

About This Document

This document has been prepared for use predominantly by trustees and sponsors but will be of interest to everyone who is involved with the operation and governance of a pension scheme that may be impacted by GMP equalisation, including administrators and advisers. It might also be of interest to other parties.

This document forms part of a series of documents offering information to UK pension schemes on principles for adjusting benefits earned in the period 17 May 1990 to 5 April 1997 to correct for the inequalities of GMPs accrued in this period (commonly referred to as GMP equalisation). The High Court's decision in the Lloyds Bank case requires schemes to address this GMP inequality issue. The High Court also set out a range of methods that could be adopted. However, the Lloyds Bank case could not deal with all the complex issues that arise in relation to GMP equalisation.

Our series of documents will aim to support the implementation of GMP equalisation in a practical and pragmatic way. Later, we will suggest "good practice" approaches to deal with common issues regarding 5 main aspects: Data, Impacted Transactions, Methodologies, Tax, Reconciliation & Rectification projects. We will also seek to tackle issues that were not addressed by the High Court and are unlikely to be subject to judicial scrutiny.

It has been assumed:

- Readers will have some knowledge of GMPs and why they can produce unequal benefits between male and female members.
- Readers will be familiar with other industry guidance issued to date by other organisations, including the Department for Work and Pensions (DWP).
- Employers and trustees will work collaboratively involving scheme administrators and advisers as appropriate.



GMP^{EWG}

GMP EQUALISATION WORKING GROUP

PASA 
assess | aspire | achieve

A Call to Action

July 2019

Introduction

Believe it or not the GMP equalisation journey has already started! The High Court's decision set the ball rolling on Trustees' legal obligation to complete GMP equalisation and established the need to take GMP equalisation into account throughout the operation of schemes.

GMP equalisation has the potential to be a highly complex project. The interaction with current GMP reconciliation and rectification projects adds even more complexity. We expect pension scheme trustees, managers, administrators, sponsors and advisers (i.e. all stakeholders in the operation of a scheme) will benefit from guidance to navigate their way around this minefield. This has led to the creation of the GMP Equalisation Working Group, to provide assistance to the industry and to publish useful guidance (not advice!).

This Call to Action sets out key points for Trustees and their advisers to consider such as:

- The need for all stakeholders to work collaboratively to ensure a successful project
- Some of the aspects of the project will be scheme-specific, but there are equally some areas common to all schemes, and therefore where industry good practice guidance would be of value
- Whilst potentially this is a highly complex project, it is one where the total financial impact for schemes and their members may be relatively modest. Industry guidance should seek to identify good practice in terms of the planning, management and efficiency of the project
- The likelihood of resource constraints within the industry, with many schemes looking to complete GMP equalisation within similar timescales. This reinforces the importance of advanced planning

This document covers the following 3 topics for which there are good reasons to act now:

- GMP Rectification
- Data
- Impacted Transactions (i.e. those transactions which need to be completed now but that, if the scheme still has not equalised for the effects of GMP, may need to be revisited as part of the equalisation project).

What will we do next?

We will be following up this Call to Action with a guidance paper on the relationship between GMP rectification and equalisation. Later this year we will be issuing full guidance documents for Data, Impacted Transactions, Methodology, and Tax.

Want to know more?

Useful links below:

What is a GMP?

<http://www.pasa-uk.com/system/files/pictures/PASA%20GMP%20Call%20to%20Action%20final.pdf>

GMP data maintenance

<http://www.pasa-uk.com/content/gmp-guidance>

DWP Conversion Guidance

<https://www.gov.uk/government/publications/equalising-pensions-for-the-effect-of-unequal-guaranteed-minimum-pensions/guidance-on-the-use-of-the-guaranteed-minimum-pensions-gmp-conversion-legislation>

Lloyds High Court Judgements

<https://www.bailii.org/ew/cases/EWHC/Ch/2018/2839.html>

<https://www.bailii.org/ew/cases/EWHC/Ch/2018/3343.html>

GMP RECTIFICATION

This section covers the ongoing GMP rectification projects and is intended to help Trustees consider how best to align GMP equalisation with these existing projects.

We recognise one of the initial decisions is whether, following completion of GMP reconciliation, to press on and progress the necessary GMP rectifications now. Or whether to incorporate this work within the GMP equalisation project, meaning members' benefits are only adjusted once. The main points to consider in making this decision are summarised below:

a) Timing for Rectification?

Following completion of reconciliation, Trustees will need to establish the necessary adjustments to benefits. Once it is known a member's benefit is incorrect, standard good practice dictates their benefit should be corrected within a reasonable timeframe. Whether this is passed over or under payments. Furthermore, for any period where an error is left uncorrected and the pension is in payment, the impact of that error is compounded. If trustees wish to complete rectification and equalisation as a single project, they may wish to consider whether the equalisation project can be completed within a reasonable timeframe.

