

High Court Judgment in Lloyds Bank GMP Inequalities Case

October 2018

The High Court's judgment in the Lloyds Bank case will require various actions from Trustees and Sponsors of schemes with GMPs earned between 17 May 1990 and 5 April 1997. This checklist highlights a number of key initial considerations.

Short-term actions

Item	Owner
<p>Transfer Values Consider impact on individual cash equivalents, including:</p> <ul style="list-style-type: none"> • Payments about to be made as all other steps have been completed • Quotations already issued and still under guarantee • Quotations yet to be issued <p>Initial action: Agree immediate response with administrators, considering legal and tax issues; review communications and discharge forms</p>	Trustees
<p>Other settlements Consider impact on other settlements, including:</p> <ul style="list-style-type: none"> • Bulk transfer value, flexible retirement or trivial commutation exercises • Buy-ins, buy-outs and wind ups in progress • Individual trivial commutations <p>Action: Consider options and legal advice, discuss with insurer where involved</p>	Trustees and Sponsors
<p>Enhanced exit records Consider whether enhanced records are required for all exits (transfers, deaths, full commutation), including up to date contact details in case such cases will need revisiting</p> <p>Action: Agree data requirements and processes with administrators</p>	Trustees
<p>Sponsor's year-end accounts Consider impact, including:</p> <ul style="list-style-type: none"> • Whether a comment will be required and/or the potential impact quantified • Whether a provision needs to be included and how it is recognised <p>Action: Engage with auditors and advisers, recognising uncertainty in any quantification</p>	Sponsors
<p>Member communication Consider whether any member communication is required, for example, a comment in the next member newsletter or on the member website</p>	Trustees
<p>GMP reconciliation</p> <ul style="list-style-type: none"> • Deadlines for raising bulk queries with HMRC are fast approaching <p>Action: Ensure administrators remain focused on resolving any remaining queries</p>	Trustees

Medium-term actions

Item	Owner
<p>Scheme funding Consider whether a reserve should be included in the Technical Provisions</p>	Trustees and Sponsors
<p>GMP rectification Consider whether it would be more efficient to complete any rectification arising from your GMP reconciliation alongside removing GMP inequalities</p>	Trustees
<p>Data availability Establish what data your current and former administrators hold and whether it is reliable before deciding how you wish to set about resolving GMP inequalities. Also establish administrative practices regarding revaluation, indexation, commutation and anti-franking, and how these have changed over time</p>	Trustees
<p>Interaction with your Rules Consider how the Lloyds judgment interacts with the specific rules and administrative practices of your pension scheme</p>	Trustees
<p>Existing Buy-in Establish whether any buy-in contract provides cover for the cost of removing inequalities and whether this means the insurer needs to be involved in agreeing the method to be adopted</p>	Trustees
<p>Methodology Consider cost and practicality of different approaches for both the initial exercise and on-going administration</p>	Trustees and Sponsors

Having completed this groundwork, it will then be necessary to implement the chosen method, adjust scheme records, amend benefits in payment and consider the payment of historic underpayments. The complexity of this exercise should not be underestimated. For example, it is likely that dual records will need to be calculated for every member with relevant GMP. Different membership groups to consider include the following:



The calculations required depend on the method adopted. A summary of the methods considered in the Lloyds case is provided in our News Alert.

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Examples

The inequalities that arise in scheme benefits from GMPs vary significantly from scheme to scheme and member to member. Our experience shows that many members, even with GMP earned in the relevant period (17 May 1990 to 5 April 1997) do not need any uplift. For those that do the uplift is often very small. Only in a small number of cases do the uplifts tend to be significant. The three examples below show the potential impact of removing GMP inequalities using the four methods (A, B, C & D) put to the High Court in the Lloyds Bank case.

 <p>Kate - Low earner</p> <p>Left in 1995 with a deferred pension of £500 pa of which £200 pa 90-97 GMP. Scheme equalised NRAs at 60</p> <p>Current funding reserve £35,000</p> <p>Potential Uplifts</p> <table border="0"> <tr> <td>Method A 16%</td> <td>Method C 3%</td> </tr> <tr> <td>Method B 3%</td> <td>Method D 2%</td> </tr> </table>	Method A 16%	Method C 3%	Method B 3%	Method D 2%	 <p>Farhaan – High earner</p> <p>Left in 2015 with a deferred pension of £50,000 pa of which £1,500 pa 90-97 GMP. Scheme equalised NRAs at 65</p> <p>Current funding reserve £1,500,000</p> <p>Potential Uplifts</p> <table border="0"> <tr> <td>Method A 2%</td> <td>Method C 1%</td> </tr> <tr> <td>Method B 1%</td> <td>Method D 1%</td> </tr> </table>	Method A 2%	Method C 1%	Method B 1%	Method D 1%
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 <p>Jim – Low earner</p> <p>Left in 2005 with a deferred pension of £2,000 pa of which £500 pa 90-97 GMP. Scheme equalised NRAs at 65</p> <p>Current funding reserve £100,000</p> <p>Potential Uplifts</p> <table border="0"> <tr> <td>Method A 8%</td> <td>Method C 6%</td> </tr> <tr> <td>Method B 6%</td> <td>Method D 6%</td> </tr> </table>	Method A 8%	Method C 6%	Method B 6%	Method D 6%	<p>Which schemes are most affected?</p> <p>Generally those with:</p> <ul style="list-style-type: none"> • A large amount of 1990-97 GMP • GMP that is a large proportion of the benefit for those members that have it, or non-GMP is low in value (eg low earners, low accrual, high retirement age, low revaluation and indexation) • Males who have not received revaluation on their GMP before age 65 				
Method A 8%	Method C 6%								
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The High Court has ruled the trustee cannot unilaterally adopt any method other than C. Other methods can be adopted with the sponsor’s consent. Whilst, as shown above, the uplifts could be similar under C and D, the ongoing administrative cost and complexity would be very different, with Method C requiring two records for each member indefinitely and keeping track of past payments. Method D would instead require a one-off calculation and then payment of a simplified benefit with a single record.

We have an experienced team of GMP inequalities experts, who have already implemented all of the main methods for removing GMP inequalities across a wide range of clients.

Careful preparation is required to establish what is practical and proportionate. Using historic data or individual archived files can also, without care and clear direction, open a can of worms. The methods and techniques we have developed mean trustees can adopt a structured approach to ensure work can be completed efficiently and proportionately. Structured the right way, alongside removing GMP inequalities, it is possible to simplify on-going administration and reduce buy-out costs.

The key is for trustees and sponsors to consider their pension scheme's situation carefully before choosing any particular method or starting any calculations.

Want to find out more?

If you would like further information, please contact your usual LCP adviser or one of the people below.



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