PASA GMPEWG -

Administration sub-group

Frequently Asked Questions (FAQs)

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Frequently Asked Questions

Acknowledgments

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1. Introduction

This document is designed to help administrators implement GMP Equalisation (GMPE) solutions. The information provided represents the collective view of the GMP Equalisation Administration sub-group and is designed to provide pragmatic guidance on good practice. However, we recognise all schemes are different and each GMP Equalisation project will be specific to the scheme.

This list of FAQs will be updated and added to as the implementation of GMPE projects progress and different approaches and solutions emerge.

2. Standard Assumptions

1. It's acknowledged there are many different defined benefit scheme structures, working practices and administration platforms in the marketplace. This Guidance represents the collective view of the members of the sub-group and may not be appropriate for all schemes

- When designing administration solutions to tackle GMP equalisation, all administrators need to balance member outcomes with managing costs for trustees and sponsors and providing a reliable, secure administration approach which keeps risk to a minimum

2. In line with the Methodology Guidance issued by the PASA GMPEWG, the group has adopted a proportionate and pragmatic approach, suggesting 'good practice' for administrators

3. It may be helpful to read the other Guidance published by the GMPEWG and the GMP Working Group alongside these FAQs. However, where the content of other Guidance is material to the response this will be highlighted

4. Trustees should consider legal advice where they need further guidance, or to understand how their scheme governing documents interact with GMPE

3. FAQs

QUESTION:

Is the 'look-back' approach in assessing crossover points between member and comparator pensions in periods between pension increase dates appropriate for administrators and trustees to consider?

FURTHER DETAIL:

- For method B, a crossover only occurs when the true sex or opposite sex pension in payment is revised
- For methods C1 and C2, where the cumulative pension paid is tracked, these crossovers can happen between revision points
- To make administration as cost effective as possible, and to reduce risk, many administrators will conduct their GMPE checks, to see if there's been a crossover, only at revision points
- For C2, where the cumulative pension tracked also has to add interest to the previous payments, the crossovers could be estimated in advance, but the actual point would not be known until after the point the pension crossed over
- This means crossovers will be identified retrospectively. At each revision point the administrator would spot if a crossover happened in the period between the current and the previous revision point. At its longest, this could be up to a year before the current revision point
- At the current revision point, the following happens:
    - The administrator revises the true sex and opposite sex pension in line with what's triggered the revision point and identifies a crossover point
    - If the member's pension was being paid at the true sex rate, it now crosses over to the opposite sex rate (or vice versa)
    - The member may be paid an arrears payment which acknowledges the crossover happened before the current revision point

RESPONSE:

View of the group

The 'look-back' approach is an appropriate solution for most scheme structures and members

Rationale

Based on our experience to date, crossover events in many scheme structures are relatively rare, and when they happen, they often happen just once in a member's lifetime. Also, for most members, the difference in the true sex and opposite pensions are small.

All schemes are different. The group recommends administrators consider ways to help trustees who want to consider a different approach. One method could be to create reports allowing crossover events in the next 12 months to be estimated, based on current interest rates. Where a member is identified as having a potential crossover, the administrator could put in place a process to review them at this time

QUESTION:

What PAYE tax considerations are there regarding the payment of arrears and interest?

FURTHER DETAIL:

Taxation of arrears

The key points from the guidance in respect of the taxation of arrears arising from the implementation of GMPE are:

- Trustees are required to operate PAYE at the point at which any aggregate arrears payment is made, even though each instalment of arrears is chargeable to tax in the tax year in which the member became entitled to it (which may span several tax years)
- In practice, this means where a member is usually a basic rate (or non) taxpayer, the operation of PAYE on the aggregated arrears payment may result in a greater level of tax being deducted than would've been the case if tax had been deducted as and when the member became entitled to each instalment
- If a member believes they've paid too much tax, they'll need to contact HMRC's tax office and supply a schedule showing the years to which the arrears payments are attributable. HMRC will then spread the payments back over the relevant years and recalculate liability