Due to the high complexity of GMP equalisation and remaining unanswered questions - in particular the publication of HMRC guidance - it will take considerable time to implement GMP equalisation in full. Also, due to the sheer number of schemes needing to complete GMP equalisation there may be capacity issues across the whole pensions industry. Our expectation is most schemes will not have completed GMP equalisation before 2020 or later.

b) Change members' benefits once or twice?

If rectification and equalisation are implemented as separate projects, some members will receive two adjustments to their benefits and two sets of communications. In some cases, the rectification adjustment may be negative, whilst any equalisation adjustment will usually be positive. Trustees may consider that combining the two projects is more efficient and may be less confusing for members.

More broadly, trustees should consider an overall communication strategy that is well thought out and executed effectively so members fully understand the reasons for both the rectification and equalisation.

c) **Which members are in scope?**

Members may not be impacted by both rectification and equalisation. Furthermore, as made clear in DWP's guidance, equalisation (and conversion if used) does not need to be implemented for all members at the same time.

For an individual scheme, the list of members in scope for each project may influence the decision on whether to combine rectification and equalisation. If, for example, the number of members impacted by rectification is low and there is little alignment with the members expected to be impacted by equalisation there is likely to be a stronger case for the proceeding with rectification now.

As well as considering the above points, we also recommend that trustees seek the views of their legal advisers on this point.

Whatever decision is reached on rectification the Data section below details many tasks that can be undertaken now in preparation for commencing the equalisation project. It would be prudent to carry out this preparatory work given that the decisions required by all stakeholders involved in this project can take a considerable amount of time to be made, and effective utilisation of this time will pay dividends once the project proceeds to the next stage.

DATA

This section considers the data aspect of a GMP equalisation project and is intended to help Trustees discuss with their advisers and administrators the steps that can be taken now to get scheme data into the best possible shape ready for equalisation.

Data capture and verification will be very significant part of the project. It will involve obtaining data going well beyond what is held for the normal operation of a pension scheme. It will go back to when the individual left pensionable service in order to establish the inequality - i.e. as far back as shortly after 17 May 1990 for some (but beyond 30 years for others). It is important sufficient work and consideration is given to the data stage of the project, to avoid issues later on and ensure efficient implementation.

Trustees should be speaking to their administrators and advisers to assess the data requirements for GMP equalisation, and how much of this data is available. This should include considering whether it may be necessary to try and contact past advisers, especially past administrators.

Here are the actions that can be progressed now:

a) **Ensure common data is in the best possible position**

As well as data specific to GMPs, a lot of standard membership data will be needed. Consideration should be given as to whether common data (and any relevant scheme specific data) has recently been reviewed. Completing this work now will not only help the GMP equalisation project, but also help meet the requirements of the Pensions Regulator.

b) **Obtain contracted-out earnings over the equalisation period**

Ideally, year-by-year contracted-out earnings for each relevant member (current pensioner, deferred or active, or former members for a dependant) whose service includes and whose GMP built up between 17 May 1990 and 5 April 1997 is required in order to establish the part of their pension subject to equalisation. There is a service through HMRC's GMP checker where contracting-out dates and full earnings history, as well as opposite sex GMP information can be obtained, although there are limitations to such a service.

c) **Take action to obtain access to historical records and ensure they are accessible in a suitable electronic format**

This could include:

- Ensuring the location of data is known.
- Considering any GDPR issues associated with this data.
- Establishing the availability of service data, cash amounts taken and other historical data for current pensioner members and spouses' pensions in payment (in relation to the deceased member).
- Establishing administrative practices regarding the treatment of GMP and non-GMP benefits and how these have changed since 1990. This should include 'anti-franking checks' and other adjustments applied at GMP payment age.
- Ensuring clarity of transferred-in GMP and how it is treated.
- Documenting historical actuarial factors and calculations (e.g. historic early/late retirement factors from 1990 onwards).

d) **Capture historic pension payroll data**

This will enable under/over payments for rectification and underpayments for equalisation to be calculated accurately. Where this history is not present a pragmatic method using a rollback model could be used.

e) **Consider a full data cleanse project**

Data is a large issue across the industry - not just because of equalisation. It may be advantageous to use GMP equalisation as the impetus to bite the bullet and complete a wider data cleanse project, in order to enhance the future operation of the scheme and ensure all members' benefits are accurate. This could include capturing retirement information from paper/electronic records that could be used for future exercises (commuted pension amounts, contingent spouse's pensions, historic addresses) or tracing to obtain details for any 'missing' members.

f) **Consider the impact of significant data gaps**

There may be significant gaps in data, particularly service information for current pensioners and where a spouse is in receipt of a pension and a link back to the original member record. A pragmatic approach will need to be taken in these situations PASA provides useful guidance on data gaps this which can be found in the 'Want to know more' section.

IMPACTED TRANSACTIONS

Here we are looking at a scheme's current transactions. The points listed below will help Trustees and their advisers, to think about what needs to be done now and what will impact in the future.

a) What could the trustees do now about settling retirements and death benefits on an equalised basis?

