Title: New Bereavement Support Payment: clarification of Guaranteed Minimum Pension requirements	**Impact Assessment (IA)**
IA No: DWP2017_04	**Date:** February 2017
RPC Reference No: RPC-3647(1)-DWP	**Stage:** Final (Validation)
Lead department or agency: Department for Work and Pensions	**Source of intervention:** Domestic
Other departments or agencies:	**Type of measure:** Secondary legislation
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Summary: Intervention and Options

RPC Opinion: Awaiting Opinion

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year**	**One-In, Three-Out**	**Business Impact Target Status**
-0.5	-0.5	0.1	In scope	In scope

What is the problem under consideration? Why is government intervention necessary?

Legislation requires that inherited Guaranteed Minimum Pensions (GMPs) are payable in circumstances where the State makes payment of Bereavement Allowance (BA) or Widowed Parents Allowance (WPA) to the survivor. The inherited GMP is the minimum pension that must be paid by the pension scheme to the survivor where the deceased was a member of a contracted out pension scheme between 1978 and 1997.

BA and WPA will be replaced with the new Bereavement Support Payment (BSP) from April 2017. As a result, there is a risk that it will be unclear to the schemes in what circumstances they should pay the inherited GMP, whether it should be paid where the new BSP is in payment, and what happens once BSP ceases to be paid (it will only be paid for one year).

What are the policy objectives and the intended effects?

A change to legislation is required in order to clarify the circumstances in which the inherited GMP will need to be paid following the introduction of the new BSP in April 2017. The objective is to ensure that schemes can continue to meet the existing legislative requirement to pay inherited GMPs in the new Bereavement Support environment.

The intended effect is to limit the need for schemes to seek additional legal advice about how the GMP requirement should now apply, and mitigate complaints being brought against schemes which lead to potential compensation pay-outs. For individuals, this clarification of legislation aims to limit unnecessary delays in payments of inherited GMPs.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1: do nothing.
This has been ruled out on the basis that doing nothing would lead to unnecessary confusion for schemes and members. Inherited GMP payment rules in the new environment must be made clear to the pension schemes. In the absence of relevant Government's action (some of) the schemes will be at risk of failing to meet the GMP requirements, which may result in both financial and reputational damages to the schemes, and financial and associated wider social losses to their members.

Option 2 (preferred option): clarify the inherited GMP rules by changing legislation.
In order to remove ambiguities, amendments to legislation are needed to introduce additional circumstances where the inheritable GMP should be paid under the new BSP regime. Amendment will not alter the underlying inherited GMP payment commitments that the schemes affected already have, and therefore the amount of GMPs that the schemes will have to pay out.

Will the policy be reviewed? It will not be reviewed. **If applicable, set review date:** Month/Year

Does implementation go beyond minimum EU requirements?		N/A			
Are any of these organisations in scope?		**Micro** Yes	**Small** Yes	**Medium** Yes	**Large** Yes
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)		**Traded:** N/A		**Non-traded:** N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister: Richard Harrington Date: 16/02/17

Summary: Analysis & Evidence — Policy Option 1

Description: New Bereavement Support Payment: clarification of Guaranteed Minimum Pension (GMP) requirements.

FULL ECONOMIC ASSESSMENT

Price Base Year 2017	PV Base Year 2017	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -1.0	**High:** -0.25	**Best Estimate:** -0.5

COSTS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Cost** (Present Value)
Low	1.0		0.0	1.0
High	0.25	**1**	0.0	0.25
Best Estimate	0.5		0.0	0.5

Description and scale of key monetised costs by 'main affected groups'

Inherited GMP payment costs.

The legislation will clarify when schemes need to pay the inherited GMPs. However, it will not alter the underlying inherited GMP payment commitments that the schemes affected already have. The baseline is the amount *correctly* paid out in the absence of the proposed legislation, and on this basis change to the GMP entitlement costs to the schemes will be zero.

Without this change there is risk of inherited GMP being paid out to those not entitled and not being paid out to those who are entitled, however the proposed regulation is designed to mitigate against this risk and therefore we assume accurate payments continue as a result.

Familiarisation and implementation cost.

To take account of the requirements set out in the proposed legislation, the affected schemes will need to: (i) familiarise themselves with the new legislation, and (ii) amend their administrative processes accordingly (if needed, depending on how the change will affect their members).

Based on consultation responses we have received from the industry which have informed assumptions (all set out in the Evidence Base section), we estimate that total familiarisation, administrative, and implementation cost will be equal to about £0.5 million in year 1. This is our best central estimate.

