

introduction

The judgements in the Lloyd's Bank case, summarised in my New Year 2019 pension law update, confirmed the requirement to equalise GMPs and discussed the methods that might be used, including, as method D2, converting GMPs to scheme benefits.

With a view to simplifying pensions, the government, by the Pensions Act 2007 s14 (Conversion of guaranteed minimum pensions), inserted sections 24A to 24H into the Pensions Schemes Act 1993. This legislation has hitherto been of little practical value because the government had stated during the consultation that schemes "should already have equalised their benefits, taking account of the GMP rules", but before the Lloyd's Bank case there had been no guidance on equalisation.

On 18 April 2019 the DWP published its *Guidance on the use of the Guaranteed Minimum Pensions (GMP) conversion legislation*, in which, in section 4 (An outline of the DWP methodology) it set out the 10 stage process which "results in the adjustment of an individual's benefits to compensate for post 16 May 1990 GMP inequalities as well as conversion of all the the individual's GMP".

I summarise and comment on the key elements in each stage likely to be relevant to relatively small schemes.

Stage 1 – Reach agreement with the employer

The trustees agree with the employer in relation to the scheme that GMP conversion is to be undertaken. Check whether the consent requirement applies to participating employers.

Stage 2 – Select the members for conversion and agree which benefits are to be converted and the form of the new benefits.

Selecting the members

The GMPs, which are benefits accrued for pensionable service from 6 April 1978 to 5 April 1997, of some or all the members may be converted and those converted need not be converted at the same time. If however the purpose of conversion is not only the equalisation of GMPs but also the simplification of the scheme's administration or preparation for a buy-out, there is probably no reason not to convert all the GMPs and do them all at the same time.

Agreeing the benefits to amend as part of the conversion process

It is likely that all GMPs will be converted. In the course of conversion it will be necessary to alter all or some of members' non-GMP benefits. The guidance refers to the benefits as "benefits for conversion" or the "post conversion benefits".

There will be no need to equalise rights (GMP and scheme) for service before 17 May 1990, which can remain unequal.

Deciding the form of the post conversion benefits

The post conversion benefits:

- must be actuarially at least equivalent to the pre conversion benefits;
- must not include money purchase benefits, apart from those provided under the scheme immediately before the conversion date;

Roderick Ramage

BSc(Econ) solicitor

authorised and regulated by the Solicitors' Regulation Authority number 231800

Copehale, Coppenhall, Stafford, ST18 9BW

01785-223030, roderick.ramage@law-office.co.uk, www.law-office.co.uk

- must include survivors' benefits in accordance with the provisions of the 1993 Act and regulations; and
- for pensions in payment, the amount of pension to which a member had an immediate entitlement before the conversion must not be reduced as a result of the conversion.

Revaluation and indexation

Once conversion has taken place, the GMP rules (including the GMP revaluation and indexation requirements) will not apply to the converted benefits. "Normal" revaluation and indexation will apply to all (including converted) benefits.

Stage 3 – Set the conversion date

The trustees and the employer agree the date at which conversion is to be effected ("conversion date").

Stage 4 – Pre conversion consultation

The trustees then write to the members (or, if not all, the selected members) to inform them of the proposed conversion and seek their views.

Stage 5 – Valuation

The scheme actuary values for each member, calculated as at the conversion date:

- "amount A", the member's and survivor's benefits for pensionable service during which the GMP to be converted accrued; and
- "amount B", which is the same, but assuming that from 17 May 1990 (but not before) the member were of the opposite sex.

Stage 6 – Equalisation

"Equalisation" would be achieved by using a conversion value for each member which is the higher of amount A and amount B.

Stage 7 – Conversion – determining the post conversion benefit

Having determined the conversion value for each member in accordance with Stage 6, it is then necessary to turn it back into a revised pension benefit, using an approach consistent with the Stage 5 valuation.

Stage 8 – Certification

The actuary will certify to the trustees, not later than three months after the calculations have been completed, that they have been completed and that the post conversion benefits are actuarially at least equivalent to the pre conversion benefits as equalised for the effect of GMPs.

Stage 9 – Modification of scheme to effect conversion

The trustees may resolve to effect the conversion on the agreed basis, or alternatively, use the scheme's amendment power to enable GMP conversion.

Stage 10 – Post conversion notifications

The trustees must take all reasonable steps to notify the members and survivors, whose benefits have been converted, either in advance or as soon as reasonably practicable after the conversion date. They should be told what this means in terms of the amount and the shape of the benefit going forward. The date on which any benefits in payment will change (or have changed) should be included in the notice.

Currently HMRC also needs to be notified on or before the conversion date that the individual's GMPs have been or will be converted.

END