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## **MONEY BOX**

**Presenter: PAUL LEWIS**

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**LEWIS:** Hello. In today's programme, pensions plummet. Is the Bank of England to blame? And if you're about to retire, how do you get a half decent income? Bob Howard's here. He's been stopping on the motorway.

**HOWARD:** Yes indeed. How much should you pay if your car breaking down causes damage?

**ANGELA:** They admit that they were there for 10 minutes, and we just thought that over £300 was a little bit excessive and a bit of a rip-off.

**LEWIS:** Timeshares are easy to buy but very difficult to get rid of. Older people are paying hundreds of pounds a year for a holiday they can never take again. And if you want to live together, move to Scotland where the Supreme Court has just clarified the rights of ex-cohabitants.

But we start with pensions. The pension you can buy with the money you've saved has fallen by a quarter in the last 5 years. In late 2008, a man of 65 with £100,000 of pension savings could have bought an income, called an annuity, of almost £8,000 a year. Today a man of the same age with the same amount would get barely £6,000 and women get even less. Those incomes are not even index linked - that would cut

the amount by 40% - and of course most people have far less than £100,000 in their pension pot. Here are the comments of two listeners who emailed us.

**LISTENER COMMENT 1:** My wife is 62 years old and has a pension fund of about £30,000. The best annuity she has been offered is 3%, which is about the rate of interest she can achieve from the market without handing over the whole of her savings. Should she delay taking an annuity in the hope that the value of her fund will increase and annuity rates will return to reality?

**LISTENER COMMENT 2:** I have an annuity pot of about £60,000. I have not touched it or done anything about it since it was available when I was 65 in December 2010. I thought things must get better. Was I wrong?

**LEWIS:** Well many people blame this dramatic fall in the annuity you can buy on the Bank of England's programme of quantitative easing - basically magicking money out of nothing to pump into the economy in the hope of stimulating growth. This week it agreed to pull another £50 billion out of the hat, just like that, boosting the total to more than a third of a trillion. Live now to talk to Dean Mirfin who's Group Director at Key Retirement Solutions. Dean Mirfin, before we come onto solutions, just why would quantitative easing cut annuity rates?

**MIRFIN:** Good afternoon, Paul. I think put quite simply, the money that's being pumped into the economy is being used basically to re-buy, repurchase government debt which are otherwise known as gilts. As a result of that, the price of gilts is actually increasing and the rate of return that those gilts are giving back is coming down. Now when you buy an annuity to fund your retirement income, the money you put into that is typically invested in gilts to guarantee your income for the rest of your life, so fundamentally because those rates are coming down of those underlying investments likewise so is your income.

**LEWIS:** There are other things though, aren't there, that might be pushing annuities

down - investors moving in to safe assets, for example, and rising longevity?

**MIRFIN:** That's right. I think if you go back before the quantitative easing started, one of the major effects on annuities was simply longevity and, as you say, annuity providers being a lot more cautious.

**LEWIS:** Now people approaching 65 - we heard from two, I've had lots of other messages from people too - what can they do to boost their income, which they're obviously finding very disappointing?

**MIRFIN:** I think the most important thing is to ensure that firstly you're shopping around. That's looking at the range of annuities available from the marketplace and actually not underestimating what can be achieved. The average person that we've helped buy their annuity this year has achieved over 20% increase in income.

**LEWIS:** And that's finding the best deal on the market and also telling them about health problems you may have?

**MIRFIN:** That's absolutely right. What's quite interesting is a lot of the pension providers who will offer a direct annuity to their pension holders at the point of retiring don't necessarily offer annuities that take account of health and lifestyle. That can actually achieve quite a considerable increase in income.

**LEWIS:** And is it worth delaying? We hear that they're going down, we've been hearing that for a while. Are they going to go up or is it better to do it now and at least fix the poor rate you're getting today?

**MIRFIN:** Not surprisingly it's the big question for a lot of people. The cost of delay can be looked at in a number of ways. One is that whilst you're waiting, you're not receiving any income in the meantime and you may never recoup that money. You've also got other factors affecting annuity rates such as at the end of this year you've got

the European Gender Directive, which means that men and women will have to be paid the same rates, and that is anticipated to drive down male rate. So there's a lot of unknown questions. I think the important place to start is to investigate for definite what can you achieve today and then start to make decisions from an informed position.

**LEWIS:** Dean Mirfin, thanks very much for talking to us.

Now who should pay and how much if your car causes damage to a motorway? Money Box has been contacted by a listener who was sent a bill for more than £300 after fuel from her car leaked onto the road. She says the emergency services had already hosed it away. Bob Howard reports.

