



GMP EQUALISATION WORKING GROUP Guidance Note on Methods

Equalising for the Effects of Guaranteed Minimum Pensions

Version 1.0 - September 2019

GMP Equalisation – Methods Guidance

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This Guidance Note forms part of a series of notes offering guidance to UK pension schemes on principles for adjusting benefits earned in the period 17 May 1990 to 5 April 1997 to correct for the inequalities of GMPs. The High Court's decision in the Lloyds Bank case requires schemes to equalise benefits and approved a range of methods that could be adopted. However, given the complexity of the subject the Lloyds Bank case could not deal with all issues that can arise in an equalisation project.

Most schemes will want to implement equalisation projects as soon as reasonably practicable and this Guidance Note has been prepared to help them do so in a practical and pragmatic way. It suggests 'good practice' approaches to deal with a number of common issues not addressed by the High Court.

This Guidance Note is not a definitive guide to the issues nor is it a substitute for professional advice. It has been assumed:

- Readers will have a working knowledge of GMPs and why they can produce unequal benefits between male and female members.
- Readers will be familiar with guidance issued by the Department for Work and Pensions¹ on how GMP conversion may be used as part of an equalisation project.

It is recommended employers and trustees work collaboratively involving scheme administrators and advisers as appropriate.

It is intended to update this Guidance Note to reflect changes to the law, official guidance or industry practice. This version is based on current understanding of the law, guidance and practice as at September 2019.

Separate Guidance Notes will be published by the GMP Equalisation Working Group to cover:

- Data issues
- Impacted Transactions
- Tax issues
- Reconciliation and Rectification of GMPs

All of the Guidance Notes together with the GMP Equalisation Working Group's Call to Action are available on-line at www.pasa-uk.com.

¹ <https://www.gov.uk/government/publications/equalising-pensions-for-the-effect-of-unequal-guaranteed-minimum-pensions/guidance-on-the-use-of-the-guaranteed-minimum-pensions-gmp-conversion-legislation>

1. Introduction

1.1. The Lloyds Bank case and unanswered issues

Since the Lloyds Bank judgment was issued in October 2018 schemes which were contracted out have known they need to equalise for the effects of GMPs. Whilst the judgment approved some methods for schemes to achieve equality, a number of ancillary issues arising in implementing an equalisation project remain unresolved. The complexity and cost of going to court, coupled with the modest financial impact for most members, means these ancillary issues may never be subject to judicial scrutiny and therefore could remain unanswered by the Courts.

When schemes take steps to equalise benefits for the effects of GMPs they will need to address many of these unanswered issues. To assist, this Guidance Note sets out suggested approaches schemes may wish to adopt to address common unanswered issues.

In preparing this Guidance Note the GMP Equalisation Working Group has deliberately adopted a proportionate and pragmatic approach – suggesting approaches which are considered to be 'good practice' for schemes to adopt.

1.2. GMP Equality

The aim of a GMP equalisation project is to make sure a member with a GMP relating to contracted out pensionable service during the period 17 May 1990 to 05 April 1997 receives benefits which are not less than those that would have been provided had the member been of the opposite sex during this period. In this Guidance Note this is referred to as achieving 'GMP Equality'.

Whilst achieving GMP Equality sounds simple, in practice there may be complexities caused by:

- The requirements of legislation governing GMPs and making them inherently unequal as between the sexes.
- Missing or incomplete data.
- The need to identify that part of each member's benefit relating to the period 17 May 1990 to 05 April 1997 (both GMP and excess) and to construct those benefits that would be payable to an opposite sex comparator in respect of this period.
- Individual scheme benefit structures and how they treat members' GMPs and benefits in excess of GMP.
- Potential tax implications.

It is recognised schemes may feel a sense of frustration at having to incur additional administration and adviser costs to make what will be, for most members, relatively modest changes to the value of benefits. The prime aim of the GMP Equalisation Working Group is to help schemes achieve GMP Equality in a cost efficient and pragmatic way, in compliance with known legal requirements.

1.3. Future Developments

The High Court is still to hear a further instalment in the Lloyds Bank case which will consider how to treat transferred out benefits for GMP Equality purposes. HMRC is understood to be preparing guidance on how adjustments to benefits arising as part of an equalisation project should be treated for pension tax purposes.

It is expected most schemes will choose to wait for the publication of HMRC guidance before implementing an equalisation project. However, there may be some schemes, such as those in winding up, which will need to achieve GMP Equality before then.

Even though it may be some time before schemes can achieve GMP Equality, schemes should start to prepare and consider taking the steps referred to in the GMP Equalisation Working Group's Call to Action².

The intention is to issue updated versions of this Guidance Note as and when there are material developments.

1.4. Data and tax implications – separate Guidance Notes

Achieving GMP Equality will require schemes to recalculate benefits already paid over periods potentially spanning 30 years. This raises significant issues around the availability of data. As mentioned, a separate Guidance Note will be published by the GMP Equalisation Working Group providing guidance to schemes on how to address these issues.

Adjustments to benefits to achieve GMP Equality and the payment of arrears of past underpayments, whilst modest in most cases, may create tax implications which, again, will be the subject of a separate Guidance Note by the GMP Equalisation Working Group and, it is understood, HMRC guidance.

1.5. Member communication and engagement

GMP equalisation is a detailed subject. Whilst it is likely few members will wish to engage in the detail, schemes should pay attention to communications with their members. Members will need to understand the impact of any changes to their benefits and be given confidence adjustments have been correctly made.

A number of schemes have already issued interim communications to members to inform them:

- The scheme is considering the implications of the Lloyds Bank case and will decide, in due course, how GMP Equality is to be achieved.
- Not all members' benefits will be affected by GMP Equality and for those who are, in most cases, any increase is likely to be modest.

² <http://www.pasa-uk.com/system/files/GMPEWG%20Call%20to%20Action%20template%20FINAL.pdf>

As mentioned below, there is a possibility in some (perhaps rare) cases, depending on the method used to achieve GMP Equality, a member's pension in payment could be reduced - although were this to be the case the member will receive an arrears payment for past inequalities.

If GMP Equality is to be achieved using a year by year³ approach schemes may wish to consider implementing any changes as part of the annual pension increase, communicating to members at that time (explaining the scheme has achieved GMP Equality and giving details of any revision to the member's pension as a result). Some schemes may for operational or other reasons decide to implement GMP Equality changes outside of the annual increase.

Where GMP Equality is to be achieved using the statutory conversion process it is necessary to consult with the affected members before conversion. The level of consultation (and resulting member engagement) is likely to vary depending on the extent to which members' benefits are to be reshaped as part of the conversion process.

1.6. Worked examples

Worked examples are included in the Appendix to this Guidance Note. These have been designed to demonstrate how GMP Equality might be achieved using different methods and how past underpayments could be calculated.

All of the worked examples use the same individual member (called 'Mark') who is a male born on 30 July 1944. Mark joined the scheme on 01 January 1978 and left on 01 January 2000. His deferred pension at the date of leaving was £17,500 (inclusive of a GMP, pre and post 88, of £3,792.36). Mark's scheme revalues GMPs at the fixed rate and excess on the statutory basis. Pensions in excess of GMPs are increased in payment in line with RPI capped at 5% pa and GMPs in payment are increased as required by legislation.

The worked examples illustrate the various ways in which Mark's benefits could be adjusted either using year by year approaches or by using GMP conversion to achieve equality. In one case (retirement from deferred status at 62 unreduced) Mark is disadvantaged and would receive arrears and an uplift. However, in another case (retirement from active at 55) Mark would be advantaged overall compared to his Comparator⁴.

Further worked examples may be issued with updates to this Guidance Note.

1.7. Sections of this Guidance Note

The remainder of the Guidance Note is divided into the following sections:

Section A – Correcting past underpayments

Section B – Approaches for equalising future benefit payments

Section C – Common unanswered issues

³ Otherwise referred to as 'dual record' or 'dual payroll'

⁴ See Section 2.5 for definition of Comparator

2. Section A – Correcting Past Underpayments

2.1. Introduction

Prior to the Lloyds Bank case very few schemes adjusted benefits to achieve GMP Equality. This was mainly because until the judgment, schemes were not certain equality was required and, if so, how it should be achieved. Schemes winding up would sometimes make adjustments to address GMP inequalities although much would depend on the funding position and status of the sponsor. In 2011, the Pension Protection Fund (PPF) adopted a method to equalise PPF compensation to reflect past GMP inequalities.

It is now clear schemes need to adjust benefits to achieve GMP Equality and this has been a requirement since the European Court's decision in the Barber case of 17 May 1990 (but only in respect of benefits earned after this date). This is subject to any applicable limitation period (see below).

The extent to which inequalities in GMPs produce unequal pension benefits will depend on a number of factors, including the specific benefit design of the scheme and the individual circumstances of each member. For example, there is unlikely to be any inequality for a member retiring from pensionable service at age 60 in a scheme providing the same pension increases on the whole pension (including the GMP). However, the member may have been treated unequally if there was a period of deferment before the pension came into payment, because of the way GMPs are revalued. In contrast, a scheme providing different increases to GMPs and excess benefits will likely produce inequality even for those who retire at normal retirement age (NRA).

All schemes undertaking an equalisation project need to review past payments and correct underpayments where necessary. This review of past payments requires a year by year approach to be adopted⁵ for all benefits which have been paid to or in respect of all members with periods of pensionable service between 17 May 1990 and 05 April 1997 (when GMPs ceased to accrue in contracted out schemes). Where a member's Comparator would have received a higher benefit then a correction payment (with interest) will be due.

2.2. Year by year approach

The year by year approach, which must be used to correct for the past, broadly requires schemes to operate a shadow pension record tracking the pension the member received against the pension the member's Comparator would have received. To create the shadow record it is necessary to go back to at least the date the member left pensionable service and then track forward comparing the benefit actually paid with the benefit which would have been paid had the member been of the opposite sex during the period 17 May 1990 to 5 April 1997.

