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# **GMP equalisation and all that jazz**

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14 May 2019



# Overview: what's in and what's out

- What works: the approved equalisation methods
- How far back do you go?
- Where are we now on tax?
- What can we ignore?
- GMP conversion after the statutory guidance
- What's so special about winding up?

# The approved methods

Method	How it works	Available to trustees?
<b>A3</b>	Each unequal element of the part of the member's pension earned between 1990-1997 is taken separately each year and adjusted upwards to remove any inequality. Dual records.	With employer consent
<b>B</b>	An annual comparison of the member's actual pension for 1990-1997 service with that of a notional member of the opposite sex, and payment of the higher amount. Dual records.	Yes if less costly than other viable options or with employer consent.
<b>C1</b>	As B but offsetting past overpayments so the cumulative pension paid is always equal, but the actual pension may not be. Dual records.	
<b>C2</b>	As C1 but applying simple interest of 1% over base rate to past overpayments to reflect the value of money received earlier. Dual records.	
<b>D1</b>	A one-off actuarial comparison of value of total male/female 1990-1997 benefits (or remaining value after equalising past where benefits are in payment), and conversion of any difference in value into an additional tranche of pension for the disadvantaged sex	No, in an on-going scheme
<b>D2</b>	Use e.g. C2 to calculate arrears, then D1 for the future, but also use GMP legislation to convert all GMPs to normal benefits to give members equal capital value in a different format.	With employer consent and only for future payments

## How far back do you go?

- Overpayments and underpayments: Keith Rowley QC
- Method C: impact on future cross-over point

# Tax: I can't do it alone

## New benefit or old one?

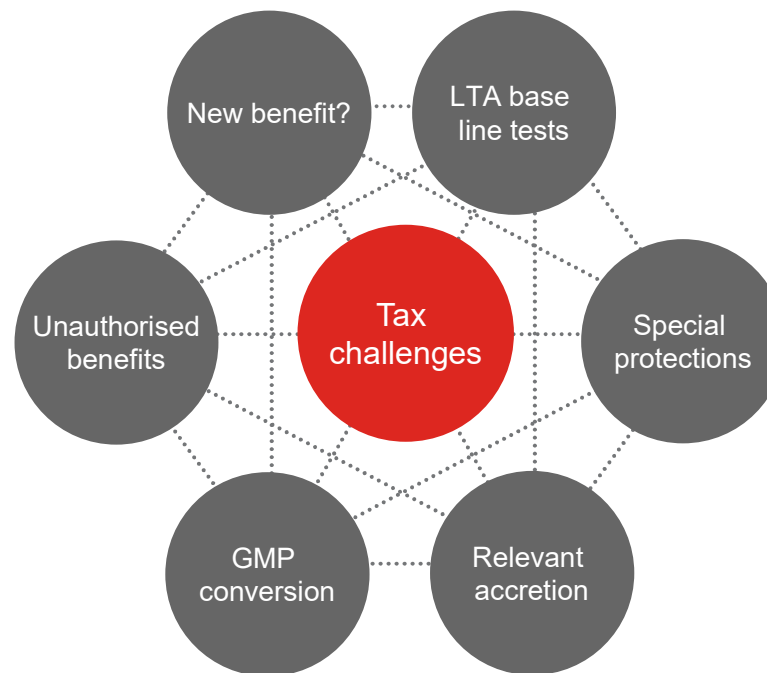
Loss of LTA protection  
Re-basing existing protections?

## Unauthorised benefits

Trivial commutation/ serious ill health requires all benefits to be discharged

## Deferred member carve-out

Sex equality increases only if equalisation with GMP conversion



## LTA base line tests

Value at 2006 etc  
Recalculate now?

