

# alert

## PPF APPROVES GMP EQUALISATION SOLUTION

### 1 INTRODUCTION

Following a consultation back in April 2008, the Board of the Pension Protection Fund (PPF) has finally outlined how it intends to equalise compensation between men and women, to address any inequalities arising from their entitlement to guaranteed minimum pensions (GMPs).<sup>1</sup>

In this Alert, we summarise the PPF Board's chosen method, and consider the potential knock-on effect for occupational pension schemes in general.

### 2 KEY POINTS

- When a scheme with GMPs enters a PPF assessment period, benefits for men and women will be compared. Members will then receive the higher overall level of pension of the two (see section 4).
- Further work will be undertaken by the PPF Board to determine how GMP equalisation will be implemented in practice (section 5).
- The PPF announcement does not impose any new obligations on trustees of ongoing schemes but may be another relevant factor to take into account when considering equalising GMPs (section 6).

### 3 BACKGROUND

The method for calculating GMPs is set out in legislation and is different for men and women because GMPs are based on unequal state pension ages (60 for women, 65 for men).

<sup>1</sup> Published on 29 October 2009, the PPF's response to its April 2008 consultation can be accessed here:

[http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/GMP\\_Oct2009.pdf](http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/GMP_Oct2009.pdf)

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However, under section 171 of the Pensions Act 2004, the PPF is required to pay compensation on a basis that is no more or less favourable to a woman (or man) than it would be to a comparable man (or woman) in respect of service on or after 17 May 1990.<sup>2</sup> In meeting the Pensions Act 2004 requirement, the PPF Board has received legal advice that it must take into account any differences in scheme benefits between men and women arising from GMPs.

The PPF Board therefore began a consultation in April 2008,<sup>3</sup> with the aim of ascertaining what steps it would be appropriate to ask trustees to take, to enable the PPF Board to meet its obligations under section 171. The consultation put forward four alternative methods for achieving benefit equalisation for GMPs.

### 4 THE CHOSEN ONE

The PPF Board has now confirmed that it will adopt its preferred solution, under which members will receive “the higher of the (overall) pensions payable to two individuals who are equal in every respect except that one is male and the other female”.

Benefits in respect of past GMP-related payments, accrued rights (plus revaluation) up to the assessment date will need to be equalised. As all PPF compensation is revalued using the same formula once a scheme is admitted to the PPF, revaluation does not vary between men and women or between GMP and other elements of benefit.

The proposals apply to any scheme in a PPF assessment period which was contracted-out of the State Earnings Related Pension Scheme on a GMP basis for those members who have entitlements which accrued on or after 17 May 1990.

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<sup>2</sup> The date of the judgment in *Barber v Guardian Royal Exchange* (ECJ Case C-262/88), which established that occupational pension benefits were pay and therefore pension scheme trustees had to ensure that benefits accrued after that date did so on an equal basis for comparable men and women

<sup>3</sup> Consultation on the requirement under section 171 of the Pensions Act 2004 to equalise compensation to allow for differences in the GMP formula:

[http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/gmp\\_consultation\\_april\\_2008.pdf](http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/gmp_consultation_april_2008.pdf)

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## **PPF APPROVES GMP EQUALISATION SOLUTION**

### **5 NEXT STEPS**

Before its solution can be implemented, the PPF Board needs to address the calculation requirements for the different categories of members involved, and finalise some associated outstanding issues. We can therefore expect to hear more from the PPF on the subject of GMP equalisation.

### **6 WIDER IMPLICATIONS?**

The PPF Board has confirmed its belief that, while its decision “potentially has a wider significance for all schemes”, it does not seek to impose any new obligations on trustees of ongoing schemes.

In its response to the consultation, the PPF Board notes that it has had discussions with the Department for Work and Pensions (including the possibility of excluding GMPs from the ambit of section 171). But the DWP “did not consider it appropriate to make such a change to the legislation at this time”.

Whilst the PPF has decided that it cannot delay implementation of GMP equalisation, it is possible to draw a distinction between PPF compensation (such as how it is funded and the level of benefit it provides) and benefits payable either under ongoing occupational pensions schemes or those winding-up outside the PPF. The PPF’s approach is therefore simply another relevant factor for ongoing schemes (and those winding-up outside the PPF) to take into account when considering the thorny issue of GMP equalisation.