The Court approved three different year by year approaches (referred to in the judgment as Methods B, C1 and C2). Method B compares the pension the member received each year against

⁵ It is not possible to equalise past underpayments using the statutory GMP conversion legislation

the Comparator, with the member receiving the higher of the two. Method C1 is a cumulative method and produces a lower amount of past underpayment to Method B where the member has been a '**Crossover**' member (moving from advantaged to disadvantaged over the period of retirement – or vice versa). Under Method C1, whilst the member is advantaged, a credit is built up reflecting the higher benefit than that payable to the Comparator. When the member becomes disadvantaged in relation to the Comparator this credit unwinds and only when it has been fully used up does the member's pension step up to that of the Comparator⁶. Method C2 is similar to C1 but interest is applied to the credit⁷.

2.3. Which year by year method

Schemes will need to decide on the year by year method to be used to correct past underpayments. It is expected the decision will be made in conjunction with the employer⁸. A number of factors may be relevant, including:

- Impact on scheme liabilities – this will depend on the benefit structure of the scheme and the proportion of Crossover members.
- The number of members affected – for example, if there are no Crossover members in the scheme there should be no difference for members between the three Methods.
- Administration costs - Cumulative methods (such as C1 and C2) involve more complex administration and are likely to be more costly to implement.
- Ease of member communication.

2.4. Illustration of methods – crossover members

Not all members will be Crossover members. Much depends on factors which are both scheme and member specific (such as age at retirement, period of deferment and pension increase rates).

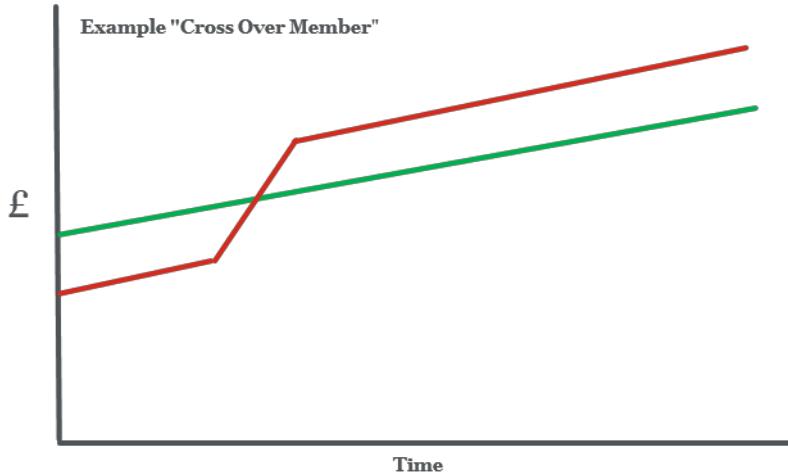
The charts below illustrate how the different year by year Methods (B and C1/2) would apply to a Crossover member.

The first chart shows the benefit the member (red line) would receive without any GMP Equality and compares it with the pension payable to the Comparator (green line). This shows the member is initially disadvantaged but then becomes advantaged at a later date.

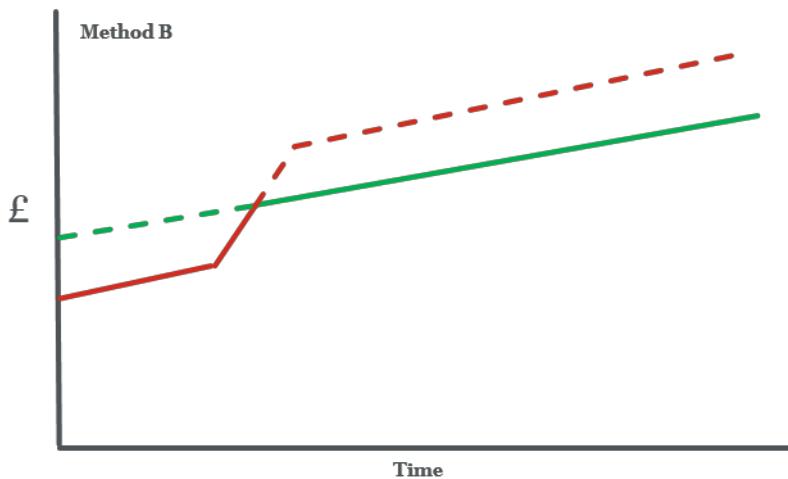
⁶ Where there is a forfeiture rule (see below) credits for past periods have to be restricted to the forfeiture period

⁷ Interest should be at the same rate as is applied to compensate for past underpayments (see below)

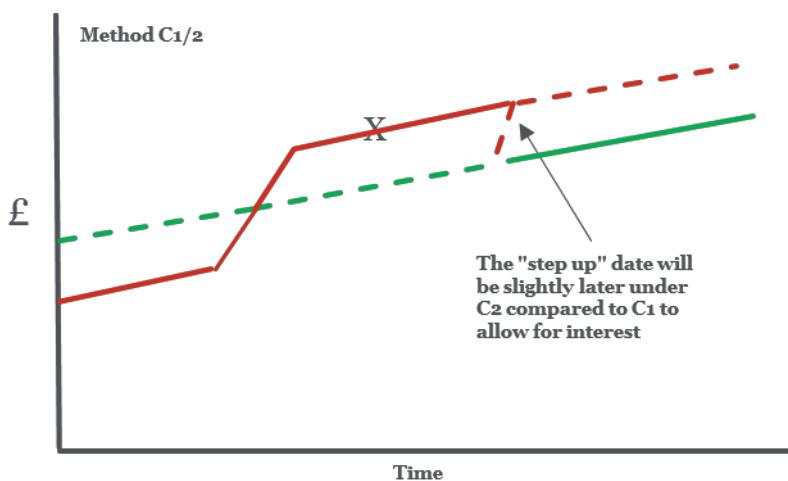
⁸ Method C2 is the only one available without employer approval



This second chart shows how Method B would operate. The member would receive benefits calculated according to the dotted line – starting off on the higher (green) level and then reverting to the (dotted) red line at the point of crossover.



A cumulative approach (Method C_{1/2}) is illustrated in the next chart. The member's pension would again be adjusted to follow the dotted line – so would be higher initially. However, the pension does not step up until later – once the credit for earlier higher payments has been used up. Once the credit has expired (with interest under Method C₂) the pension would revert to the member's (advantaged) level.



An issue arises for schemes adopting a cumulative Method where GMP Equality is implemented after a Crossover member has moved from disadvantaged to advantaged status. In some cases, the member will be entitled to a payment for past arrears⁹ but the member's pension in payment needs to be reduced to that of the Comparator's. For example, if GMP Equality is implemented for the member in the chart above at point X, he would be entitled to arrears for past underpayments (net) but then his pension should be reduced down from the solid red line to the dotted green line. In practice, the level of the reduction may be modest and might be covered by a normal annual increase to the member's pension (assuming GMP Equality is implemented to coincide with annual increases). Schemes wishing to cushion any reduction by freezing the pension at current levels should seek advice as to whether this might itself create discrimination issues.

Where GMP conversion is used to achieve GMP Equality, legislation does not permit the pension in payment to be reduced. This is covered further in the Department for Work and Pensions (DWP) guidance¹⁰ which suggests the Actuary may take into account arrears paid to the member when assessing the actuarial value of any uplift required for GMP equalisation.

2.5. The Comparator

Equality laws require a comparator (in this case of the opposite sex to the member) is used to determine whether there has been any unlawful discrimination. The parties in the Lloyds Bank case agreed there was no need for an actual opposite sex comparator for GMP Equality purposes so the Court did not decide whether this is necessary.

In reality, it is very unlikely there would be an actual opposite sex comparator to any member of a scheme, regardless of its size. This is because an actual, real life, comparator would need to be of the opposite sex and to have (amongst other things) the same date of birth, the same joining/leaving dates and an identical earning history to the member.

Given the lack of any real actual opposite sex comparators, to achieve GMP Equality, schemes will need to create hypothetical opposite sex comparators for each member and compare the benefit the member accrued in the period 17 May 1990 to 05 April 1997 (both GMP and excess) against the GMP and excess the member would have enjoyed had they been of the opposite sex. In this Guidance Note the hypothetical opposite sex comparator is referred to as the "**Comparator**".

When considering the Comparator for a pensioner member it should be assumed the Comparator would have exercised the same options (e.g. early retirement, commutation etc.) as the actual member, even where this may not have been possible for the Comparator at the relevant time.

In the rare case of a scheme which has only ever had members of one sex the trustees should seek specific legal advice as to whether there is a need to equalise for the effects of GMPs. It is understood the DWP considers there is no need for a Comparator given the European Court's decision in the Allonby Case.

⁹ It is considered 'overpayments' post crossover can be netted off against past 'underpayments' unless they are outside any forfeiture period in the scheme rules

¹⁰ Paragraph 5.6 of the April 2019 Guidance

2.6. Membership Categories

When addressing past underpayments schemes will need to consider the following categories of members:

- a) Pensioners in receipt of benefits who have only ever been advantaged compared to their opposite sex Comparator. No correction of past payments is needed for this category.
- b) Pensioners in receipt of benefits who have always been disadvantaged and require a correction.
- c) Pensioners who have crossed over from being disadvantaged to advantaged (or vice versa). The calculation of past underpayments will depend on whether the scheme adopts a cumulative approach.
- d) Survivors¹¹ in receipt of benefits following the death of a member (whether active, deferred or pensioner) – they may or may not have been disadvantaged in the past (and the deceased member may too have been disadvantaged if they died in retirement).
- e) Former members who took a transfer value from the scheme or whose benefits were secured by an individual annuity in the name of the member.
- f) Other 'No Further Liability Cases' where the scheme has finished paying any benefits such as following:
 - payment of trivial lump sums;
 - the death of a member/survivor with no further benefits payable; and
 - payment of serious ill health lump sums where no survivors' pension is payable.

There will be no need to consider deferred or active members for underpayments as their benefits have not yet come into payment. They however will need to be considered for equalisation going forward (see Section B).

2.7. De Minimis cases

There will be a cost associated with identifying each person in these categories and in calculating whether they have been disadvantaged. Not all cases will require a correction payment as the member may always have been advantaged. For a significant proportion of those cases requiring correction the amounts will be modest. This raises two issues, namely:

- Can schemes choose not to make any adjustment to a member's benefit if it is considered the adjustment is below an agreed tolerance level (referred to as de minimis cases)?
- Do schemes need to review all No Further Liability cases?