## Special protections

Protected normal pension age  
Protected lump sums  
All benefits at the same time

## Relevant accretion

Transfer out before scheme administrator becomes aware  
PTM063700 "revised legal conclusions" in 6 months



*a different method of equalisation  
where the estimated cost of  
calculating and implementing  
Methods A to D is the same as or  
greater than the projected additional  
benefits*

## *De minimis: a little bit of good?*

### *de minimis non curat lex*

- Public law
- UK vs EU law
- Nothing in the Treaty
  
- Risks
- Trustee duties
- Protections

### What does practical look like?

- Different method, or no method at all?
- Impact on member or impact on scheme?
- Assumptions for missing data

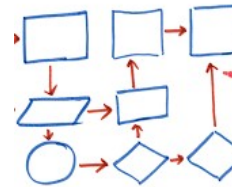
# How conversion works



**Power to amend**



**Conditions for amendment**



**Process for amendment**



**Enforcement of requirements**



## How conversion works: s24G statutory power to modify

- Power to modify by resolution “so as to effect GMP conversion”
- **GMP conversion:** “amendment of the scheme in relation to an earner so that it no longer contains the guaranteed minimum pension rules”
- s67 PA95 subsisting rights rules disapplied to scheme power of amendment “in so far as the power [of amendment] enables GMP conversion”
- “Where a scheme is amended to effect GMP conversion the trustees may include other amendments which they think are necessary or desirable as a consequence of, or to facilitate, the GMP conversion”

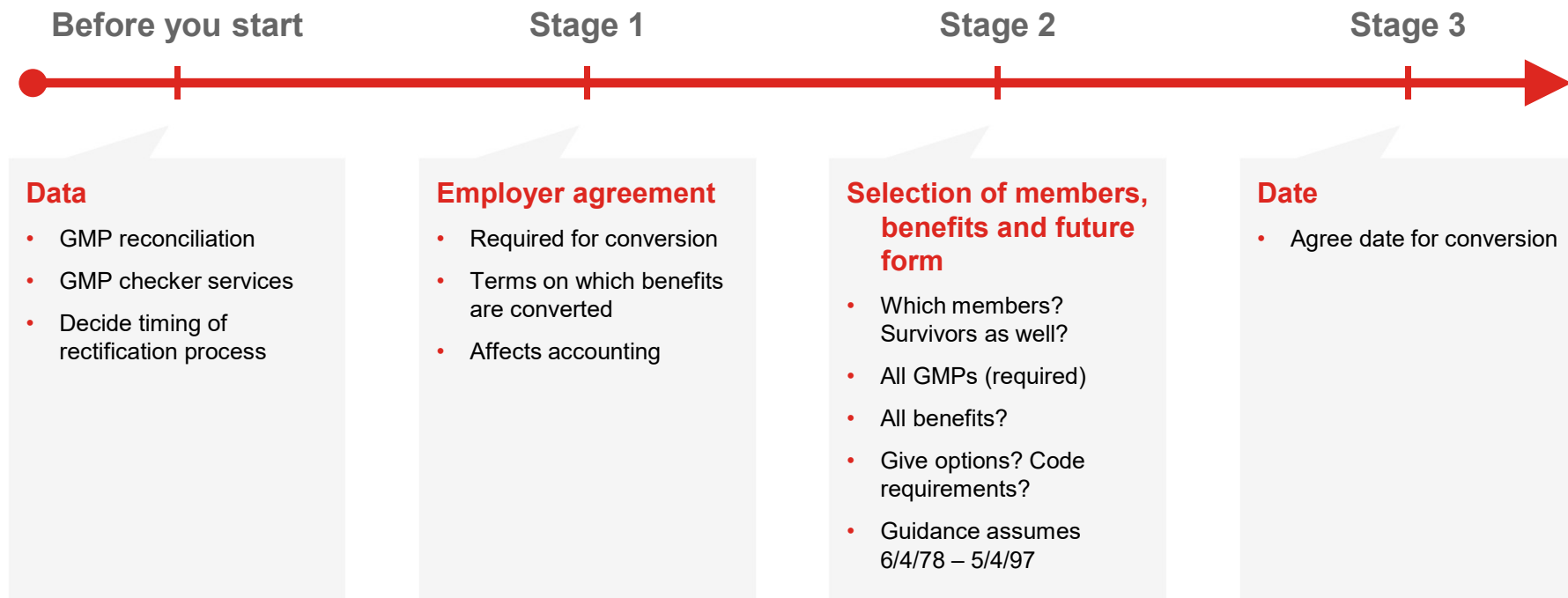
## Service periods for calculation

	Service period	GMPs	Benefit age
1	Pre 6 April 1978	No GMPs	Likely to differ by sex
2	6 April 1978 to 5 April 1988	Pre-1988 GMPs	Likely to differ by sex
3	6 April 1988 to 16 May 1990	Post-1988 GMPs	Likely to differ by sex
4	17 May 1990 to equalisation	Post-1988 GMPs	Lower age applies
5	Equalisation to 5 April 1997	Post-1988 GMPs	Unisex age
6	6 April 1997 onwards	No GMPs	Unisex age

