

GMP Equalisation Under the Microscope – Claims for GMP Equalisation Top-ups to Historic Transfers

Article By:

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Will the number of transfer top-up claims be any more predictable than the weather – can we expect a blizzard or a light flurry?

Shortly after the recent High Court decision on the issue of guaranteed minimum pension (GMP) equalisation and historic transfers (the latest ruling in legal proceedings relating to a number of pension plans connected with the Lloyds Banking Group) we published a [summary](#) of the judgment and our initial reaction. Over the coming weeks we will be looking at some of the key issues raised by the decision in a series of blogs. In this first instalment we consider whether trustees of pension plans are likely to be inundated with claims for a “top-up” payment by former members who took transfers out of their pension plans, where those transfer payments would have been higher if the transferring scheme had equalised benefits between male and female members for the effect of unequal GMPs.

Former members will only be able to make claims if they know about the possibility of being able to do so. At present it seems there is little awareness of the issue outside the pensions industry. A quick internet search (not remotely scientific I should add) revealed many articles and blogs published by law firms, employee benefits consultants and industry journals and only after scrolling through several pages of results was there a post by an individual on an online motoring community forum.

That’s not to say there won’t be claims by former members going forwards – it’s still early days.

There has been a lot of transfer activity since the introduction of pensions freedoms in 2015 with many members of defined benefit pension plans electing to take a transfer value of their benefits to a defined contribution arrangement offering greater flexibility than had been available to them under the original pension plan. In the majority of these cases, the individuals will have been required to obtain independent financial advice and the advisers who provided the advice may see the decision as an opportunity to gain more work from their clients by helping them pursue claims for a top up payment. However, their willingness to get involved may be limited by the ability or otherwise of the receiving pension arrangement to accept what might be a relatively small payment and/or uncertainty about how they might be remunerated for the extra work.

There have been concerns raised about the suitability of some of these transfers leading to interest from claims management companies in seeking to obtain compensation (and fees for themselves) for

the individuals affected. It seems unlikely, however, that their interest will routinely extend to assisting individuals to make claims for top-up payments. It may be difficult to determine whether an individual is eligible to claim a top-up payment and even if eligibility for a top-up payment is established the amount of the payment will in most cases be a small fraction of the total transfer value. The rewards (to the extent there might be any) for such companies are perhaps often unlikely to justify the efforts involved.

Trustees of pension plans may be wondering whether they should do anything to raise awareness amongst their membership, for example by including articles in newsletters or other member communications.

Where current members of defined benefit pension plans have transferred in benefits from another pension plan and were granted additional defined benefits, they may benefit from the trustees' obligation to provide equalised benefits in their current scheme, regardless of whether any top-up payment is received. If the members concerned did claim a top-up payment from their previous pension plan and the current pension plan could accept the payment, it would go towards the meeting the additional liability resulting from providing the equalised benefits. As there doesn't seem to be anything 'in it' for the members in this scenario they may not be interested in making claims.

In contrast, if a current member of a defined contribution pension plan did successfully claim a GMP equalisation top-up payment in respect of a transfer from a previous pension plan, and the current pension plan could accept the top-up, we expect it would be applied to increase the value of the member's 'pension pot'. Therefore, there may be more member interest in making claims for a top-up payment in this scenario.

For now, at least, I am expecting that pension plan trustees will perhaps focus their attention on the wider aspects of GMP equalisation, which many pension plans have yet to tackle in earnest.

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