It is suggested schemes will not want to adopt any de minimis tolerance levels where a benefit is currently in payment. The rationale for this is:

¹¹ Survivors include children and financial dependants even though their benefits do not include a GMP element

- To determine whether a member is disadvantaged and if so whether the benefit is within the tolerance level will typically require most of the administrative work to take place. There is unlikely to be any significant cost saving for schemes in not proceeding to adjust the member's benefit.
- Having calculated the adjustment, the cost of putting the corrected benefit into payment should be minimal and could be part of the next annual pension increase exercise (together with a one off lump sum for past payment).

It is recognised some schemes may wish to apply de minimis levels. If they do, they should take advice.

The position for former members who transferred out and for No Further Liability cases might be distinguished and is discussed below.

2.8. Past Transfers Out

The concern with transfers out is a member may have been entitled to a higher transfer value had the scheme equalised for the effects of GMPs prior to calculating the transfer value. This will only apply where the member would be in a disadvantaged category compared to their Comparator (which may not be clear at the point of calculation).

Whether or not schemes now need to revisit those calculations (if sufficient data exists) is a matter subject to a further Court hearing involving the Lloyds Bank schemes.

Schemes wishing to undertake a GMP Equality exercise may decide to do so for members and survivors but not to address past transfers out until the legal position is clearer. Former members who have transferred out are a discrete class and should not prevent or delay GMP Equality being implemented for remaining members. After the Court has provided judgment on transfers out further guidance will be issued.

2.9. No Further Liability cases

Not all No Further Liability cases will require an adjustment to achieve GMP Equality as the member may have been in the advantaged category. There are also significant practical issues in dealing with No Further Liability cases:

- Data may not exist – including the name of the former member, let alone their benefit (split between GMP and Excess).
- Where data is available and a calculation shows the member was in a disadvantaged category, it may prove impossible or disproportionately expensive to trace the member or the member's estate/next of kin to pay what may be a relatively small sum.
- There could be tax complications with paying corrections, particularly in operating PAYE where the member has died.

In addition to operating any limitation period (see below) schemes may decide not to incur costs in trying to review and if necessary correct some or all No Further Liability cases. The decision would

need to be taken by the trustees (in conjunction with the employer) and would be a 'commercial' decision. Taking such a decision would not extinguish any GMP Equality liability in respect of the former member because the scheme has a legal obligation to provide the correct level of benefit. Accordingly:

- If a No Further Liability member, or their personal representatives, were to come forward the scheme may then be required to calculate and correct any GMP inequalities, if data is available.
- When the scheme subsequently winds up steps could be taken to cover the potential liabilities for No Further Liability cases. It may be insurance products will become available to give schemes comfort if claims were to arise post wind up the benefit would be covered. Alternatively, a further cost/benefit analysis could be carried out at this point and advice taken as to the appropriate course of action.

Schemes which decide not to review No Further Liability cases might consider sending a communication to the last known address of the member (or, for recent deaths, the person who informed the scheme of the death) to ask the former member or next of kin to contact the scheme administrator. Where contact is made the scheme may decide to perform the calculation and correct any past underpayment.

2.10. Limitation periods and Forfeiture rules

The Lloyds Bank case held there was no overriding statutory limitation period. This means unless the scheme has a specific forfeiture rule, corrections to benefits need to be made back to the early 1990s – although see comments above about No Further Liability cases.

Where a scheme has a forfeiture rule it may limit the need to correct past underpayments, much will depend on the precise wording of the rule. Even if there is a forfeiture rule it is still necessary to go back to the day the member left pensionable service to recalculate the Comparator's benefits and to calculate any past underpayment (even if back payments are limited by the rules)¹².

Legal advice will need to be taken as to the effect of any forfeiture rule. The precise wording of the rule may mean forfeiture is either automatic or is subject to a discretion (trustee or employer) or only applies in certain circumstances (such as where a member could not be traced). Some rules also allow for forfeited benefits to be reinstated on a discretionary basis. There may also be a question as to whether a forfeiture rule introduced after the scheme was established was validly introduced.

Some schemes have agreed to 'stop the clock' so any limitation period does not apply to periods after the first Lloyds Bank judgment. This avoids members being adversely affected by delays in achieving GMP Equality.

¹² Where a cumulative year by year method is used for calculating past underpayments (i.e. Method C1 or C2), any payments made before the start of a limitation period should not be used to offset payments arising thereafter

2.11. Interest on past underpayments

Where an underpayment is due because of GMP inequalities the scheme will need to include interest to compensate for the delay in payment. In the Lloyds Bank case interest on past underpayments was set at 1% over bank base rates on a 'simple' (rather than compounded) basis.

It is likely, unless the rules prescribe a particular interest rate, schemes will follow the approach adopted in the Lloyds Bank case and award simple interest at 1% over bank base rates on past underpayments¹³. Given bank base rates over much of the period and the modest amounts for many members, the amounts of interest are likely to be small in most cases.

2.12. Correcting past underpayments – worked example

By way of illustration, in the first worked example (retirement from deferred at age 62), Mark's pension at April 2020 (immediately before the scheme implements GMP Equality and the 01 May 2020 increase) would be £29,521.54 pa. His Comparator would have been in receipt of a slightly higher pension at the same date of £29,801.91.

In this example Mark's pension came into payment in 2006 and he would be entitled to a payment for past underpayments over those 14 years of £3,395.92, plus interest¹⁴.

Once a scheme has calculated past underpayments it will be ready to compensate members for any past inequality and take steps to equalise pensions going forward (dealt with in the next section).

2.13. Lack of opportunity cases

There will be cases where a member's options in the past have been restricted to ensure the benefit paid at least covered the member's GMP at their GMP Age¹⁵ (for example prohibiting early retirement on a reduced pension or restricting a lump sum commutation payment). In practice it will not be possible to compensate the member for the loss of these opportunities even though they would have been available to a Comparator.

¹³ The same level of interest should be applied where the scheme operates an accumulation with interest 'C2' year by year approach

¹⁴ The worked example does not seek to add interest – applying interest at 1% over base rates simple is not a simple task

¹⁵ GMP Age is fixed by legislation as 60 for females and 65 for males

3. Section B – Approaches for equalising future benefit payments

3.1. Overview of methods

The High Court considered and approved two main approaches which may be used by schemes to achieve GMP Equality for the future. These are by:

- Adopting a year by year method; or
- Converting the GMP and equalising benefits on an actuarial value basis.

There may be other methods not considered by the Court or this Guidance Note which might be used to achieve GMP Equality¹⁶.

Section A explains how the various year by year methods operate so this Section B mainly focuses on how schemes might achieve GMP Equality through conversion¹⁷.

3.2. Deciding on which approach to adopt

There is no 'one size fits all' approach. Each scheme will need to consider and decide which approach best suits its needs. There are pros and cons with each approach. For example, there could be higher implementation costs in running a conversion exercise but after it is completed there should be administration and other savings compared to operating a year by year approach.

Legislation allows schemes to 'reshape' benefits¹⁸ as part of a GMP conversion exercise (although pensions in payment cannot be reduced as a result of the conversion). Reshaping may allow schemes to simplify their administration and exchange future increases for an immediate uplift to the pension in payment (sometimes referred to as a PIE exercise). Reshaping may also lead to a benefit structure which, in due course, is easier to insure possibly for a lower premium.

When considering which approach to apply schemes should consider the likely pension tax consequences and how adjustments and payments of arrears would be treated. Tax will be the subject of a separate Guidance note.

3.3. Different approaches for different member categories

Schemes may wish to apply a different GMP Equality approach to different categories of members. For example, deferred members may have their GMPs equalised through a conversion process while the scheme operates a year by year approach for existing pensioners.

Operating different approaches raises a possibility members might claim they have been discriminated against based on their age. It is considered such claims, were they ever to be brought,

¹⁶ For example schemes in the public sector adopt a different approach to GMP equality

¹⁷ Conversion means that GMP requirements cease to apply to the member in their entirety, not just to that part of the GMP accrued between 17 May 1990 and 5 April 1997

¹⁸ Views differ on whether it is possible to 'reshape' benefits accrued after April 1997 as part of a GMP conversion exercise. Schemes looking to convert such benefits should take legal advice. This Guidance Note assumes reshaping is only applicable for benefits accrued prior to April 1997 (including any accrued before April 1978)

should be objectively justified but legal advice should be taken if schemes wish to adopt different approaches for different categories of members.

3.4. Lack of opportunity cases going forward

Where a scheme undertakes GMP conversion there should be no need to apply restrictions in the future (as the GMP no longer exists) so lack of opportunity cases, such as restrictions on a member's ability to retire early or restrictions on taking lump sums would not arise after conversion.

Schemes achieving GMP Equality through a year by year approach will need to consider adopting a method for addressing any lack of opportunity cases which may arise in the future to avoid discrimination between the sexes. In practice these tests should only apply where a member's options are to be restricted and the test should be whether the restriction would still operate to the same extent to the member's Comparator. If the restriction would not apply or would apply to a lesser extent then schemes should decide whether to:

- Allow the member to exercise the option. This 'levelling up' may seem attractive but there are situations where this could result in higher benefits being provided than are strictly needed to equalise for the inequalities of GMPs¹⁹, with a resulting cost to the scheme.
- Restrict the member's option in accordance with the rules and also restrict members of the opposite sex in the same way. This 'levelling down' may not be possible where the members have a right under the rules or GMP legislation to the benefit – legal advice should be taken.

3.5. Equalising through conversion

Legislation allows schemes to remove the requirement to provide GMPs by converting pre 1997 benefits into other benefits. Conversion could be described as a 'once and done' approach for achieving GMP Equality, in that once the conversion and equalisation process has completed there is no need to perform any further equalisation checks.

Further information on using GMP conversion as a means to achieving GMP Equality is contained in The DWP's guidance. This method of conversion is sometimes referred to as Method D2 (again, the term used in the Lloyds Bank case). This Guidance Note does not seek to repeat the guidance given by DWP.