**HOWARD:** Paul, Angela from Warwickshire was driving on the M69 last summer when her car suddenly stopped.

**ANGELA:** I got out of the car on a hard shoulder and noticed there was fuel spilling out onto the road surface. I called the emergency services. The fire engine arrived and washed the fuel away, and then shortly afterwards the support unit arrived. They were there about, I don't know, seven, eight minutes. By this time the road surface had actually dried because it was June and it was hot, so there was nothing left on the road, but they put down a white powder anyway and off they went.

**HOWARD:** Angela had already phoned her husband for help, so when he towed her off the motorway she thought no more about it. But then shortly afterwards Angela received a letter from a firm called A1+ Integrated Highway Services, which operated the support truck. Angela hadn't heard of them, but the highways agency contracts A1+ to repair damage to motorways following accidents or breakdowns and to recover the costs from drivers or their insurers. A1+ said it would be billing her insurer, Admiral, for £326. The initial invoice described the incident as a road traffic collision, but Angela hadn't collided with anything; she'd just broken down. When

Angela contacted Admiral, it investigated and said it wouldn't be paying as breakdown cover wasn't part of her car insurance. So that left Angela to foot a bill which she thought was excessive.

**ANGELA:** They logged their visit and they admit that they were there for 10 minutes. And we just thought that over £300 was a little bit excessive and a bit of a rip-off as we never actually asked for their service and it wasn't really necessary in the first place.

**HOWARD:** Although A1+ has now said it will accept £200, Angela still thinks it's too much and has yet to pay it. And Matthew from Leicester told us he was billed for a similar amount by A1+ after breaking down even though he says nothing from his car was spilt on the motorway at all. We approached A1+ for comment. Although it's a joint venture owned by three construction firms, including costing, all questions about its operations had to go to the Highways Agency. The Highways Agency wouldn't offer anybody for interview either, but we did get a statement.

**HIGHWAYS AGENCY STATEMENT:** A1+ are required to try to recover costs when the identity of the offender is known as it would be unreasonable to expect the taxpayer to foot the bill for damage caused. A full breakdown of these costs has been provided. The Highways Agency takes contract compliance very seriously and continually monitors and audits our contractors' performance.

**LEWIS:** Well that was the Highways Agency statement. Thanks for that, Bob. Paul Watters is Head of Roads Policy at the AA. I asked him whether motorists who have a problem on the motorway knew they might be liable for the costs of any damage they cause.

**WATTERS:** I don't think they are for one moment. I think that for many drivers who have a problem, these invoices come as a complete shock and it's a big surprise, they don't know they're liable. It's a bit threatening and a bit intimidating that they have to

pay these invoices.

**LEWIS:** And looking at Angela's invoice for £326, is that reasonable for, as she describes it, just turning up, sprinkling a bit of powder and driving off again?

**WATTERS:** Yeah, I mean it's a tidy sum. When you look at the invoice, it is broken down in quite a bit of detail. The answer we don't have is whether it's a fair price. Obviously it looks well itemised, but these Highways Agency contractors operate on different commercial contracts for particular areas of the country, so we don't know whether this bill would be the same if it was in a different part of the country. But I think we're going to see more of this. The Highways Agency has got new contracts going out soon for its agents across England, and those contracts are commercial ones and I hope we don't see any opportunistic money raising on the part of those operators but clearly it's something we need to get to the bottom of.

**LEWIS:** If it isn't covered by insurance, in a sense is your liability completely unlimited because the agency can put in a bill and you just have to pay it?

**WATTERS:** Yes, it would appear so. Obviously there is legislation backing this, it's the Highways Act 1980, so ultimately they could take you to court and sue you for the whole cost of the bill.

**LEWIS:** Is there anything in the act that allows you to say these are unreasonable costs?

**WATTERS:** No, there is no protection. Obviously a highway is an expensive piece of kit and so potential damage could be enormous. So, yes, the public are exposed to huge risk on this.

**LEWIS:** But these contractors are paid by the Highways Agency to do this job of keeping the motorways clear. Why are they also charging us for doing that separately?

**WATTERS:** I think it's a kind of new charge that hasn't existed before. It would have just been absorbed in the past, but because of the contracts that are now being obtained by these contractors, they're squeezing as much value from them as they can.

**LEWIS:** What's the AA doing about it? What action can you take?

**WATTERS:** I think it's something we need to get to the bottom of. The Highways Agency, for example, doesn't have any information about this on their website, and I think there's no point having these bills dropping through the door and it not being very transparent. So let's know what motorists are liable for, whether anything could be done to make the costs more standardised or lower, and so that people have a right to perhaps appeal as well.

