A financial advice perspective:

“What a diff’rence a day makes”

Richard Cropper

PFP Limited

Is the duration of loss the most critical single factor when attempting to achieve full compensation?

The Mortality Risk

Mortality Risk

- Average life expectancy
- Projected life expectancy
- Impaired lives
- Non-projected life expectancy
- Disputed life expectancy
- Lifestyle issues
- The shape of the mortality curve
- Greater longevity risk in younger lives – tend to the average over time
- Wide range of potential and actual outcomes

Mortality Risk

- Critical to the ‘form of award’ issue
- Periodical payments overcome this risk, but the price is inflexibility and the risk of premature death
- Claimant perception – more mortal than immortal
  - Loss to the estate – loved ones and ‘dependents’
- How do you adjust a lump sum for this risk?
  - Ignore it!
- How do you plan for such an unknown?
  - Forego needs today, just in case?

The Investment Risk

Investment Risk

- More predictable real returns over the longer term
- Greater capacity for loss over the longer term
- Less predictable real returns over the shorter term
- Lesser capacity for loss over the shorter term
- Acknowledged (to some degree) when setting the PIDR

Investment Risk

Asset class	Asset portfolio (core claimant type)		
	Cautious (20-year)	Central (40-year)	Less cautious (60-year)
Lower risk / cash	**72.0%**	**57.5%**	**46.0%**
Cash reserve	**30.0%**	**15.0%**	**10.0%**
Lower risk	**42.0%**	**42.5%**	**36.0%**
Cash	1.8%	2.1%	2.3%
Gilts	12.1%	12.1%	10.1%
Index-linked gilts	12.1%	12.1%	10.1%
Corporate bonds	16.1%	16.2%	13.5%
Higher risk	**28.0%**	**42.5%**	**54.0%**
UK equity	11.2%	17.0%	21.6%
Overseas equity	11.2%	17.0%	21.6%
Diversifiers	5.6%	8.5%	10.8%
Median return net of CPI p.a.	**2.9%**	**3.5%**	**3.8%**

Investment Risk

- Average holding of ‘higher risk’
- Assumption of de-risking over time
- Does that mean the assumption is a starting point for a ‘20-year’ claimant of 56% ‘higher risk’ assets?
- What is the starting point for the 60-year claimant if the average is 54%?

Investment Risk

Year/*The Purple Book* dataset	Asset class										
				Breakdown of other investments							
	Equities	Bonds	Other investments	Cash and deposits	Property	Annuities	Diversified growth funds	Absolute returns	Insurance policies	Hedge funds	Miscellaneous
2006	61.1%	28.3%	10.6%	2.3%	4.3%	–	–	–	0.9%	–	3.1%
2011	41.1%	40.1%	18.8%	4.1%	4.4%	–	–	–	1.6%	2.4%	6.3%
2016	30.3%	51.3%	18.4%	3.0%	4.8%	2.1%	–	–	0.1%	6.6%	1.7%
2017	29.0%	55.7%	15.3%	-0.9%	5.3%	3.3%	–	–	0.1%	6.7%	0.8%
2018	27.0%	59.0%	14.0%	-2.5%	4.8%	3.4%	–	–	0.1%	7.0%	1.2%
2019	24.0%	62.8%	13.2%	-4.4%	5.0%	4.0%	–	–	0.3%	7.4%	1.0%
2020	20.4%	69.2%	10.4%	-7.2%	4.9%	5.0%	–	–	0.1%	6.8%	0.8%
2021	19.0%	72.0%	9.1%	-9.5%	4.7%	6.6%	–	–	0.1%	6.1%	0.9%
2022	19.5%	71.6%	8.9%	-8.8%	4.6%	6.8%	–	–	0.1%	5.2%	1.0%
2023 restated	18.8%	66.5%	14.7%	-3.3%	5.3%	7.3%	1.5%	3.0%	–	–	0.9%
2024	15.5%	69.8%	14.7%	-5.4%	5.9%	9.7%	1.0%	2.6%	–	–	0.9%
2025	15.1%	70.6%	14.3%	-7.9%	5.0%	12.9%	0.7%	2.1%	–	–	1.5%

Note: figures may not sum to 100 per cent or the 'Other investments' total because of rounding.