There is a lot of work to be done to be able to settle retirements and deaths on an equalised basis. In general, it is justifiable to delay making any changes to these calculations until later in the project when the full details and method to be used for GMP equalisation are known. However, trustees should discuss this with their advisers.

b) What about transfer values?

Transfer-out settlement cases could be addressed in advance of the long-term solution. For example, making an allowance for GMP equalisation in transfer values (either as an adjustment to benefits, or as an assumption) could remove the need to re-visit these transfers and ensure fair value is being provided to members. However, Trustees should discuss any such approach with their legal and actuarial advisers, which should include seeking:

- Clarification of the circumstances in which the transfer values may still need to be re-visited, and
- Confirmation that the approach taken to transfer values does not fetter the trustees' choice of equalisation method.

Particular care should be taken for any transfer value issued in relation to GMP related benefit previously transferred-in from another pension scheme.

c) Can we still provide a transfer value for divorce purposes?

Trustees must continue to quote for transfer values for divorce proceedings as this is a legal requirement, but must ensure statements are included to say the benefits are unequalised where relevant; even though the message does not have to be passed directly to the spouse, it does need to be disclosed to the court, so the member should be asked to inform the spouse.

d) **Should trustees accept new transfers-in with a post 17 May 1990 GMP?**

The trustees should consider this carefully and seek legal advice as to whether non-equalised benefits can be accepted. Clarity should be sought on who bears the responsibility for the additional equalisation liability and how any payments will be made.

e) **What are the trustees' options when it comes to trivial commutation payments?**

These comprise trivial commutation lump sum, trivial lump sums, small lump sums, trivial death benefit commutation and winding up lump sums.

The following solely applies to those who have GMPs in the relevant period.

In advance of further HMRC guidance on this, the options the trustees might want to **discuss with their advisers are:**

1. Stop offering such commutation payments until benefits have been assessed for equalisation - This option minimises the risk of any unauthorised payments occurring. Instead put the unequalised member/death pension in place (allowing some PCLS if it is a member retiring) and consider offering full commutation of the balance later (all taxed) when the GMP equalisation adjustment position is known (or allow the member to defer retirement).
2. Continue to offer such commutation payments based on the unequalised benefits with a view to paying a 'top-up' at a later date if appropriate, This creates an unauthorised payment risk if a top-up does fall due on two counts. Firstly on the face of it, the tax requirement is for full commutation of all entitlement is paid in one go; and secondly if GMP equalisation takes the case from below the tax law commutation threshold to above it.
3. Pay such commutation with an allowance for GMP equalisation (see comments on transfer values above).

f) **What about Serious Ill-Health Lump Sum payments (SIHLS)?**

Options 2 and 3 above for other one-off commutation payments are also relevant to consider for serious ill health lump sum payments. However, delaying a serious ill-health lump sum is clearly not practicable. Trustees should seek legal and actuarial advice.

g) Do we need to think about anti-franking checks?

Yes! There are multiple administration practices for addressing anti-franking. More is to come on this, however for now trustees should ensure they understand their scheme's current approach.

h) We completed a buy-in/buy-out exercise in the past. Do we need to take any action?

The first thing here is to check the contracts for the transaction. Where does the liability for GMP equalisation sit? Contracts between the scheme and the insurer and any subsequent contracts for additional insurance need to be checked and legal advice obtained. Also, contact the insurer and discuss with them what they think should be done. They will also be thinking about this and may share some initial thoughts to assist with planning.

i) What do we do if we have a buy-in/buy-out transaction in progress or planned to take place?

For any well advanced transactions, urgently seek advice both legal and actuarial advice and liaise with the insurer.

For projects in planning or in the early stages, Trustees will need to consider the impact of GMP equalisation on the transaction and discuss this with the insurer.

WHAT CAN BE DONE NOW?

Provided below is a tick-box list Trustees and their advisers might find useful, regarding actions that can be carried out now in preparation for the equalisation project.

ACTION	✓
Ensure that appropriate project governance is in place	
Ascertain a list of the projects coming up over the next 12 to 24 months	
Identify the most appropriate slot for an equalisation project	
Identify potential stakeholders and engage them in planning	
Understand the population in scope, segment into batches, e.g. pre-1990 leavers, those with 1990 to 1997 service, post 97 joiners etc.	
Take note of any quirks to the scheme benefit basis	
Seek estimated costs from all stakeholders where possible to plan into annual budgeting	
With data likely to be the single biggest issue, make a start on understanding of the quality and availability of the required data.	
Check contracts for previous buy-ins/outs to see where the liability for GMP equalisation sits	
Talk to advisers about the approach to take for transfer values and other individual transactions	
Identify where all the data that may possibly be required will be sourced	
Ensure the contact details (and maybe have contacted them) of all relevant third parties are up to date	
Undertake due diligence including understanding the scheme's current approach to anti-franking	



This guidance has been produced by cross industry GMP Equalisation Working Group (GMPEWG). The GMPEWG is chaired by the Pensions Administration Standards Association (PASA).

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