**LEWIS:** Paul Watters of the AA. And you can let us know your experience of being billed for cleaning up the highway. Have your say on our website: [bbc.co.uk/moneybox](http://bbc.co.uk/moneybox). Many of you are already.

Timeshares - buying the right to live somewhere for a week or two each year on holiday - are easy enough to get, but they can be impossible to get rid of. Many older owners are finding themselves stuck paying hundreds, even thousands of pounds a year in maintenance payments for properties they can no longer visit through age or disability. Mary and her husband are both in their eighties. They have two timeshares in Scotland. They've not been able to take their week's holiday for more than a decade, but they're still stuck paying more than £2,500 a year in fees.

**MARY:** Neither of us are able to travel. We are both disabled. We are absolutely stuck with paying management fees to Macdonald's for nothing. I stopped paying the fees. We couldn't do this because Macdonald's constantly sent us requests for the management fee or they would take us to court. We wrote to them and said that they could have it back, we didn't want any money for it, and they still wouldn't take it

back because you know it's a dripping roast to them.

**LEWIS:** That was Mary. Well we asked Macdonald Hotels to speak to us or provide a statement. It refused. So we talked to the Resort Development Organisation. It represents 80% of the timeshare industry in Europe, but not Macdonald Hotels. I asked its Chief Executive Paul Gardner Bougaard why Mary and her husband couldn't just give up their ownership.

**GARDNER BOUGAARD:** If you look at most of our RDO members, they have procedures and provisions for helping people who are in those situations.

**LEWIS:** How they help them?

**GARDNER BOUGAARD:** If, for instance, one member can't travel anymore, they're in financial difficulties, issues such as that, then most developers -and I'm talking here about the major developers - will be sympathetic to that and will help them to exit from their ownership. And of course there is a resale market, and if they have problems then go and talk to your developer because they will do the best they can to help you.

**LEWIS:** You say there's a resale market, but this particular couple have even offered to give the timeshare back, never mind sell it, and that's been refused. What that shows, surely, is that they're actually worth nothing?

**GARDNER BOUGAARD:** No, well I don't agree. Obviously I don't know the particulars of this case, Paul, so I can't help you on that, but I'll give you another instance. I was talking to a major developer yesterday and they had a couple who were in financial difficulties and effectively were saying look, we can't afford the maintenance, please have the weeks back. The developer said look, we can't take the weeks back, but we'll ...

**LEWIS:** Why can't they take them back?

**GARDNER BOUGAARD:** Well let me finish the story. They're worth far too much. In fact what they did was go and put them on the market and in fact they got £3,000 for them.

**LEWIS:** That's a nice, warm story, but I get a lot of messages. I get tweets and I get emails from people desperate to sell their timeshares. So desperate that they fall prey to conmen who, as you know, are very much in this industry - pretending to buy them back and then failing to do so ...

**GARDNER BOUGAARD:** They do indeed.

**LEWIS:** ... because they are desperate to sell them and they cannot sell them.

**GARDNER BOUGAARD:** Resales like house sales in various parts of the country are difficult to do. There are some very good resale agents who are RDO members, who will do a good job for owners, and they should talk to them and see what they can do. Some resorts will look at hardship cases and will help them take the week back or help them resell it or come to an agreement with them. There are some new clubs being set up where owners in fact can lodge in their week and two or three years later they will be out of the ownership altogether, and new timeshares being sold now are being sold on a much shorter period.

**LEWIS:** I'm sure the contracts now may be better than the old ones.

**GARDNER BOUGAARD:** They are indeed.

**LEWIS:** But we do have this legacy of contracts. ...

**GARDNER BOUGAARD:** We do.

**LEWIS:** ... which last forever, that you can't get out of, and where the value of the timeshare is virtually nothing or at least it's very hard to sell. Shouldn't there be some mechanism at the end of your holidaying life to get rid of what's been a very profitable thing for the resort in an orderly fashion?

**GARDNER BOUGAARD:** Most of these issues arise on what we call the owner owned resorts. These are the resorts where the developers have finished the development, the weeks have been sold, and the resort is in fact being managed by an owner's committee and there's no longer a developer in situation. Now they're the ones that have the major difficulties. One of the things that the owner owned resorts we will ask - or rather TATOC needs to ask them to do because they're not RDO members - is to look at their constitutions and see if they can do something about it. But it is a legal issue. The constitution needs to change. The owners need to vote to change that in an AGM and there has to be a majority or a two thirds majority for that. So there are legal hurdles to be crossed.