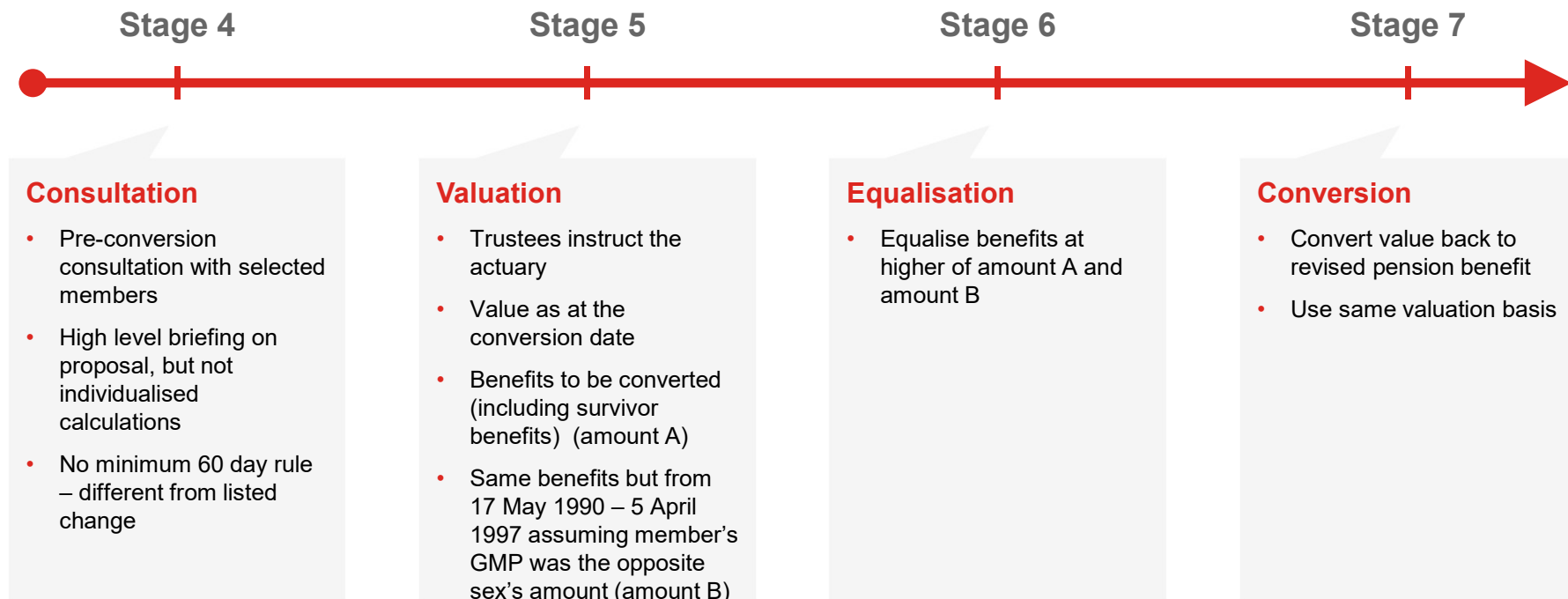
## How conversion works: s24B conditions

- **Condition 1:** Benefits must be actuarially at least equivalent to pre-conversion benefits
- **Condition 2:** New benefit structure for earner does not reduce amount of pension already in payment
- **Condition 3:** New benefit structure is not defined contribution (except to the extent it was originally DC)
- **Condition 4:** Survivors' benefits are provided in the new benefit structure if pre-conversion the earner had a GMP and survivors' benefits were payable under the scheme in accordance with old GMP requirements
- **Condition 5:** Procedural requirements have been followed