It is also possible to apply GMP conversion after having adopted a year by year approach (for example conversion of the future benefits assuming a C2 adjustment would otherwise be made to future payments). In practice it is expected most schemes wishing to equalise through conversion will follow the DWP's Guidance and adopt Method D2.

¹⁹ This raises the questions as to whether the benefit in excess of that strictly required to equalise needs also to be provided to members of the opposite sex

3.6. Sex-based actuarial factors on conversion

Equalisation through conversion should ensure a member has a benefit of at least equal actuarial value to their Comparator. However, if a real life Comparator existed, and sex based actuarial factors were used, the amount of pension post conversion paid to the two members who are identical apart from their sex would be different. This is not something the Judge specifically addressed in the Lloyds Bank case but is referred to in the Question and Answer section of the DWP guidance.

Schemes undertaking GMP conversion should discuss with their Actuary and legal adviser whether to adopt unisex actuarial factors for the conversion process (rather than sex-based factors).

Using unisex factors should result in equal converted pensions for the period 1990 to 1997. It is recognised specific exemptions under the Equality Act 2010 enables schemes to use sex specific factors.

3.7. Reshaping benefits on conversion

As mentioned above, conversion of GMPs allows for the reshaping of member benefits. The legislation refers to amendments the trustees '*think are necessary or desirable as a consequence of or to facilitate, the GMP conversion.*'

The level of reshaping can result in significant changes to a member's pension and future income. In the worked example Mark's pension at 01 May 2020 (after uplifting to his Comparator's and applying the 2020 increase) would be £30,542. Three methods of reshaping are applied to Mark's pre 1997 pension under the first worked example with the following impact on his pension:

No conversion Year on Year	Method 1 – Single tranche – no escalating (of pre 97 accruals)	Method 2 – two tranches – partial escalation	Method 3 – "Notional GMP"
2020	£30,542	£37,510	£30,551
2021	£31,304	£37,625	£31,307
2022	£32,088	£37,743	£32,086
2023	£32,894	£37,864	£32,894
2024	£33,724	£37,989	£33,724

It is suggested trustees might want to approach a GMP conversion exercise from the starting point of minimal interference to the shape of members' benefits but might agree to further reshaping if they consider it to be in the interests of their membership as a whole. Schemes should also consider how they would consult and communicate with members on proposals to reshape benefits.

3.8. Converting active and deferred members

As inequality does not arise until benefits come into payment schemes may decide not to convert the GMPs of active or deferred members until benefits come into payment. At this point some of the uncertainty relating to the effect of any GMP future inequality, such as future rates of revaluation will have been removed. Similarly, the conversion calculation can be based on the member's selected options (eg early retirement and lump sum commutation) – rather than making future assumptions about member choices at retirement. This is particularly true in the case of active members where assumptions need to be made as to when the member may leave pensionable service and this assumption can have a significant effect on the value of the member's benefit.

There is nothing in the GMP conversion legislation preventing schemes from carrying out individual member GMP conversion exercises, for example when a member's pension comes into payment. However, logically, given current legislation²⁰, it is likely to be more efficient to undertake conversion as a bulk exercise or in batches, rather than as and when members retire. It may be practice develops in this area.

3.9. Employer consent

The conversion legislation requires the consent of the 'employer' to GMP conversion. However, the definition of employer used in the GMP conversion legislation does not fit well with schemes, particularly those which no longer have any active members or where an employer has ceased to participate in a multi-employer scheme.

It seems likely the rationale for employer's consent being required by legislation is because GMP conversion could impact on the liabilities of the scheme. On this basis it is suggested the pragmatic approach would be for those employers responsible for funding the scheme under legislation to consent to the conversion. Schemes may wish to take legal advice on this point.

3.10. Contingent spouses' pensions

Where a scheme converts GMPs it needs to provide a prescribed minimum level of contingent survivors' pension to the member's widow/widower or surviving civil partner. It has been pointed out to the DWP this requirement can result in a materially higher level of survivor pension than pre conversion for certain schemes (for example where the death in deferment survivors' pension is the GMP minimum).

Schemes wishing to achieve GMP Equality through conversion will need to make sure they provide at least the minimum level of survivors' pension post conversion and should also consider the impact of conversion on the amount of any survivor's pension.

²⁰ Such as the requirement to notify HMRC when a member's benefit is converted and the requirement that an actuarial certificate expires after three months

4. Section C – Common unanswered issues

4.1 Transfers In

Where a scheme has received a transfer payment in respect of a member it will have provided the member with additional benefits. The type of additional benefits provided will vary between schemes and possibly between members within the same scheme. For example, under a defined benefit scheme an individual may have been granted:

- an additional amount of pension (often a specified amount at retirement date)
- a service credit of additional years, or
- benefits which mirror those provided under the transferring scheme (this tends to be common on bulk transfers).

Where the transfer included a GMP and the receiving scheme was a contracted-out salary related scheme (COSR) it will have replicated the GMP and agreed a revaluation basis in line with the receiving scheme's policy. Similarly, if the transfer payment included protected rights²¹ then these will have been converted into a GMP by the receiving scheme.

A transfer in may have been received as a result of:

- an individual transfer – where a member requested a transfer value be paid from the transferring scheme to the receiving scheme, usually following a change of employment; or
- a bulk transfer - under which the assets and liabilities relating to a class of members transferred from the transferring scheme to the receiving scheme often without member consent (this typically happens as part of a scheme merger or following the sale of part of a business or corporate group).

Different considerations will apply in each of these scenarios. These are considered below.

4.2. Individual transfers in

European law requires where an individual transfers their pension rights from one occupational pension scheme to another, the receiving scheme must, on the worker reaching retirement age, increase the benefits it undertook to pay to the member when accepting the transfer so as to eliminate '*the effects of any inadequacy in the amount transferred*' arising from a breach of an individual's right to equal pay...where those benefits relate to periods of service post 17 May 1990²². This position was accepted by all parties in the Lloyds Bank case²³.

It is understood the next instalment of the Lloyds Bank case will be concerned with the position regarding transfers out and whether the transferring scheme adequately discharged its obligations.

²¹ Protected rights were contracted out rights accrued under contracted out money purchase schemes

²² See Coloroll Pension Trustees Ltd v Russell

²³ See paras 467 and 468 of the first judgment in Lloyds Bank case

The hearing will not consider the specifics of transferred in benefits. There is however a possibility the judgment, when issued, may say something about transfers impacting (perhaps indirectly) on the analysis set out below.

Where a scheme has accepted a transfer payment from a contracted-out scheme, which included a GMP accrued between 17 May 1990 and 05 April 1997, it may be under an obligation to increase the member's benefits to reflect any inequality in the transfer value. On the other hand, there may be no need to increase the member's benefits because the member could have been in the advantaged category in the transferring scheme (so the transfer value would not have been higher had they been of the opposite sex²⁴).

The problem in practice is to establish whether any obligation to adjust a transfer exists and, if so, to what extent, the receiving scheme would need to have detailed information about the benefit structure of the transferring scheme, how the original transfer value was calculated and the extent to which the transfer payment related to post 17 May 1990 pensionable service under the transferring scheme. In most cases receiving schemes are unlikely to have access to such detailed information.

On the basis the obligation on a receiving scheme to adjust an individual's transferred in benefits only arises where it can be shown the original transfer value is inadequate and a receiving scheme will not be in a position to determine this, the onus will be on affected members to establish this. In most cases, this will require an affected member to contact and request the transferring scheme:

- calculates whether or not the original transfer payment was inadequate, or
- provides the member with sufficient information to enable the adequacy of the original transfer payment to be assessed.

Where the adequacy of the original transfer payment cannot be determined (for example, because the transferring scheme no longer exists or it no longer has the relevant data), the receiving scheme cannot be sure whether it needs to adjust the member's benefits and if so by how much. In such situations there is stalemate and the receiving scheme cannot adjust the transferred in benefits to reflect any inequality in the original transfer value.

Nevertheless, trustees should consider taking preparatory steps so that they are in a position to take action when the outcome of the Lloyds Bank proceedings is known. These include:

- identifying any members granted benefits under the scheme as a result of a transfer in where the transfer included a GMP in respect of service between 17 May 1990 and 5 April 1997,
- identifying the schemes from which historic transfer payments have been received and perhaps carrying out an initial check to see whether they still exist or have merged, and

²⁴ Ignoring the use of sex based transfer value factors which are permitted

- locating any documents relating to transfers in and reviewing them to check whether a discharge and/or an indemnity was granted to the transferring scheme by the member and/or the receiving scheme.

There is also uncertainty as to whether schemes which accepted a transfer in need to equalise the benefits provided in respect of that transfer when they come into payment. The member will have been credited with a GMP as part of the transfer and that GMP would have been different had the member been of the opposite sex. It is suggested as the Coloroll case refers only to making good any shortfall in the transfer value received there is no need for a scheme to make any additional adjustment to transferred in benefits when they come into payment (except to reflect any shortfall in the quantum of the transfer value received). This relies on an analysis the benefits provided as a result of a transfer in are not attributable to pensionable service in the receiving scheme (a view arguably supported by a recent High Court case concerning PPF benefits²⁵).

In some cases, such as on wind up, a scheme may wish to adopt a pragmatic approach and make a broad-brush adjustment to transferred in benefits. Legal advice should be taken as such approaches may themselves raise the spectre of discrimination.

4.3. Bulk transfers in

Bulk transfers could be considered to be different to individual transfers when it comes to GMP Equality. On a bulk transfer, the receiving scheme would normally grant benefits to members by reference to their accrued rights (or the value thereof) in the transferring scheme²⁶. This differs from individual transfers where the additional benefit would be calculated by reference to the value of the assets transferred²⁷. It is suggested a receiving scheme is likely to have an obligation to correct past GMP inequalities in the transferring scheme where a member has been bulk transferred in.

