

Pensions Shaping New Law

GMP Equalisation

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The challenge

"GMP equalisation – What can and should Trustees do about GMP equalisation when winding up a scheme (in deficit or surplus) to eliminate risk for themselves?"

And...

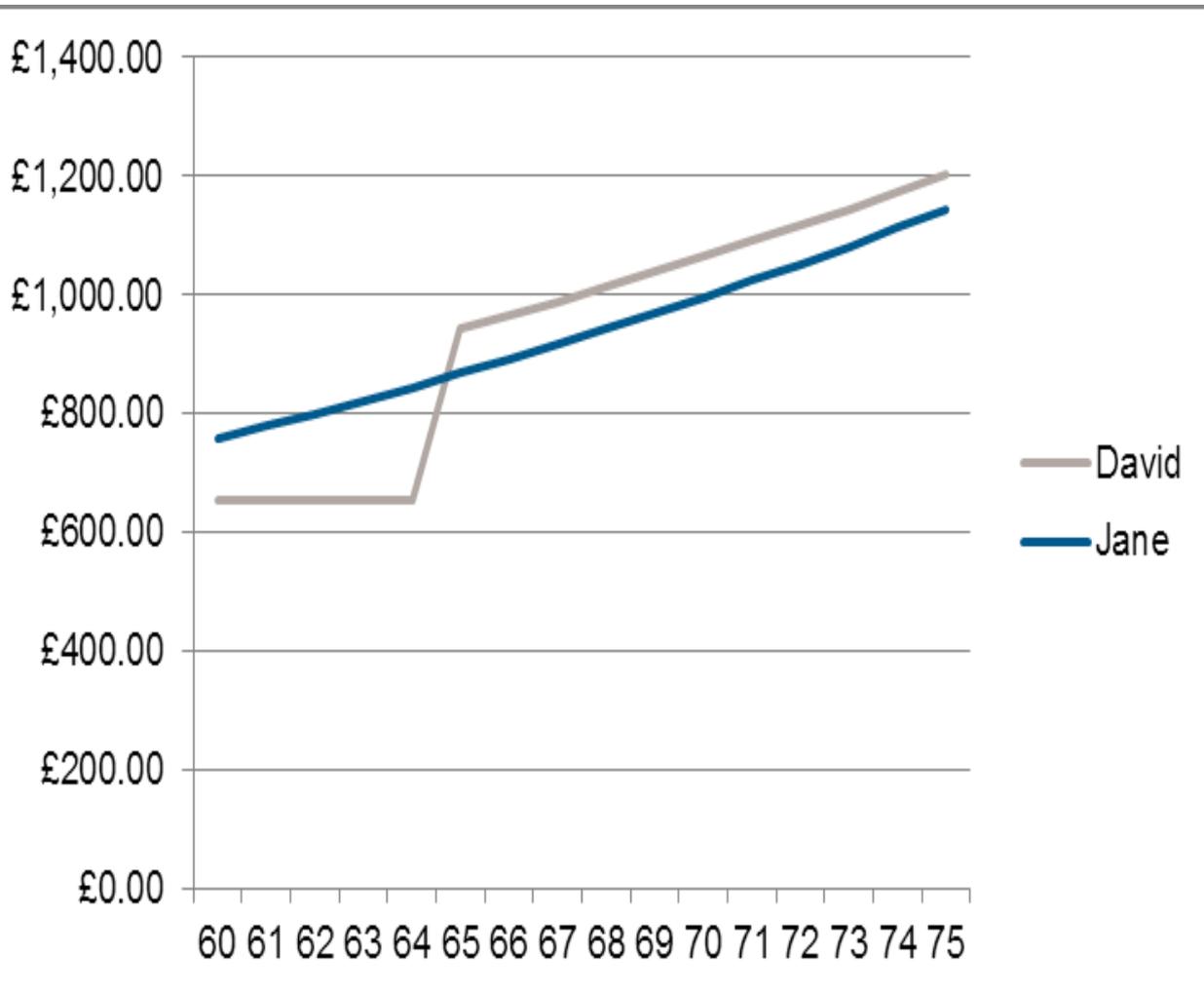
"Can you be certain that GMP equalisation is a requirement under current law?"

