

Summary

- On 17 May 1990, the European Court of Justice held in the *Barber* case that it was discriminating for pension schemes to provide different retirement ages for men and women.
- There is still a degree of uncertainty within the industry about the requirements and/or method for equalising GMP. The DWP's 2012 approach was slated for being administratively complex and unnecessarily generous.
- Issues for the delay include costs and its political consequences, other pensions legislation taking priority, GMP equalisation not being high on the Pensions Minister's agenda and members being unaware of the exact meaning of the equalisation process.
- The Pensions Ombudsman in *Campden R.A. Pension Scheme - PO4579 - July 2015* said however that in his view the trustees of that scheme should continue to defer to equalise GMPs until the requirement for and mechanism by which GMP should be equalised has been resolved.
- Industry experts have advised schemes to use technology alongside the skill sets of pension data expert staff to complete the reconciliation and equalisation processes.

Fail to prepare, prepare to fail

➤ **The introduction of the single-tier state pension from April 2016 will bring about the end of contracting out for DB schemes, triggering a requirement for schemes to reconcile their contracted-out membership and GMP records with HMRC. Adam Cadle examines why this process is such a tangled web**

On 17 May 1990, the European Court of Justice held in the *Barber* case that it was discriminating for pension schemes to provide different retirement ages for men and women. Schemes were therefore required to equalise benefits. But why is the Guaranteed Minimum Pension (GMP) equalisation process taking so long to finalise?

“One answer is that *Barber* never meant GMP specifically and there are those who argue that GMP is only a method for calculating whether the

pension itself meets the minimum required and that GMP is not itself a separate pension that needs to be equalised separately,” Charles Russell Speechlys senior associate Lee Colgate states.

There is therefore still a degree of uncertainty within the industry about the requirements and/or method for equalising GMP.

“The DWP has not yet legislated, although it did produce draft regulations in 2012, to give a statutory footing to that requirement. Some might say that itself speaks volumes,” Colgate adds.

“An ill-fated Jack and Jill approach”

Perhaps more meaningfully, uncertainty over the method for equalising GMP means any steps taken now could be open to challenge in the future and trustees and employers want certainty before they incur what could be significant costs. Barnett Waddingham's head of pensions research Tyron Potts describes the DWP's 2012 equalisation attempts as an “ill-fated Jack and Jill approach” as it was “slated for being administratively complex and unnecessarily generous”.

“Whilst equalising GMPs is a significant exercise, it has been carried out by the PPF's panel of actuarial firms with minimal fuss and without delaying transfers to the PPF,” Potts outlines. “A pilot study and the PPF's lengthy guidance (186 pages) has led to a standardised and well-documented process that may well be used as a starting point for developing an approach in future for ongoing and closed schemes, although differences between full benefits and PPF benefits



mean that significant adjustments to the method would likely be required.”

Four main reasons have sprung up as to why the DWP has not yet legislated. Firstly issues around cost and its political consequences. GMP equalisation increases schemes liabilities and admin costs. In a time of fragile economic recovery and global economic uncertainty, a statutory requirement to equalise would be as welcome as the cuts to tax credits. Secondly, there have been a number of significant changes to pensions legislation over the last few years, which have taken up parliamentary time and the focus has been on increasing the tax intake in respect of pensions, with GMP equalisation doing nothing to further this. In addition Minister for Pensions Ros Altmann has built a reputation as a champion of consumer rights and there is lots of work to be done in view of all the recent changes. Her focus is likely to be elsewhere in the near future. Finally, inertia is also an issue. Members are unaware as to the exact meaning of GMP, let alone the idea of it being equalised.

“It has been more than a quarter of a century since *Barber*, and almost 18 years since GMPs stopped accruing,” Potts adds. “Some schemes are still grappling with having not equalised overall benefits properly in the mid-1990s, and so I wouldn’t be surprised if we are still pondering this issue for several years yet.”

Expenditure

So how will GMP equalisation affect pension scheme liabilities and admin costs? There have been some responses around GMP cost figures from several industry bodies. The PMI issued a response to the DWP’s 2012 consultation in which it estimated the overall cost of

GMP equalisation to UK occupational pension schemes could be as high as £20 billion. The Association of Consulting Actuaries (ACA) also issued a response in which it estimated around £13 billion of extra costs. Furthermore, it estimates implementation costs of £75,000 per scheme in the UK for the DWP’s preferred methodology.

“A preferred approach would be a one-off actuarial equivalence approach which would give immediate certainty of costs but this seems unlikely in view of the DWP’s 2012 plan,” Colgate argues. “An officially sanctioned one-off calculation would also make GMP conversion into ordinary scheme benefits a more attractive and risk-free proposition, and would help keep administration costs down.”

JLT Employee Benefits argues that “without knowledge of how GMPs should be equalised it is very difficult to quantify the time and therefore cost involved in achieving this”.

“This is another reason to undertake the reconciliation now rather than delay.”

Amidst this tangled web of reconciliation and equalisation, trustees unsurprisingly at tenterhooks as to what to do next. What should they be doing at this stage and are they doing enough?

“Most trustees have yet to focus on GMP equalisation as they are so busy with more imminent issues,” ITM director John Broker comments. “One of those issues is reconciling GMPs due to the cessation of contracting out and that is of course a priority as GMPs ought to be accurate before they can be properly equalised. Trustees should be ensuring their reconciliation is going to plan and also take soundings on what the likely outcome of the DWP equalisation method might look like and the funding costs.”

The current Pensions Ombudsman shares the view of many trustee bodies however, that actually doing nothing, for now at least, is the only appropriate course of action. The Ombudsman in the *Campden R.A. Pension Scheme* –

PO4579 – July 2015 said that in his view the trustees of that scheme “can continue to defer taking action to equalise GMPs until the requirement for and mechanism by which GMP should be equalised has been resolved”.

The Pensions Regulator’s drive to improve the quality of member records held by trustees has seen far more attention paid to the way in which records are held and used, not just as the point when the data is cleansed, but in the way it is handled going forward. This push should no doubt help reconciliation and equalisation processes.

“For both processes, standard pension administration systems used by TPAs are not sufficient,” Broker points out. “Trustees should ensure that appropriate expertise is deployed to undertake these projects, perhaps utilising the powerful interrogative data tools available from independent data experts. Technology can help but the intuitiveness and skill sets of pension data expert staff will also be a factor critical to cost effectively achieving these projects.”

Sink or swim

With the deadline for reconciling GMPs falling on the 6 April 2016, some might argue that the future doesn’t look too bright given the issues already outlined.

“Those that fail to do this will not be able to reconcile their GMPs at all but will, at some point, have to equalise them,” Broker warns.

“We shall see under- and over-payments not being addressed and this will continue to escalate where schemes have not reconciled their GMPs. Also schemes that have failed to reconcile their GMPs will ultimately end up equalising an incorrect base GMP value, thus further compounding the problem.”

Schemes could well be facing an army of unhappy members, if preparations are left too late.

✉ Written by Adam Cadle