With bulk transfer cases it is more likely detailed membership data will have passed between the transferring scheme and the receiving scheme as part of the transfer. Where this is the case the receiving scheme may be in a position to calculate any GMP Equality increase which should be applied to each member's benefits without needing to obtain any further information from the transferring scheme. Where accurate data is not available schemes may decide, having taken actuarial advice, to adjust bulk transferred in benefits using an estimate of what might have been the inequality in the transferring scheme.

Schemes might also want to review any legal agreements entered into as part of the bulk transfer (whether they be scheme merger agreements or commercial agreements entered into by employers as part of a business sale) as these may contain indemnities which may, subject to any time limits, cover some or all of the additional liabilities and costs arising as a result of implementing GMP Equality.

²⁵ Beaton v PPF (2018)

²⁶ Most bulk transfers (such as scheme mergers) will have been on the basis members were provided with mirror image benefits under the receiving scheme

²⁷ Indeed some bulk transfers would have included assets which were thought to be surplus at the time

4.4. Split Normal Retirement Ages

Most schemes will have taken steps to equalise their NRAs at some point between 1990 and 1997. This means there will be tranches of a member's benefit payable by reference to different retirement ages – with the disadvantaged sex (normally the males) being 'levelled up' for the period 17 May 1990 to the date of equalisation.

For example, a scheme which previously had retirement ages of 60 for females and 65 for males may have equalised retirement ages at 65 on 01 April 1993. Members with pre 1993 pensionable service will therefore have tranches of benefits with NRAs as follows:

	Pre 17 May 1990	17 May 1990 to 31 March 1993	01 April 1993 onwards
Female	60	60	65
Male	65	60	65

These split NRAs further complicate the GMP Equality process both for conversion valuation purposes and in operating a year by year approach. Indeed, in the table above the male's overall benefit for the period 01 April 1993 to 05 April 1997 might have a lower actuarial value compared to the female Comparator because of her higher GMP but then the value of his benefit accrued in the period 17 May 1990 to 01 April 1993 may have a higher actuarial value than the Comparator.

GMP Equality should be applied to the aggregate of the benefit tranches accrued between 1990 and 1997 – so where values switch between the member and the Comparator between tranches there can be netting off.

4.5. Revaluation and anti-franking

GMP legislation contains complex rules (known as anti-franking) designed to make sure the revaluation provided to GMPs in deferment cannot be offset against a member's other benefits. In broad terms, this can result in pensions in payment being stepped up when a member reaches their GMP Age. The legislation also requires a later earnings addition (LEA) to be applied where a member remains in active pensionable service after their GMP Age.

In practice, schemes and their administrators adopt different methods for testing anti-franking and formal scheme rules rarely go into detail on the subject. When comparing benefits as part of an equalisation project this will usually be done on the basis of past practice. It is suggested it should be assumed past practice will continue, unless determined otherwise.

As most members leave service or retire before GMP Age the LEA would not apply to them. However, when testing for GMP Equality for male members who left or retired after age 60 there is a need to apply an LEA adjustment to the Comparator's benefit. In practice the data may not be available to make an accurate LEA adjustment (as it depends on salary increases after age 60). Schemes may therefore need to adopt a reasonable salary increase assumption.

Where GMP Equality is to be achieved through conversion of GMPs the statutory anti-franking rules will cease to apply for the future. Instead, the actuarial value of any step ups will need to be factored into the actuarial valuation forming part of the conversion process.

Where a year by year approach is to be adopted for the future, and also when testing pensions already in payment for past inequality, schemes will need to make an allowance for anti-franking. One method to test for anti-franking is to:

- Comply with legislation and apply the anti-franking test to the member's whole benefit at the member's GMP Age or later date of leaving service.
- Compare the benefit of the member relating to service in the period 1990 to 1997 (including relevant anti-franking and revaluation for the member's sex) with that which would have been payable to the Comparator in respect of the same period (applying anti-franking and revaluation for the opposite sex). If the Comparator would have a higher benefit then an uplift would need to be provided to the member.

4.6. Survivors' pensions

Following the death of a member who was entitled to a GMP, schemes need to provide, as a minimum, a survivor's GMP to any legal widow/widower/civil partner²⁸ of the member. In practice most schemes provide spouse's pensions higher than the GMP minimum and also provide pensions to children and to financial dependants where there is no legal spouse. Child and dependant pensions do not include any GMP element, although their calculation is often dependent on the member's benefit (including the member's GMP).

Survivors' pensions raise a number of issues to be considered when undertaking a GMP Equality exercise.

- a) For survivors' pensions in payment at the date of the equalisation project there would be a need to consider whether the pension would have been higher had the member's pension been equalised (assuming the member had pensionable service in the relevant period). If the member's pension would have been higher at the date of death, then the survivor's pension at the start would likewise have been higher.
- b) In Crossover cases, where the scheme uses a cumulative year by year method for correcting the past (see Section 2.4), a member's post equalisation pension could have been lower at the date of death (i.e. at position 'x' in the chart in Section 2.4). Depending on the scheme's specific rules, it may be the survivor's pension should have started at a lower level (reflecting the lower member's equalised pension). In such cases credit may be taken for cumulative past 'overpayments' to the survivor (with interest). However, it is suggested any past 'overpayments' paid to a member before death cannot be used to reduce a survivor's own entitlement.

²⁸ In this note reference to a surviving spouse means legal widow/widower/civil partner or same sex married survivor

- c) Once in payment (and unless converted) a legal spouse's pension will contain a survivor's GMP (broadly 50% of the member's GMP for the relevant period). Depending on how the scheme increases elements of the survivor's pension there could be inequality after the spouse's pension comes into payment (comparing the spouse with a notional spouse of the opposite sex). It is suggested schemes operating a year by year approach do checks on spouses' pensions in payment and equalise them, where appropriate.
- d) Survivors' pensions paid to children or dependants do not contain a GMP so the issue in (c) should not arise unless administrative practice is to treat part of the pension as 'notional' GMP for increase purposes.

4.7. Defined Contribution accounts and cash balance schemes with GMP underpins

Some schemes were set up largely to provide defined contribution (money purchase) or cash balance benefits but were contracted out on a salary related basis, and include members with GMP entitlements. These schemes need to provide the member with a pension which at least equals their GMP (and any post 1997 accrual). Such schemes are referred to in this Guidance Note as '**GMP Underpin DC Schemes**' and whilst not directly addressed in the Lloyds Bank judgement will need to achieve GMP Equality.

Following the logic of the Lloyds Bank case, male members in GMP Underpin DC Schemes will be disadvantaged compared to their Comparator because a female would have accrued a higher GMP, payable from an earlier age, than the male. However, it is also possible a female member could be disadvantaged if her Comparator's GMP at 65 would cross over to become higher than her GMP (for example because of five additional years of fixed rate revaluation). Females with higher GMPs may also have had their options restricted at retirement in a way which would not have applied to males with lower GMPs.

4.8 Transfers from GMP Underpin DC Schemes

Where a member of a GMP Underpin DC Scheme requests a transfer value it is necessary to test the fund value against the actuarial value of the GMP underpin. Where the value of the GMP underpin exceeds the member's fund value it is necessary for the scheme to top up the shortfall before paying the transfer. GMP Underpin DC Schemes should consider adjusting the way transfer values are calculated in the future to make sure the transfer value is tested against a GMP underpin which has been equalised. Actuarial and legal advice will be needed.

The position in respect of transfers already paid from GMP Underpin DC Schemes is similar to other schemes needing to implement GMP Equality. In the case of a GMP Underpin DC Scheme it is possible the transfer might have been higher had the scheme tested the member's fund against an equalised GMP underpin at the time of the transfer, sometimes to a significant extent. In other cases there may be no impact even if the value of the underpin has increased. As mentioned earlier in this Guidance Note, transfers out are expected to be considered by the Court in the next instalment

of the Lloyds Bank case. Therefore, schemes may wish to await the outcome of this hearing before deciding whether or not to revisit historic transfers out.

4.9. Benefits provided by a GMP Underpin DC Scheme

Going forwards, GMP Underpin DC Schemes will need to consider what to do where a member wishes to draw benefits without taking a transfer value. Typically, this will be at retirement (or earlier death) and involve the purchase of annuities or securing a pension in the scheme itself. Similar issues arise to those for more typical schemes, but the impact can be much more significant given the GMP (or Comparator GMP) may for some members be their full entitlement.

A number of issues arise such as:

Lack of opportunity cases

These are likely to be more pronounced under a GMP Underpin DC Scheme where the value of the member's fund is below the underpin value. For example:

- Can a GMP Underpin DC Scheme prevent a male member taking benefits at age 60 where a female would have a right to receive her GMP and his pot would not cover the cost of providing his benefits?
- Could a female member take a higher commutation payment in circumstances where her Comparator GMP would be lower than her actual sex GMP?
- Must a member's ability to take a lump sum be restricted so that the remaining pot at least secures the Comparator's GMP if higher than the actual sex GMP?

Quantum of pension

It is suggested on retirement a GMP Underpin DC Scheme would need to secure benefits in the form of a pension which at least covers the higher of the member's own GMP entitlement and the entitlement adjusted to take into account the Comparator's GMP. However, would this be the case even if the member's pot value exceeded their own sex GMP and could the value in excess of the own sex GMP be used to provide a more flexible benefit (including a lump sum)?

Applicable DC Fund

Many GMP Underpin DC Schemes compare the GMP underpin against the part of the member's fund relating to contributions paid up to 05 April 1997. It is considered there is no need to attempt to sub-divide the member's fund (and GMP underpin) further to seek to identify the part relating to 17 May 1990 to 05 April 1997 (noting this may be impossible in practice). Instead, it is suggested the member's total GMP underpin (including any adjustment to post 1990 GMP to achieve GMP Equality) should be compared to the whole of the member's pre 1997 fund.

Securing benefits

Current experience is insurers are unlikely to be willing to insure pension payments on a year on year GMP Equality basis where there may (or may not) be a cross over at a later date. They are also likely to insist on any pension at least covering a member's statutory GMP. Where pensions are

secured in the scheme the issues are likely to be similar to those arising for more typical defined benefit arrangements.