We do not expect any costs in later years. The measure covers individuals who were members of a contracted out pension scheme between 1978 and 1997, which means we have a stable legacy base and there cannot be any on-flows of new affected schemes in future years. And where administrative processes need to be amended we expect these to be automated and therefore assume zero ongoing costs.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	**Total Transition** (Constant Price)	Years	**Average Annual** (excl. Transition) (Constant Price)	**Total Benefit** (Present Value)
Low	0.0		0.0	0.0
High	0.0	1	0.0	0.0
Best Estimate	0.0		0.0	0.0

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Savings from not having to seek independent advice.

In the absence of clarification through legislation, scheme behaviours would vary; and possible choices may include, for example: (i) not paying to cases in question unless there is a court ruling mandating to do that, or (ii) paying to cases in question to try avoiding risk of an adverse court ruling or other risks, or (iii) actively seeking independent advice on what to do in the presence of uncertain legislative requirements. Whatever the choice, it carries potential costs to schemes.

The first (i) one would put schemes at risk of ending up having an adverse court ruling, which results in the need to pay compensation. The second one (ii) would put at risk of paying to cases with no underlying entitlement. And the third (iii) one would carry costs associated with seeking advice and guidance (e.g. consulting lawyers). Making the requirements clear in the legislation would remove these potential costs. However, we have no evidence from previous changes on how many schemes would choose to act, and what all possible outcomes of choices would result in (for example, we do not know how many schemes would end up having an adverse court ruling). There are no comparable clarifications that we can reference in estimating these actions and resultant costs. Government aims to ensure that where there are mandatory requirements to pay something it is made clear in the legislation what exactly is mandated. In this instance the underlying requirements are still there but the legislation setting them out is no longer clear / certain because certain subjects which are used to base the requirements on in the legislation no longer exist (and are replaced with in essence similar subjects but such that may not necessarily be interpreted as equivalent from legal point of view).

Due to the underlying uncertainties and lack of any evidence and data, we do not quantify this benefit.

Avoided adverse financial and social impacts on members.

In the absence of clarification to the schemes, some eligible members could be at risk of not getting the inheritance GMP paid to them (and not all of them may have the resources needed to challenge through the court proceedings) or getting it paid later than it would be otherwise. This would have adverse financial impacts on those members, and potentially wider social impacts associated with financial deprivation in some instances.

Avoided reputational damage to schemes and their sponsors.

In the absence of clarification to the schemes, some may end up having an adverse court ruling. The adverse court ruling may result in some distress or reputational damage in addition to direct financial costs incurred.

Summary of non-monetised benefits.

Given that we have consulted[1] the industry and all those who responded agreed that changing the legislation to clarify the requirements is necessary, we believe that overall changing the legislation to clarify the requirements is more cost efficient to businesses than leaving substantive policy/regulatory uncertainties (and risks associated with them) in place.

[1] Link to consultation document: < Link: https://www.gov.uk/government/consultations/occupational-pensions-draft-regulations-

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%

a) 300 schemes will be affected. We believe this is a reasonable central assumption, but at the same time we acknowledge that given that in total there are about 6,000 DB schemes the assumption comes with some uncertainty.
b) Average familiarisation/implementation cost is £1,600 per affected scheme.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			**Score for Business Impact Target (qualifying provisions only) £m:**
Costs: 0.1	**Benefits:** 0.0	**Net:** -0.1	0.5

legislative-review-and-guaranteed-minimum-pensions-equalisation-methodology>

Evidence Base (for summary sheets)

Problem under consideration:

1. Under Section 17 of the Pension Schemes Act 1993, a pension scheme must provide that if the earner dies, whether before or after attaining pensionable age, leaving a widow, widower or surviving civil partner they must be entitled to a GMP under the scheme. Section 17 additionally sets out when the widow's, widower's or surviving civil partner's GMP must be payable. In essence, this must be paid for any period when:

   a. Category B retirement pension would have been payable to the surviving spouse by virtue of the deceased scheme member's NI contributions.

   b. Any period for which Widowed Parent's Allowance (WPA) or Bereavement Allowance (BA) is payable to the widow, widower or surviving civil partner by virtue of the deceased scheme member's NI contributions.

2. However, from April 2017 Government will introduce a new bereavement benefit, the Bereavement Support Payment (BSP). This new BSP will replace BA and WPA and thus it may be unclear to schemes in what circumstances they should pay an inherited GMP, whether the inherited GMP should be paid where the new BSP is in payment, and what happens once it ceases to be paid (the new BSP is only paid for one year).

Rationale for intervention:

3. Government intervention is required to provide clarification and avoid ambiguity. Otherwise, it will be unclear to schemes when they should pay an inheritable GMP to the member's survivor because the new BSP is not currently mentioned in legislation. This essentially will maintain the status quo for schemes as far as the circumstances when they should pay an inheritable GMP.

