

Pensions law team - November 2018

## Pensions law team GMP equalisation – an answer to a thirty-year-old question?

A question frequently kicked into the long grass by the pensions industry was whether guaranteed minimum pensions (**GMP**) had to be equalised between male and female members. If so, how? In the *Lloyds Banking Group* judgment, the High Court has confirmed that equalisation must be carried out, and provided some guidance on how to achieve this. That is not to say the issue does not remain complex and certain questions have been left unanswered.

### The problem?

Since the European decision of *Barber* in May 1990, it has been established law that male and female members should receive equal benefits under an occupational pension scheme. Certain occupational pension schemes that were contracted-out of the state pension provided GMPs. Under legislation, GMP accrual is uneven for male and female members as:

- women are entitled to their GMPs at age 60, whereas men are not entitled to theirs until age 65; and
- GMPs usually accrue more quickly for female members.

This inequality was at odds with the *Barber* decision but, given that GMPs are governed by legislation, it was also not clear if the *Barber* decision applied to this element of members' pensions. This was a problem that most schemes put aside.

### The answer – the general principle

Following the *Lloyds Banking Group* judgment, this issue can no longer be ignored by schemes. The decision makes clear that the differentials in scheme benefits as a result of the inequalities in GMPs cannot be justified.

## The answer – but how?



## Questions unanswered

The decision has left a few points unanswered. In particular:

### Transfers out

Whilst the judgment highlighted the obligation on schemes to equalise in respect of transfers-in that they have received, the treatment of previous transfers-out was not determined. Current and new transfers should be equalised.

### De minimis

It is unclear if, and how, a de minimis threshold can be applied given the significant costs likely to be involved in the equalisation process.

## Next steps

This decision was a long time coming for many in the pensions industry. However, now that it has arrived its impact on funding and administrative practices is likely to be significant. Communications between trustees and employers, and with members, will be key. Both employers and trustees should consider contacting their advisers sooner rather than later to start what will, inevitably, be a complex process.

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