4.10. GMP conversion

Given these issues, GMP Underpin DC Schemes may well want to implement GMP Equality through a conversion process. The existing GMP underpin would be replaced by a new underpin of no less actuarial value than the equalised GMP. The new underpin would need to be defined benefit in nature (as required by the conversion legislation) but it could be more flexible (and more attractive to insurers) than the existing GMP underpin. The replacement underpin could also allow members the option to access DC style benefits instead at retirement – although the defined benefit underpin pension would appear to remain the default option.

4.11. Where benefits are already in payment

Finally, GMP Underpin DC Schemes will need to consider what to do for those members who have already retired (or where the member died before retirement and a spouse's pension is in payment). In principle, the considerations are similar to more typical defined benefit schemes, with regard to lack of opportunity and in relation to member options such as cash commutation. Particular points to note are:

- It would appear necessary to revisit the original calculations to establish what, if any effect allowing for the Comparator's GMP would have had on the retirement calculations.
- There could be a variety of circumstances depending on whether or not the GMP underpin had applied at retirement. For example, there will be cases where the member's fund exceeded their GMP and they took a cash lump sum out of the excess, but payment might not have been permitted had the member's GMP been based on the Comparator's GMP.
- It may not be possible to revisit those individual policies to make any modest improvements required for GMP Equality (indeed, some insurers may no longer be accepting premiums).

4.12. Divorce cases

Schemes will have dealt with Court orders following the divorce of a member. These orders could either require pension earmarking or pension sharing with the former spouse. The value of a member's pension would usually be included as an asset for the purposes of dividing the matrimonial assets.

Where the member had pensionable service in the period 17 May 1990 and 05 April 1997 there may be a need to revisit the earmarking or pension sharing order as modest changes may be required to correct GMP inequalities. In practice much may depend on the specific wording of the relevant Court Order. It is not clear to what extent this would then require a reopening of the original division of matrimonial assets.

Following a divorce a member's benefits would have been reduced to reflect the benefits provided to the former spouse. This reduction may have reduced the member's GMP (including the part of the GMP accrued during the period 1990 to 1997). When a scheme is implementing GMP Equality it should consider how to reflect the member's reduced GMP in the calculation of any equalisation adjustment and the correction of any past underpayment.

4.13. Top up schemes

There are some 'top up' schemes providing benefits (usually for executives and high earners) in excess of those provided to the member under the main scheme. The top up scheme would not be contracted out where the main scheme was already contracted out.

It might be thought top up schemes are exempt from the need to think about GMP equalisation. However, this may not be the case. For example, if a member's benefit is increased under the main scheme as a result of GMP Equality is it necessary to reduce the pension in payment under the top up scheme to reflect the increase? If no adjustment is made it is arguable members of the top up scheme of the opposite sex have been discriminated against.

4.14. Female members with no GMP

There is a category of married (or widowed) women who may have elected to pay National Insurance Contributions (NICs) at a lower rate than others. Such women who were members of a contracted out scheme would have no GMP for periods of pensionable service when they paid reduced NICs.

It is suggested such women are a special category and their benefits do not need to be adjusted as part of any equalisation project (assuming they have no GMP relating to post 17 May 1990 service). It is also suggested male members cannot point to a reduced rate NICs woman as a Comparator for GMP Equality purposes – rather the Comparator for a male member is a female member who paid full rate NICs.

It is also possible a female member joined a scheme after age 60 and therefore has no GMP in respect of her service (as it was after her GMP age). Such cases are likely to be rare and it is suggested her opposite sex Comparator for GMP equalisation purposes would be a male joining at the same age and therefore accruing a GMP.

4.15. Other unanswered questions

Given the many different types of pension schemes and their individual benefit structures there may be further unanswered questions arising for particular schemes or groups of schemes.

The Group is keen to hear examples of other unanswered questions schemes may encounter. Suggested approaches to new unanswered questions might be included in updates to this Guidance Note, where appropriate.

APPENDIX - WORKED EXAMPLES

1. Introduction

These worked examples have been prepared to demonstrate the various methods which could be adopted to achieve GMP equalisation. They demonstrate how GMP equalisation could be achieved for an example male member, using a year by year approach or by applying GMP conversion.

The example scheme is a contracted out defined benefit scheme with a NRA of 65 although members may, with trustee consent, take pensions unreduced from age 62. In deferment, pensions in excess of GMP are revalued in line with statutory revaluation and GMPs are revalued at the fixed rate. If a male member's benefit comes into payment before age 65 the scheme revalues the GMP up to the date of payment at the fixed rate even though, strictly, the GMP does not come into payment until 65²⁹. Pensions in payment are increased on 01 May each year in line with RPI capped at 5% but from GMP age the GMP element is increased on the same date to reflect statutory increases to GMPs.

The example male 'Mark' was born on 30 July 1944 and joined the scheme on 01 January 1978 (prior to GMPs being introduced). Mark continued in pensionable service until 01 January 2000 at which point his accrued pension was £17,500. Had Mark been female (during all periods of service) the pension at the date of leaving would also have been £17,500 but the elements making up the pension would have been different as set out in the table below:

	Actual Member	Opposite Sex
Pre 88 GMP	£2,295.80	£2,732.08
Post 88 GMP	£1,496.56	£1,785.68
Pre 1997 Excess	£11,529.67	£10,804.27
Post 1997 Excess	£2,177.97	£2,177.97
Total	£17,500.00	£17,500.00

For GMP Equality it is only the pension accrued during the period 17 May 1990 to 05 April 1997 needing to be adjusted.

²⁹ Individual scheme practice may well differ

2. Isolating the 1990-1997 Benefits

Mark had pensionable service both before May 1990 and after April 1997 – no adjustment is needed to his benefits for these two periods. It is therefore necessary to isolate the benefit Mark earned between 17 May 1990 and 05 April 1997 (both GMP and Excess). This is done by:

- a) Pro rating his pre-1997 pension at date of leaving (£15,322.03) to reflect pension earned in the period 1990/97 on a straight-line basis³⁰. In this example, 35.76% of Mark's pre-1997 service relates to the period post 17 May 1990 – producing a total 90/97 pension at date of leaving of £5,478.64.
- b) Unless accurate data is available it is suggested the GMP accrued to Mark during the period 1990/97 should also be calculated on a pro rata basis. 76.5% of Mark's service over the period in which his Post 88 GMP accrued relates to post 17 May 1990 service. This produces a 1990/97 GMP of £1,153.88³¹.

This means Mark's 1990/97 benefits, at the date of leaving (DOL) pensionable service, and those of his opposite sex Comparator would be:

90/97 element at DOL	Actual Member	Comparator
GMP 90/97	£1,153.88	£1,375.92
90/97 Excess	£4,324.76	£4,102.72
Total for 90/97	£5,478.64	£5,478.64

3. Worked example 1 – early payment at 62

In this example Mark elected, with trustee consent, to start taking his deferred pension unreduced from 30 July 2006 (his 62nd birthday). He did not take a lump sum commutation payment and his revalued pension in the year it came into payment (unequalised) was £21,398.35. As the pension was not reduced when it came into payment early (as an alternative to his short service benefit), there was no need to perform an anti-franking test at age 65³².

Between the date of leaving pensionable service, 1 January 2000, and 30 July 2006 Mark's pension will have been revalued (the GMP at the fixed rate of 6.25% and the excess in line with statutory revaluation, broadly then RPI capped at 5%). Had Mark been of the opposite sex during that period revaluation would have been applied to the different figures in the table above (together with the GMP being revalued to 60 rather than 62 with the inclusion of a late retirement factor) so that as at age 62 there would be inequality in amounts, namely:

³⁰ The calculation becomes more complex if there have been changes in benefit structures, transfers in or period of part time service. Most schemes will have equalised normal retirement ages in the period 1990 to 1997 requiring additional pro-rating. See Section 4.4 of the Guidance Note

³¹ It is recognised GMPs did not uniformly accrue and are more like a career average benefit but a pro rata approach may be the only way to isolate 1990/97 GMP – the differences are likely to be small in practice

³² It is assumed the value of the unreduced early pension brought into payment was higher than the value of pension at 65 allowing for anti-franking

90/97 element at 62	Actual Member	Comparator
GMP 90/97	£1,660.36	£2,130.39
90/97 Excess	£5,029.70	£4,771.46
Total for 90/97	£6,690.06	£6,901.85

The Scheme is to implement GMP Equality on 01 May 2020, to coincide with its annual pension increase date. The pension paid to Mark up to 30 April 2020 is set out in the table below:

With Effect From	Pre 90 Excess	Pre 88 GMP	88 to 90 GMP	90 to 97 Excess	Post 90 GMP	Post 97 Excess	Total
30/07/2006	£12,175.31	0	0	£6,690.06	0	£2,532.98	£21,398.35
01/05/2007	£12,686.67	0	0	£6,971.04	0	£2,639.36	£22,297.08
01/05/2008	£13,206.83	0	0	£7,256.85	0	£2,747.58	£23,211.26
01/05/2009	£13,220.03	0	0	£7,264.11	0	£2,750.33	£23,234.47

GMP Age 30/07/2009	£8,666.91	£3,961.88	£591.24	£5,273.03	£1,991.08	£2,750.33	No change
01/05/2010	£8,987.59	£3,961.88	£591.24	£5,468.13	£1,991.08	£2,852.09	£23,852.01
01/05/2011	£9,436.97	£3,961.88	£608.98	£5,741.54	£2,050.81	£2,994.69	£24,794.87
01/05/2012	£9,805.01	£3,961.88	£627.25	£5,965.46	£2,112.34	£3,111.49	£25,583.42
01/05/2013	£10,128.58	£3,961.88	£641.05	£6,162.32	£2,158.81	£3,214.16	£26,266.79
01/05/2014	£10,412.18	£3,961.88	£658.35	£6,334.86	£2,217.10	£3,304.16	£26,888.53
01/05/2015	£10,526.71	£3,961.88	£666.25	£6,404.54	£2,243.70	£3,340.51	£27,143.60
01/05/2016	£10,663.56	£3,961.88	£666.25	£6,487.80	£2,243.70	£3,383.93	£27,407.13
01/05/2017	£10,940.81	£3,961.88	£672.92	£6,656.49	£2,266.14	£3,471.92	£27,970.15
01/05/2018	£11,378.44	£3,961.88	£693.10	£6,922.75	£2,334.12	£3,610.79	£28,901.09
01/05/2019	£11,662.90	£3,961.88	£709.74	£7,095.81	£2,390.14	£3,701.06	£29,521.54

Correcting Past Payments

Had Mark received the Comparator pension in respect of the 1990/97 element the payments he would have received would have been higher, as per the table below. Note in the table below it is only the 90 to 97 Excess and the Post 90 GMP Elements which differ from the table above (as they are the only elements requiring equalisation).