**LEWIS:** Paul Gardner Bougaard of the Resort Development Organisation. And I understand that TATOC, Timeshare Association members, are holding AGMs over the next few months and they may change their procedures to help people like Mary. Well with me is solicitor David Greene, a senior partner at lawyers Edwin Coe. David Greene, we heard there Mary. She was so disgusted at being charged £2,500 a year for not having a holiday, she just stopped paying. Is that a good idea?

**GREENE:** Well it's not a good idea. I think you need to manage it and have a look at the contract, see what's happened in the sale process and see if there's a way of dealing with the contract.

**LEWIS:** And how can you do that? How can you challenge the contract?

**GREENE:** Well you can have a look at the terms of the contract. The maintenance, what often happens is that the sale takes place for a product and then the tail end of

that product of course is the maintenance and management charges; and very often those are kept rather under wraps until you become liable for them and they're such a problem for people as we're seeing. That's the nature of the problem.

**LEWIS:** Can you solve it though? I mean can they come to a solicitor like you and you can say yes, that contract is unenforceable?

**GREENE:** Yes and indeed we often do that.

**LEWIS:** So that's a possibility.

**GREENE:** We can say that. Either there may have been misrepresentation in relation to the contract or the contract terms.

**LEWIS:** The danger is though they might lose and end up paying legal costs of both sides.

**GREENE:** It is a danger, yeah.

**LEWIS:** We've also had complaints from people who actually never bought a timeshare, but then they inherit it from their parents and they seem bound forever to pay the management fees. Is that right?

**GREENE:** Well it depends on the nature of the product. Holiday points is slightly different from other timeshares, the weeks. But it can pass down through the will and again they can become liable for it and they need to look at the contract for misrepresentations, all of those things in relation to the enforcement of that contract.

**LEWIS:** But can you just refuse the inheritance? Can you just say sorry, I don't want to inherit that bit?

**GREENE:** Well eventually someone takes the inheritance because it'll form part of the residue. So whoever takes the residue will take that inheritance.

**LEWIS:** And so really apart from challenging the contract - which may be perfectly sound, you don't know. I mean somebody said to me of course you sign these wearing flip-flops. You don't normally have your lawyer with you, so you probably don't know how the contract is, whether the contract's good or not.

**GREENE:** Absolutely. But when you look at the contracts carefully, I think if a lawyer looks at them they can see ways around them, and, as I say, they're very often mis-sold these contracts.

**LEWIS:** David Greene from Edwin Coe, thanks very much.

The rights of couples who live together without being married were clarified this week in the Supreme Court, but the judgement applies only in Scotland where a 6 year old act gives individuals the right to claim for any economic disadvantage they suffered during the relationship. Mrs Gow moved in with Mr Grant in 2003. He owned the house they lived in together and she sold her own Edinburgh flat, spending the proceeds on their joint activities. After 5 years they parted. She moved into rented accommodation. If she'd kept her flat, it would have gained much more than £30,000 in value. She wanted that disadvantage paid by Mr Grant, but the Appeal Court rejected her claim. Then on Tuesday the Supreme Court overturned that judgement, awarding her £39,500. John Fotheringham is a Director of Family Law at Edinburgh solicitors Lindsays. I asked him what the judgement meant for ex-cohabitants.

**FOTHERINGHAM:** They can expect to get some sort of fairness of division of the economic contributions which they made, of economic advantages and disadvantages which either party has gained or suffered in the course of the cohabitation. It's not the same as divorce, it's not intended to be the same as divorce, but it is an effort to make fair the rebalancing of the economic advantages and disadvantages.

**LEWIS:** With marriage, it's fairly clear that each party gets half the total assets in a very broad sort of layman's way of explaining it, but that's nothing like the case if you're cohabitants, is it? Just explain what you are given when your cohabitation comes to an end.

**FOTHERINGHAM:** If, for example, you have made economic contributions by a loss of career opportunity - it doesn't have to be a financial contribution - that can be counterbalanced. As in the case of Gow against Grant, somebody sold their house and thereby lost quite a considerable profit that she would otherwise have made in the interests of the other party, and she got that money back.

**LEWIS:** If a couple decides to live together and is concerned about protecting their property - and as in this case it was an older couple, more and more older people are I think cohabiting together - is there any way they can protect themselves if they want to make sure the property is divided as they want rather than in the way a judge might think is fair?