Investment Risk

- No competent financial adviser would expose a 20-year investor to 56% ‘higher risk assets’
- If the PIDR is based on that assumption, does the claimant then have to be exposed to that risk?
- Either way, one would expect a greater risk of under-compensation over shorter durations
- No, not according to the data relied upon:

Investment Risk

		Core claimant type								
		20-year			40-year			60-year		
		Likelihood[1] of achieving a compensation level of…								
		less than 90%	90-120%	more than 120%	less than 90%	90-120%	more than 120%	less than 90%	90-120%	more than 120%
PIDR	-0.25%	7%	73%	20%	5%	26%	69%	12%	25%	64%
	…									
	0.50%	17%	76%	7%	13%	42%	45%	25%	34%	41%
	0.75%	22%	74%	5%	17%	45%	37%	30%	37%	33%
	1.00%	27%	70%	3%	22%	48%	30%	36%	38%	26%
	1.25%	33%	65%	2%	28%	50%	22%	43%	38%	19%
	1.50%	40%	58%	1%	34%	51%	16%	50%	36%	14%

Investment Risk

- Claimants are reluctant investors
- Very few have investment experience
- Many have a poor relationship with their wealth
  - Represents a loss not a gain
- Periodical payments overcome this risk, but the price is inflexibility and the risk of premature death
- How do you plan for the unknown?
  - Forego needs today, just in case?

The Immediate Capital Shortfall Risk

Capital Shortfall Risk

- Under the *Swift* calculation, the percentage of the additional capital need required in respect of additional accommodation is dependent on duration
  - See Appendix 1
  - Over 60 years – 94.65% is recoverable from the Defendant
  - Over 40 years – 85.80% is recoverable from the Defendant
  - Over 20 years – 62.31% is recoverable from the Defendant
- How do you meet this shortfall?
  - Forego needs?

The Need Risk

Need Risk

- Who thinks that experts can accurately predict needs into the future:
  - Over 60 years
  - Over 40 years
  - Over 20 years
- More likely over shorter duration and less likely over longer durations?
- Uncertainty of need increases the benefits of financial flexibility
- How do you plan for the unknown?
  - Forego needs today, just in case?

The Qualitative Risk

Qualitative Risk

- *Cookson -v- Knowles* [1979]
- A lump sum should not compensate for qualitative change
- Even though it is unavoidable
- Historically this has led to under-compensation
- Will technology/AI change this?

Qualitative Risk

- This risk increases with duration
- Periodical payments indexation can include qualitative change
  - But measures are limited
- This risk increases the benefit of financial flexibility
- How do you plan for the unknown?
  - Forego needs today, just in case?

The Inflation and Indexation Risk

Inflation and Indexation Risk

- Rising costs of care
- Are they limited to the end of the ‘baby boomers’?
- Is the risk, therefore, more limited to the next 20 years?
- Higher inflation makes achieving any real and net return more difficult
- Periodical payments reduce this risk
  - But what if the applied measure is negatively biased?
- How do you plan for the unknown?
  - Forego needs today, just in case?

Financial Advice

Financial Advice

- Must take into account the duration of loss:
  - The resulting life expectancy risk
  - The resulting impact on investment risk
  - The resulting shortfall in immediate capital
  - The resulting impact on the certainty of predicted needs
  - The resulting impact on qualitative change
  - The resulting impact of inflation and indexation risk
- Yet few PIDRs are adjusted for duration
- Post settlement, how do you plan for such unknowns?
  - Forego needs today, just in case?
  - Take even more risk?

A financial advice perspective:

“What a diff’rence a day makes”

Richard Cropper
PFP Limited