With Effect From	Pre 90 Excess	Pre 88 GMP	88 to 90 GMP	90 to 97 Excess	Post 90 GMP	Post 97 Excess	Total
30/07/2006	£12,175.31	0	0	£4,771.46	£2,130.39	£2,532.98	£21,610.14
01/05/2007	£12,686.67	0	0	£4,971.86	£2,194.30	£2,639.36	£22,492.20
01/05/2008	£13,206.83	0	0	£5,175.71	£2,260.13	£2,747.58	£23,390.24
01/05/2009	£13,220.03	0	0	£5,180.88	£2,327.93	£2,750.33	£23,479.18
GMP Age							No change
30/07/2009	£8,666.91	£3,961.88	£591.24	£5,180.88	£2,327.93	£2,750.33	
01/05/2010	£8,987.59	£3,961.88	£591.24	£5,372.58	£2,327.93	£2,852.09	£24,093.31
01/05/2011	£9,436.97	£3,961.88	£608.98	£5,641.20	£2,397.77	£2,994.69	£25,041.50
01/05/2012	£9,805.01	£3,961.88	£627.25	£5,861.21	£2,469.71	£3,111.49	£25,836.54
01/05/2013	£10,128.58	£3,961.88	£641.05	£6,054.63	£2,524.04	£3,214.16	£26,524.34
01/05/2014	£10,412.18	£3,961.88	£658.35	£6,224.16	£2,592.19	£3,304.16	£27,152.92
01/05/2015	£10,526.71	£3,961.88	£666.25	£6,292.63	£2,623.29	£3,340.51	£27,411.27
01/05/2016	£10,663.56	£3,961.88	£666.25	£6,374.43	£2,623.29	£3,383.93	£27,673.35
01/05/2017	£10,940.81	£3,961.88	£672.92	£6,540.17	£2,649.53	£3,471.92	£28,237.22
01/05/2018	£11,378.44	£3,961.88	£693.10	£6,801.77	£2,729.01	£3,610.79	£29,175.01
01/05/2019	£11,662.90	£3,961.88	£709.74	£6,971.82	£2,794.51	£3,701.06	£29,801.91

The tables above show at all times, Mark was disadvantaged compared to his Comparator. As Mark has not been a crossover member there is no difference between the various year by year methods used to calculate past payments. As at 30 April 2020 the total amount of underpaid pension would be £3,395.92. As the Scheme has no limitation rule this amount (together with interest) would need to be paid to Mark to compensate him for past GMP inequalities.

The correction of past payments needs to be made whether or not the Scheme adopts a year by year method or GMP conversion to equalise benefits from May 2020.

Correcting future payments – year by year methods

Were the scheme to adopt a year by year method of GMP equalisation from 01 May 2020, Mark would be expected³³ at all times to receive a higher pension than his pre GMP equalisation pension.

³³ The year by year worked examples use actual RPI/CPI to 2019 and assume 3% pa increases on excess and 2% pa on GMP post 2019

As he would not become a crossover member there is no difference in whether the Scheme uses a straight year by year or a cumulative method of calculation.

Using a year by year method, Mark's pension would be increased from 01 May 2020 so that his equalised pension would be £30,542.07 (being the Comparator's amount).

Going forward Mark's pension on a year by year basis would then be as follows:

With Effect From	Pre 90 Excess	Pre 88 GMP	88 to 90 GMP	90 to 97 Excess	Post 90 GMP	Post 97 Excess	Total
01/05/2020	£12,012.79	£3,961.88	£723.93	£7,180.97	£2,850.40	£3,812.09	£30,542.07
01/05/2021	£12,373.17	£3,961.88	£738.41	£7,396.40	£2,907.41	£3,926.46	£31,303.73
01/05/2022	£12,744.37	£3,961.88	£753.18	£7,618.29	£2,965.56	£4,044.25	£32,087.53
01/05/2023	£13,126.70	£3,961.88	£768.24	£7,846.84	£3,024.87	£4,165.58	£32,894.11
01/05/2024	£13,520.50	£3,961.88	£783.61	£8,082.25	£3,085.36	£4,290.55	£33,724.15
01/05/2025	£13,926.12	£3,961.88	£799.28	£8,324.71	£3,147.07	£4,419.26	£34,578.33
01/05/2026	£14,343.90	£3,961.88	£815.27	£8,574.46	£3,210.01	£4,551.84	£35,457.36
01/05/2027	£14,774.22	£3,961.88	£831.57	£8,831.69	£3,274.21	£4,688.39	£36,361.97
01/05/2028	£15,217.44	£3,961.88	£848.20	£9,096.64	£3,339.70	£4,829.05	£37,292.91
01/05/2029	£15,673.97	£3,961.88	£865.17	£9,369.54	£3,406.49	£4,973.92	£38,250.96

Assuming Mark lives to the age of 90 the total pension he would have received, pre GMP equalisation would be expected to be £902,837.46. Applying GMP equalisation on a year by year basis would result in Mark receiving an extra £8,206.25 over the period of his retirement (an increase overall of 0.91%).

Correcting for the future – GMP conversion³⁴

Were the Scheme to adopt GMP conversion³⁵ to equalise future payments using 01 May 2020 as the date when conversion will be implemented, Mark's pension (and his Comparator's) on the conversion/equalisation date of 01 May 2020 (after the annual increase but pre-equalisation), would comprise the following elements:

	Pre 90 Excess	Pre 88 GMP	88/90 GMP	90/97 Excess	90/97 GMP	Post 97 Excess	Total
Mark	£12,013	£3,962	£724	£7,309	£2,438	£3,812	£30,258
Comparator	£12,013	£3,962	£724	£7,181	£2,850	£3,812	£30,542

A GMP equalisation uplift of £284 would need to be added to Mark's pension at 1 May 2020 as he is disadvantaged at that point, bringing his corrected pension to £30,542. For Mark (as a non-crossover

³⁴ Note the numbers in the Conversion tables have been rounded

³⁵ The main assumptions used for the conversion examples are, discount rate 4% pa, RPI capped at 5% is 3% pa and unisex mortality rates have been used

member) this increase would apply regardless of whether the scheme was using Methods B, C1 or C2.

There are a number of ways in which GMP conversion could be structured³⁶ and three possibilities are discussed below³⁷.

a) Convert all the Pre97 benefits into a single tranche of pension.

This approach has the advantage of being simple to calculate and administer but could involve significant reshaping of members' benefits. Using this approach, the Scheme could decide to convert all of Mark's Pre 97 benefits into a single tranche of pension, in this example non-increasing³⁸. Pre-conversion about 87% of Mark's benefit was increasing and making all of the pre-97 tranche non-increasing reduces this proportion to about 10% of the total. It is expected schemes would want to consider whether such a material change in the nature of the benefit is consistent with their responsibilities and within the scope of the conversion legislation, particularly since conversion can take place without member consent.

The actuarial value of Mark's Pre-97 pension (pre-equalisation) is £576,753. As Mark is disadvantaged, a GMP equalisation uplift with an actuarial value of £5,647 needs to be added.

Based on assumptions adopted by the trustees, post conversion Mark's Pre-97 pension would be £33,493 pa. His pension post conversion (both pre and post 97 elements) over the next five years would then be expected to be as follows:

Year	Pre 97 Level	Post 97	Total
2020	£33,698	£3,812	£37,510
2021	£33,698	£3,926	£37,625
2022	£33,698	£4,044	£37,743
2023	£33,698	£4,166	£37,864
2024	£33,698	£4,291	£37,989

Under this approach Mark initially receives a significant uplift of £6,968 to his pension as a result of the conversion when compared with the year by year approach. It is not clear at the moment how such a significant increase to a pension in payment would be treated for pension tax purposes. It is expected that HMRC guidance will cover this point when issued.

The expectation is that after year 2029 Mark's pension in payment would dip below the pension he would have received under the year by year approach but at that point he would

³⁶ Subject to the statutory requirements pensions in payment cannot be reduced at the point of conversion and the need to provide a contingent spouse's pension

³⁷ It is unclear whether the legislation allows post 1997 benefits to be modified as part of GMP conversion – the examples leave post 1997 benefits unamended

³⁸ It would be possible to apply future increases to the whole of this tranche. However, as the pre 88 GMP element does not increase and conversion does not allow pensions in payment to be reduced at the point of conversion scope for indexation is limited

have received significantly more income over the previous nine years. After 2029 Mark's converted pension is less able to keep pace with rises in the cost of living, relative to the year by year approach pension.

b) Convert the Pre 97 benefits into two tranches of benefits

This approach is not as easy to calculate or administer as the first approach but is still fairly simple and retains a level of future Pre 97 pension increases³⁹ whilst reducing the immediate step change in the member's pension. It involves converting the member's pension into a new pension initially the same as (or close to) the year by year adjusted pension but then redistributes the elements of Pre 97 pension between two tranches with different pension increases and the overall value is equal to the value of the equalised pension. Because Mark's Pre 97 excess pension increases at a different rate to his Post-88 GMP, if it is considered desirable to gain some benefit simplification by only applying one rate of increase, it is not possible for the post conversion pension to exactly reproduce the pre conversion equalised payment.

