

Review

Pensions



GMP equalisation

Yesterday, Angela Eagle, the Minister of State for Pensions and the Ageing Society, issued a statement about the equalisation of Guaranteed Minimum Pensions that may have implications for many occupational pension schemes.

A QUICK REMINDER!

In the Barber v Guardian Royal Exchange judgment in May 1990, the European Court of Justice ruled that occupational pensions are a form of deferred pay and scheme rules must treat men and women equally. The UK Government subsequently legislated for this, finally via section 62 of the Pensions Act 1995, which implies an overriding equalisation rule into all pension scheme rules. Not surprisingly, similar obligations to pay equal benefits apply to compensation provided by the Pension Protection Fund ("the PPF") and the Financial Assistance Scheme ("FAS"). The Government has thus been working on guidance for how schemes preparing for entry into the PPF or FAS should deal with equalisation.

GMP EQUALISATION

This process has raised the thorny issue of Guaranteed Minimum Pension ("GMP") equalisation again. The Government has stated that all schemes preparing for entry into the PPF and FAS should remove any GMP inequalities in scheme rules even if no "comparator" exists. There has been a general consensus that GMP equalisation only applies where there is a "comparator": that is, where more favourable treatment has actually been given to a member of the opposite sex engaged in comparable work.

However, the statement has wider impact, saying that: "trustees and others should act as if existing domestic legislation requires equalisation in respect of differences resulting from GMPs whether or not real comparators exist." This applies to all schemes, not just those about to enter the PPF or FAS. The Government has announced its intention to bring forward amending legislation to deal with this.

SO WHERE DOES THIS LEAVE US?

To date, most schemes have focused on equalising benefits that relate to past inequalities in normal retirement ages. This has been tortuous enough. Many schemes have not attempted to equalise GMPs in isolation, as they are inherently unequal, complicated and up till now there has been no clear legal steer from Government to do so. However, it looks as though legislation might be about to change this.

If the Government press ahead with this legislation, as announced, then it is indeed to be hoped that they will provide appropriate practical assistance and will adopt a common sense approach. What will not be welcomed by deficit-ridden defined benefit pension schemes is increased complexity, administrative costs, advisory costs and the possibility of years of subsequent case law before this issue is finally put to bed.

In the meantime, it is important that Trustees are up to speed on equalisation issues and in a position to deal with forthcoming legislation.

FURTHER INFORMATION

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