All in 35 minutes (including 10 minutes for questions)

Agenda

- Look at why GMPs are unequal and what schemes are doing
- Reminder of the Government's statements and consultations
- Does the law currently require equalisation of GMPs (or the effects)?
- Protecting trustees of schemes in wind up – the three scenarios:
 - Schemes going into the PPF
 - 100% plus solvent wind ups
 - "PPF plus" wind ups
- Questions

An example of unequal GMPs



- Scheme NRA – 60
- Joined May 1990
- Same earning history
- Left April 1997 (57)
- Pension DOL - £600
- No indexation on excess in payment
- RPI/CPI 3%
- GMP rate 6.25%

But...

- This is a simplified example
 - Most schemes provide benefits in excess of GMP
 - Anti-franking legislation and different GMP pension ages
 - Late payment factors (post 60 for females) generous
 - Schemes may provide higher increases on benefits in excess of GMP so a larger GMP is a disadvantage
 - GMP "integrated" with State pension (COD)
-
- Cannot tell until someone dies whether they would have got more or less if their GMP was for the opposite sex

What are on-going schemes doing

- No rush to equalise for the effects of GMP
- Fear of doing it wrong (ratchet up)
- Is the problem getting any worse
- Dr Kenworthy case (PO4579)

However, the nettle needs to be grasped when winding up a scheme

Government statements and consultation

- Angela Eagle – January 2010
- Steve Webb – April 2011
- Consultation and draft Regulations – January 2012
- Suggested approach to equalise (gold plated)
- DWP withdraws suggested approach following responses to consultation
- Draft Regulations never passed
- DWP now working with industry on how schemes might achieve equality

Does the law currently require equalisation?

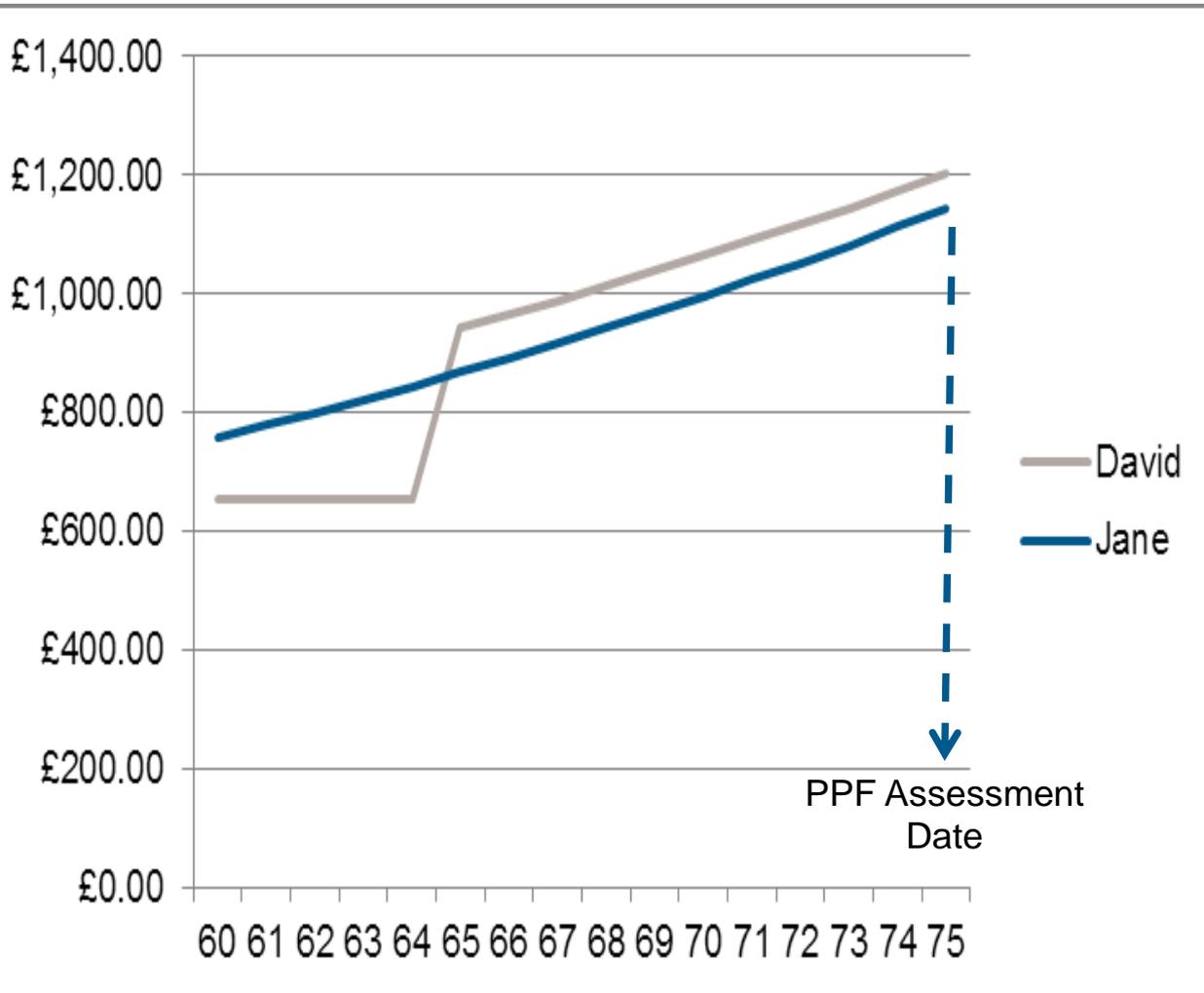
- Arguments against need to equalise:
 - Birds Eye Walls
 - GMP is quasi state pension (as links to additional pension)
 - Overall accrual rate and NPDs are equalised
 - Legislation requires unequal GMPs
 - Lack of comparator (Allonby)
 - Case law (Mercer/Williamson) unclear – elephant in room
- On balance – suspect equalisation is required – question is how do trustees achieve it?