Taxation of interest

Having considered the taxation of arrears, we conclude if interest is paid on arrears at the same rate as set out in the Lloyds Bank judgement - it would qualify as a 'scheme administration member payment', **and** be subject to income tax in the year in which it's eventually paid

RESPONSE:

View of the group

When communicating with members in bulk about any arrears they are due, trustees may wish to consider taking the approach of providing the total amount of arrears due (with interest separately identified), rather than a detailed breakdown

Rationale

We expect, for the majority of members who receive an arrears payment, it's unlikely this will have an impact on the amount of tax they would've otherwise paid. However, the circumstances of schemes vary from one to the next, and it may be appropriate to provide a detailed breakdown upfront in some instances where arrears payments may be deemed material, and/or where the data is otherwise readily available.

In any event, consideration will need to be given, prior to issuing any communications, to answering member queries in relation to any tax implications arising from an over or under payment due to GMPE. It may be necessary to prepare some notes/FAQs for those responsible for answering member queries and a route to access the tax year breakdown if required.

Level of interest

Trustees, presumably with the agreement of their scheme's sponsoring employer, may decide to provide interest on arrears at a greater rate than proposed in the Lloyds judgement. Where this is the case, trustees may wish to seek legal advice to ensure the payment of interest would still qualify as a scheme administration member payment.

Legal advice

Trustees may wish to seek legal advice to confirm any approach being taken to the taxation of arrears and interest payments is consistent with tax law and HMRC policy at the time payment is made.

Extra consideration may need to be given in certain 'non-standard' circumstances, for example when making payments in respect of deceased individuals, individuals resident overseas for tax purposes, or those potentially liable to a Lifetime Allowance (LTA) charge.

Where a payment of 'yearly' interest arising in the UK is made by any person to a person whose usual place of abode is outside the UK, income tax should generally be deducted from the interest payment.

QUESTION:

Death benefits - what are the practicalities including member communications, which should be considered when undertaking the project to equalise benefits for members in scope?

This FAQ applies where there is an ongoing liability in the scheme. For cases where no benefits are now in payment it's recommended you refer to the previous PASA guidance which covers this scenario.

FURTHER DETAIL:

Members who die in any status and have a GMP held for any period between 17/05/1990 and 05/04/1997 will be subject to GMPE up to date of death.

Implications for pensions

A spouse or civil partner's pension established on death of a member will be subject to GMPE, remembering any spouse or civil partner's GMP becomes payable immediately no matter the age of the recipient.

Dependant's benefits where there's no GMP payable aren't directly subject to GMPE. However, where the member accrued GMP in the relevant period and the dependant's benefit is expressed as a percentage of the member's pension (or, in the case of a child's pension, is expressed as a percentage of the spouse/civil partner's pension) then there could be a requirement for equalisation. It's recommended trustees take legal advice in these circumstances.

Upon death of a pensioner, the member's GMP would be equalised using the methodology adopted by the scheme. Any arrears due to the member are payable to the member's estate and subject to PAYE deductions using normal procedures.

The spouse's pension will then be subject to equalisation using the scheme's chosen methodology. Any arrears due to the spouse should be paid via payroll to permit deduction of PAYE.

Implications for lump sums

An additional amount may be payable on lump sum benefits due as the result of a guarantee period where the member's pension has changed as a result of equalisation.

However, taxation issues may arise where the member was over 75 when they died or where the top up is being paid more than two years after the scheme was notified of (or could reasonably have been expected to know of) the member's death.

It’s also important to check the Scheme Rules in case these contain any restrictions on paying lump sum death benefits.

RESPONSE:

View of the group

It’s important as part of the due diligence phase of a GMPE Equalisation project to discuss and agree with the trustees the approach to be taken where the member has died. If GMP rectification has been completed the approach taken for this exercise may form a precedent. Further help and information is also contained in the PASA GMP Guidance Note 6.