Assuming Mark's scheme retains 5%/RPI increases on one tranche (as previously applied for Pre 97 Excess and as applies to Mark's Post 97 pension) and makes the second Pre 97 tranche non-increasing, Mark would receive the following payments in the five years post conversion:

Year	Pre 97 Level	Pre 97 increasing	Post 97	Total
2020	£5,348	£21,391	£3,812	£30,551
2021	£5,348	£22,033	£3,926	£31,307
2022	£5,348	£22,694	£4,044	£32,086
2023	£5,348	£23,375	£4,166	£32,888
2024	£5,348	£24,076	£4,291	£33,714

Under this approach Mark initially receives an uplift of just £9 to his pension as a result of the conversion when compared with the year by year approach. The expectation is, although Mark's pension starts off slightly higher, it will dip slightly below the year on year pension after three years because a lower proportion is receiving increases. However, the converted pension is never (according to the assumptions used) more than £20 per annum less than the year on year pension and the effect of having higher increases overall means that, eventually (by 2035 in this example), it will result in a higher pension.

³⁹ Assuming the scheme provides increases to pre 97 excess

c) Keep the shape of the Pre 97 benefits broadly similar to that before conversion

This approach largely forgoes the possibility of simplifying the administration of the scheme, but results in a pension similar to the pension prior to conversion. It involves reshaping the member's 90-97 pension to be the same as the (higher valued) Comparator.

Were the scheme to adopt this approach it would re-characterise Mark's pension into a 'Notional GMP' and an 'Excess'. The Notional GMP (both pre and post 88 elements) would behave in the same way as a GMP would have done pre conversion but because it is no longer a formal GMP the statutory provisions no longer apply.

Mark is a disadvantaged non-crossover member so, as part of GMP conversion, the administrator would adjust Mark's membership record to reflect the Opposite Sex 90/97 GMP and Opposite Sex Pre 97 Excess as at 01 May 2020 (post annual increase but pre equalisation), as shown below. The table also shows Mark's pre 1990 GMP as this would need to be converted.

	Pre 90 Excess	Pre 88 GMP	88/90 GMP	90/97 Excess	90/97 GMP	Post 97 Excess	Total
Mark	£12,013	£3,962	£724	£7,309	£2,438	£3,812	£30,258
Comparator	£12,013	£3,962	£724	£7,181	£2,850	£3,812	£30,542

After conversion Mark's elements of pension would be as set out below and would match those of his advantaged Comparator.

	Non increasing	CPI 3%	RPI 5%	Total
2020	£3,962	£3,574	£23,006	£30,542
2021	£3,962	£3,645	£23,696	£31,304
2022	£3,962	£3,718	£24,407	£32,087
2023	£3,962	£3,793	£25,139	£32,894
2024	£3,962	£3,869	£25,893	£33,724
2025	£3,962	£3,946	£26,670	£34,578
2026	£3,962	£4,025	£27,470	£35,457
2027	£3,962	£4,105	£28,294.48	£36,362
2028	£3,962	£4,188	£29,143.31	£37,293
2029	£3,962	£4,271	£30,017.61	£38,251

The net effect is to provide Mark with a pension at conversion expected to mirror the pension which he would have received under the year by year approach. However, as there has been a formal conversion of the GMP there is no longer any need to monitor the effect of future pension increases on the Comparator and Mark's unequalised entitlements (unlike with a year by year method) even if the future assumed rates of increase are not borne out.

Whilst for Mark (who is over his GMP Age and is not a crossover member) his pension after conversion would mirror that expected under a year by year approach, for members who are below GMP age (either actual sex or Comparator) or who have been, or are predicted to become, crossover members. There would need to be adjustments to reflect anticipated step ups or downs or past overpayments compared to the Comparator – noting the pension at the point of conversion cannot be lower than in payment before conversion.

4. Worked example 2 – retirement from active status

Whilst Mark was disadvantaged throughout in Example 1 (early payment at 62) this would not always be the case as demonstrated by this second example.

In this example, Mark retired from active membership on 01 January 2000 (at the age of 55) and took an immediate, unreduced, early retirement pension of £17,500. As with Example 1 there was no lump sum commutation payment.

a) Payments January 2000 to May 2005

There would have been no difference between Mark's pension and his Comparator's until the increase granted on 01 May 2005. Before the 01 May 2005 increase date Mark's pension would have been £18,715.88 which would be the same as his Comparator's. However, the Comparator reached the opposite sex GMP Age (60) on 01 January 2005 so the Comparator's GMP would have come into payment (revalued⁴⁰).

b) May 2005 increase

After GMP Age the scheme increases GMPs at a different rate to excess benefits and uses different reference dates for indexes. For 2005 the increase rate was 3.2% for non GMPs⁴¹ and 3% for (post 88) GMPs⁴².

As Mark was below his (own sex) GMP Age on 01 May 2005 the scheme increased the whole of his pension by 3.2% to £19,311.28. However, the Comparator's pension would have been increased by less because the Comparator's 90-97 GMP element would have been increased at the lower rate of 3.0%.

Immediately following the 01 May 2005 increase the pension of Mark and his Comparator would be:

01/5/2005 – 30/4/2006	Pre 90 Excess	Pre 88 GMP	88-90 GMP	90-97 Excess	90-97 GMP	Post 97	Total
Mark	£10,864.17	£0	£0	£6,046.79	£0	£2,403.83	£19,314.79
Comparator	£10,864.17	£0	£0	£4,237.24	£1,806.04	£2,403.83	£19,311.28

As can be seen, the differences would very small with Mark receiving an annual pension which would have been £3.51 higher than his Comparator.

⁴⁰ Note, as with Example 1 there is no anti-franking issue to consider here

⁴¹ Being annual RPI inflation at January 2005

⁴² Being September 2004 annual RPI capped at 3%

c) May 2006 increase

The increase rates the scheme applied in 2006 for GMP increases was higher at 2.7% compared to 2.4% for the excess.

Applying these increases to Mark and the Comparator's elements of pension would have meant in the period 01 May 2006 to 30 April 2007 Mark received a lower pension than his Comparator as set out in the table below. The difference over the whole year was £1.83.

01/5/2006- 30/4/2007	Pre 90 Excess	Pre 88 GMP	88-90 GMP	90-97 Excess	90-97 GMP	Post 97	Total
Mark	£11,124.91	£0	£0	£6,191.91	£0	£2,461.52	£19,778.34
Comparator	£11,124.91	£0	£0	£4,338.93	£1,854.81	£2,461.52	£19,780.17

d) May 2007 increase

The increase rates for the May 2007 increase were 4.2% for the excess and 3.0% for GMPs. This would have resulted in Mark becoming advantaged compared to his Comparator by £20.35 over the year as follows:

01/5/2007- 30/4/2008	Pre 90 Excess	Pre 88 GMP	88-90 GMP	90-97 Excess	90-97 GMP	Post 97	Total
Mark	£11,592.16	£0	£0	£6,451.97	£0	£2,564.91	£20,609.03
Comparator	£11,592.16	£0	£0	£4,521.17	£1,910.45	£2,564.91	£20,588.68

e) May 2008 increase

The increases applied to the excess element (still the whole of Mark's pension) at May 2008 were 4.1%. Again, the element of the Comparator's pension relating to 90-97 GMP was capped at 3.0%. Mark remained advantaged by £42.20 over the year as follows:

01/5/2008- 30/4/2009	Pre 90 Excess	Pre 88 GMP	88-90 GMP	90-97 Excess	90-97 GMP	Post 97	Total
Mark	£12,067.44	£0	£0	£6,716.50	£0	£2,670.07	£21,411.80
Comparator	£12,067.44	£0	£0	£4,706.53	£1,967.76	£2,670.07	£21,454.00

f) May 2009 increase

Macro-economic factors (the financial crisis) meant the percentage increase applied to the excess element of Mark's pension on 01 May 2009 was only 0.1% yet the increase the scheme applied to GMPs was 3.0%. This meant Mark would have, once again, switched to becoming a disadvantaged member (receiving £14.82 less than his Comparator) as follows:

01/5/2009- 30/4/2010	Pre 90 Excess	Pre 88 GMP	88-90 GMP	90-97 Excess	90-97 GMP	Post 97	Total
Mark	£12,079.50	£0	£0	£6,723.22	£0	£2,672.74	£21,475.46

Comparator	£12,079.50	£0	£0	£4,711.24	£2,026.80	£2,672.74	£21,490.28
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g) July 2009 – GMP Age

Mark reached his own-sex GMP Age (65) in July 2009. Because Mark retired from active pensionable service there would have been no need to increase Mark's pension in July 2009 as his pension then in payment (£21,475.46) exceeded his GMP of £6,544.20 (revalued to age 65).

h) May 2010 increase

The rates of increase to pensions granted by the scheme in May 2010 were 3.7% for the excess and 0% for GMPs. Once again Mark would have switched from being disadvantaged to having a pension which would be £105.57 higher than his Comparator. The pension elements would have been as follows:

01/5/2010- 30/4/2011	Pre 90 Excess	Pre 88 GMP	88-90 GMP	90-97 Excess	90-97 GMP	Post 97	Total
Mark	£7,804.86	£3,961.88	£591.24	£4,907.23	£1,991.08	£2,771.63	£22,027.91
Comparator	£7,804.86	£3,961.88	£591.24	£4,885.56	£1,907.18	£2,771.63	£21,922.34

i) Increases after May 2010

At all points after May 2010 Mark, whose 90-97 GMP and 90-97 Excess are both higher than his Comparator would remain advantaged and there would be no further crossovers in the future.

5. Achieving equality in worked example 2

When the scheme implements GMP Equality in May 2020 it will need to consider whether Mark's benefits need to be adjusted for both the past and the future.

a) Past payments

In aggregate Mark would have received £1,227.41 more in pension than his Comparator over the period January 2000 to 1 May 2020. However, there were two years (2006/07 and 2009/10) when Mark was disadvantaged by a total of £16.65.

If the scheme adopts a cumulative basis for calculating past under payments (Methods C1 or C2) then no compensation is required. However, if Method B approach is adopted to calculate past underpayments Mark would be due past compensation of £16.65 plus interest.

b) Correcting future payments

As Mark would be in the advantaged category for the rest of his life there would be no need to adjust his pension going forwards if the scheme used a year by year approach to achieve GMP Equality. The scheme might wish to convert Mark's GMP as part of a GMP conversion exercise and might re-shape his benefits (or not) as part of the exercise.



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