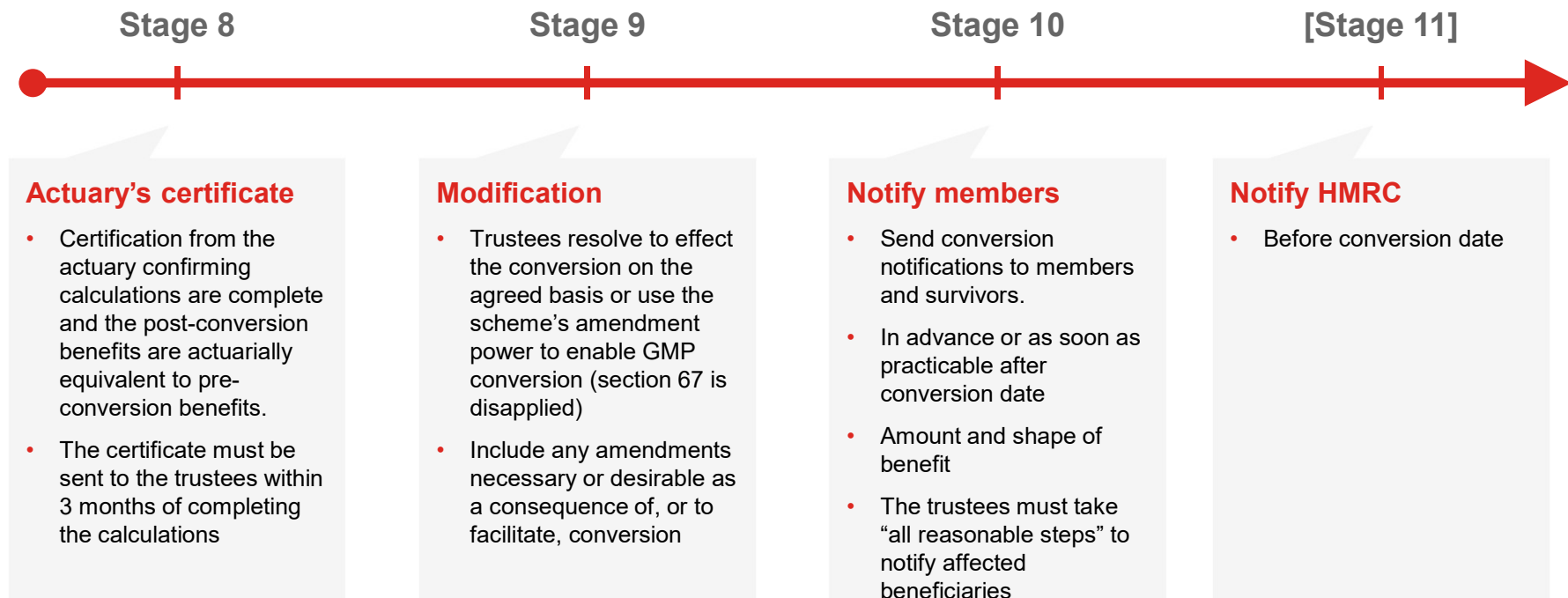
# s24E procedure: Statutory guidance (1)



## Statutory guidance (2)



## Statutory guidance (3)



## DWP recommends advice on..

- Which methodology?
- Which employers to consent?
- *De minimis*: costs of calculation and implementing equalisation exceed new benefits
- Proposed structure of new benefits and application of Code of Practice to options
- Assumptions to be used (actuarial)
- Suitability of basis, treatment of retirement date
- Treatment of pre-1978 benefits
- Treatment of active members
- Forfeiture rules for accumulation of arrears

- Form of payment of arrears
- Are arrears over generous? Should C2 be used to calculate future payments first, or to net off arrears?
- Treatment of transfers in?
- Treatment of former members?
- Treatment of gaps in data?
- Sex-based vs unisex factors?

## Winding up

- How far does a discharge go?
- No excuse now?
- Winding up in deficit: being practical
- PPF solution

- s24G(4) PSA 1993 where “an occupational pension scheme is being wound up, the trustees may, before the winding up is completed, adjust rights under the scheme so as to reflect what would have happened if the scheme had been subject to GMP conversion in accordance with Conditions 1 to 4 of section 24B.”





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