The notes below are designed to help with implementing a pragmatic approach to dealing with these cases.

Rationale

Settlement of arrears (whether this relates to pension or lump sum) due to the deceased member may provide some challenges depending on the period which has expired between death and finalisation of equalisation.

Current Cases

Where the member’s estate is still open, payment of arrears due can be made to the estate in the same way as any other underpayments are managed. Payment would need to be made via a payroll to facilitate PAYE taxation.

Consideration should be given to communicating with the Personal Representatives or Executors of the estates of members who die during the GMPE exercise to advise an exercise is ongoing which may see arrears due to the member’s estate. An estimated timeframe of when it can be confirmed whether further monies are due should be advised, and final confirmation of the date any arrears and payment are due should be provided as soon as available.

Before instigating any such communications, trustees should consider whether there’s a reasonable prospect of arrears being due to avoid unnecessary confusion.

Historical cases

Where the member’s estate is likely to have been closed due to the amount of time elapsed since the date of death, reference should be made to the PASA GMP Guidance Note 6 which provides help in dealing with these types of cases.

UESTION:

If the member has been underpaid and is receiving an arrears payment and/or an increase in pension, do I need to check whether this causes them to exceed the LTA?

FURTHER DETAIL:

Most members in scope for GMPE who are impacted will have been underpaid and may be due an increase in pension and potentially a payment of arrears. Consideration needs to be given as to whether the member needs to be sent a further LTA form for completion.

RESPONSE:

View of the group

A pragmatic approach should be taken to checking the LTA position of an in scope member.

Rationale

Most members won't have exceeded the LTA and GMPE is likely to result in relatively small uplifts of benefits.

The suggested approach is set out in the **GMPEWG Tax Guidance.**

QUESTION:

Commutation: meeting minimum pension and position for a comparator – what approach should I take?

FURTHER DETAIL:

At the highest level, there are two options, but individual scheme rules, precedents and circumstances might give rise to variations in the implementation of these. The two options are:

Option A – Allow for the comparator – in this case you consider the member's true gender GMP and the comparator GMP when assessing the commutation available

Option B – Not allow for the comparator – in this case you only consider the member's true gender GMP when assessing the commutation available

Further information is contained in section 3.4 of the **Methodology Guidance**.

RESPONSE:

View of the group

Ultimately this will be a trustee decision based on the factors shown below

Rationale

Administrators should talk to trustees about the following points which will help to drive the approach to be adopted.

- Scheme rules – trustees may wish to take legal input to determine whether the scheme rules restrict the options in relation to cash or the ability to take early retirement
- Membership profile – the likelihood of GMP restrictions applying may impact the choice of option A or B
- Administration system capabilities – as administrators we need to advise trustees if there are any constraints in this area. Whilst this may not drive the decision, it may influence how the decision is implemented and any associated costs
- Past precedents – trustees will need to understand past practice and the way in which this has been applied. This may necessitate a review of past actuarial and legal advice
- Member experience and transitionary issues – Members may have had past quotes and the decision may change their options and levels of benefits

- Consistency with other decisions relating to GMP for example any restrictions which apply for members who ask to take an early retirement pension

4. Glossary

Comparator Pension - describes the pension due to the member (the true pension) if their GMP benefits held for the period between 17/05/1990 and 05/04/1997 had been calculated on an opposite sex basis.

Crossover Point - A crossover point occurs when a member moves from being advantaged by their sex to being disadvantaged by their sex, or vice versa. Effectively, this means the pension in payment crosses over from being paid at their true sex rate, to being paid at their comparator rate (or vice versa).

Revision Point - A revision point is when the amount of pension being paid to a member changes. The most common revision points are:

- When the pension in payment is due to be changed as part of a periodic event under the scheme rules e.g. a pension increase
- When the true sex or opposite sex GMP is due to be paid (at age 60 or age 65)
- Some scheme structures may have other review points within their rules

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