Schemes winding up in the PPF

- Section 171 Pensions Act 2004
- GMPs disappear in PPF
- PPFs Statement re GMPs (December 2012)
- Schemes entering into PPF must adopt "Modified Method(2)"
- For benefits accrued between May 1990 and April 1997 give member higher of male or female benefit
- Results in increase of Pre 1997 NPA 60 and reduction in Pre 1997 NPA 60+

Any shortfall between the actual pension paid before the Assessment Date and the higher pension applicable after equalisation for GMP should therefore be made as a one-off payment, if applicable. Interest should not be paid unless the scheme rules required it.

Modified Method (2) and PPF approach



- David compensated by £737
- Jane compensated by £624
- David and Jane both get £1,200 pa for life (all pre 97)

Solvent wind ups

- Schemes able to secure 100% of benefits through buy out
- Reconcile GMPs with NISPI as part of process
- Regulator guidance on wind up – pragmatic cost effective no one method
- Methods used in practice to address unequal GMPs on wind up:
 - Do nothing
 - Broad brush uplift in value (especially where there is a surplus)
 - Insure against risk
 - Equalisation through conversion
 - Actuarial value approach
 - Cash compromise?
- Practical consequences – would member bring claim (if so where and against who)
- Consider liquidation of trustee company post wind up

PPF Plus Wind Ups

- Schemes exiting PPF assessment with s143 valuation above 100%
- Schemes where s75 debt compromised (with clearance)
- More than enough assets to secure PPF liabilities but not full benefits
- Section 73 priority order
- Assets shared between members
- Adjusting for inequalities of GMP will increase some members' benefits at expense of others (including those with only post 97 benefits)
- Cost of advice reduces members' benefits
- Might trustees adopt a do nothing approach (and tell members)
- Again who is going to complain in practice

Past inequalities

- Outside PPF schemes that are equalising for the effects of GMPs are doing so only on a look forward basis
- Issues about past unequal payments are not addressed
- Raises issues of limitation of actions and time limits for bringing claims (continuing breaches etc)

Questions

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