsetting 15% against enhanced capital claim]	4.	H provides a pension to W of 31.8% [limited to marriage contribution only: equality of pension income]
5.	PPs of £4,000 pcm to W for 10 years (to W's 60 th birthday), reducing to £1,500pcm on a joint lives basis.	5.	PPs of £2,000 pcm to W for 5 years. S.28(1A) bar.
	Net Effect: Non-pension capital: 80% (W) / 20% (H) Pension capital: 35% (W) / 65% (H)		Net Effect: Non-pension capital: 50% (W) / 50% (H) Pension capital: 34% (W) / 66% (H)

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