**FOTHERINGHAM:** Oh there certainly is and this I think will be the main effect of Gow against Grace. Because more cohabitation claims will be worth making, more and more people will I think enter into cohabitation agreements which can exclude the statutory system altogether if the parties agree to do that, or it could create a bespoke arrangement suiting their particular case. Yes they can enter into these agreements and generally speaking they will be respected by the law. And if these cohabitation agreements are well enough drawn of course, there'll be much less litigation, and less litigation is almost always a good thing.

**LEWIS:** John Fotheringham. In England and Wales cohabiting couples have almost no rights to each other's property when they part, but one of the Supreme Court Justices - in this case Baroness Hale - called for a similar law to be passed south of the border. With me is Jo Edwards, Family Law Partner at Manches and Vice Chair of the family law body Resolution. Jo Edwards, this case - which incidentally was on 4<sup>th</sup> July, Wednesday, not Tuesday, as I said earlier - it doesn't change English law.

What's its significance for England and Wales?

**EDWARDS:** Well you're quite right, it doesn't change English law whatsoever, and just to illustrate the stark differences I'm quite satisfied, having read the facts of the case in Scotland, that had she been cohabiting south of the border, Mrs Gow would not have been entitled to a penny in this country. So in terms of what is the significance, I think first and foremost you've mentioned Lady Hale's comments, really her rallying call to our government and legislators to look at this issue again. And that's not something which is new. I was on this programme 5 years ago talking about the Law Commission's then recommendations about all of this and it's something which Resolution has long been calling for. There's an urgent need for reform. But, secondly, and I think importantly, we see from the facts of this case how a statutory scheme could work in this country, and in doing so hopefully persuade some of the naysayer that actually what we're not trying to do is say that cohabiting couples should be treated the same as married couples.

**LEWIS:** Yes because it would have been very different if they'd been married. She'd have had a right to half the house they lived in as well, wouldn't she?

**EDWARDS:** She potentially would have had a right to half the house they lived in, that's absolutely right.

**LEWIS:** I mean I understand the call from Lady Hale and from you and from the Law Commission in the past, but I have to say a Ministry of Justice Spokesman said to us yesterday, "We do not intend to take forward legislation on cohabitation in this parliamentary term", so not before the election. Politically it's a tricky thing to do.

**EDWARDS:** It's terribly tricky and we were very concerned, as I know was the Law Commission when Jonathan Djanogly said last September ...

**LEWIS:** That's the minister.

**EDWARDS:** That's the minister ... that there was no intention to look at this issue in this term. And I think one of the reasons they cited was the need for more of a factual foundation behind all of this for research, and also the fact that there is so much going on in the family law world at the moment. But with respect, it's such an urgent issue - there are so many more couples now cohabiting without marrying, so many more children being born out of wedlock, and I'm finding these people are coming to see me. They're completely ignorant as to their lack of rights and it's creating huge hardship.

**LEWIS:** And, as I understand it, more older couples divorcing and setting up informal relationships, and of course they are more likely to have lots of property in different places to protect perhaps for their own children. Do they need to set up a pre-cohab agreement when they do it?

**EDWARDS:** Well you're absolutely right that that is the case - that more elderly people are finding themselves in these situations as well. Really what Resolution would say as an organisation, what I would say as a lawyer, is for all couples of any age who are choosing to cohabit - and sometimes they don't actively choose to cohabit without marrying, they find themselves in that situation - the advice has got to be think carefully about your situation, have a discussion at the outset as to your intentions, and record that in a cohabitation agreement and in the document that you prepare in buying your property together.

**LEWIS:** Jo Edwards of Manches, good advice. Thanks very much for that.

And Bob, finally some better news for people who lost money when the Christmas savings scheme Farepak collapsed?

**HOWARD:** Yes, Lloyds Banking Group has donated £8 million on top of the £2 million it's already given to the Farepak Compensation Fund. Last month a High Court judge partially blamed the bank's hardboiled attitude for Farepak's collapse in

2006. The extra money will go to 116,000 people who lost £37 million between them.

**LEWIS:** Thanks for that, Bob. Well that's it for today. I should just add Ulster Bank problems seem to be continuing. There's more on our website: [bbc.co.uk/moneybox](http://bbc.co.uk/moneybox). There you can download the programme, read the newsletter, send us your ideas and have your say on those bills for cleaning up the highway. I'm back on Wednesday with Money Box Live, this week taking your questions on credit reports. I'm back with Money Box next weekend. Today the reporter was Bob Howard, producer Lesley McAlpine, and I'm Paul Lewis.