Policy objective:

4. The legislation amendment is to ensure that schemes can continue to meet the existing legislative requirement to pay inherited GMPs in a new environment.

Description of options considered (including status-quo):

5. <u>Option 1: do nothing</u>.
   This has been ruled out on the basis that doing nothing would lead to unnecessary confusion for schemes and members. GMP entitlement rules in the new environment must be made clear to the pension schemes. In the absence of relevant Government's action (some of) the schemes will be at risk of inadvertently failing to meet the GMP requirements, which may result in both financial and reputational damages to the schemes, and financial and associated wider social losses to their members.

6. <u>Option 2 (preferred option): clarify the inherited GMP rules by changing legislation</u>.
   Amend existing legislation to factor in circumstances where the inheritable GMP should be paid under the new BSP regime.

Monetised costs and benefits of preferred option

Familiarisation, administrative, and implementation cost to businesses

Number of schemes affected.

7. In total, there are around 6,000 funded Defined Benefit (DB) schemes in scope.

8. However, most schemes will not be affected by the proposed legislation as their rules simply require that they pay a pension to the widow, widower or surviving civil partner irrespective of what State benefits are in payment. It is not possible to precisely identify how many schemes only pay survivors benefits in line with the legislative requirements of Section 17 of the Pension Schemes Act 1993. This is because there is no existing database that would permit an analysis of differences in scheme rules and practices in this regard, and to conduct a representative survey of schemes to collect this specific information would be disproportionately costly. In the absence of definitive evidence, but based on information gathered from industry engagement, responses to the

consultation[1], and sense checking against statistics published by ONS (see below), we have assumed that 5% of schemes (i.e. 300 schemes) will be affected.

9. We have received forty three responses through the consultation, of which thirteen include at least some comment on the GMP under the new BSP legislation measure. Although none of them contains a numerical assessment of the proportion or number of schemes likely to be affected, all the responses which attempt to answer this particular question state, explicitly or implicitly, that the vast majority, if not all, of the schemes will not be affected by this as their rules simply require that they pay a pension to the widow, widower or surviving civil partner irrespective of what State benefits are in payment. For example: '*nearly all c-out schemes do not take into account circs*', '*we do not believe this will impact on costs*', or application of the statutory eligibility requirements is '*quite exceptional'.*
   To provide further verification of this estimate, we have sense checked it with the Occupational Schemes Survey 2015[2]. According to this, 93% of private sector DB schemes have pension payment to surviving spouse/civil partner specified in their scheme rules, and only 6% at trustee's discretion.

Familiarisation and implementation cost.

10. Only one of the respondents (in the consultation) commented on how much it may cost the affected schemes to familiarise with and implement the requirements set out in the legislation introduced (the respondent is one of the largest employee benefits consultancies in the UK). According to the response, if the scheme rules needed to be updated that could cost around £1,000 for a simple deed of amendment, or £500 for scheme booklet to be updated.

11. However, the response also states that schemes may '*wait until a further substantial change is needed'* to minimise the incurred costs. Also, it may not be that all schemes need to do that. Therefore we interpret that the £500 to £1,500 cost (£1,500 in total) is likely to be an upper estimate. For the purposes of finding a central estimate we assume that all the affected schemes will incur the updating scheme rules cost and half of them will incur the booklet updating cost. In addition, given that the respondent has indicated that there could be some potential to minimise the actual costs by waiting for substantive changes needed to be made, we assume that on average the actual cost could be reduced by 20% as a result, to £1,000.

12. We believe that schemes are also likely to incur additional administrative costs, like staff training, guidance, and IT changes. However, we also believe the additional costs, if any, are not likely to be substantive because the affected schemes already have the knowledge and infrastructure needed to pay out the GMP – so if any changes are needed we believe they would require minor adjustments to the existing infrastructure rather than anything fundamentally new. In the absence of any conclusive evidence we had to make some assumptions to get the average additional administrative cost, the approach is set out below.

13. Given that we don't expect any fundamental changes to be needed (as set out above), we assume that the affected schemes may need approx. a day (roughly 7.5 hours) of a professional's (most likely to be lawyer's) work to familiarise with the new requirements. The draft Regulations document is six pages in total including other measures, and the sections relevant to this particular measure take about one page. Given that the subject is not something fundamentally new, and that the Regulations document is concise, we believe one day should be enough for a lawyer to read it and familiarise. Pensions administrators will then need to ensure any changes are implemented. We assume that two days (15 hours) of pensions administrator's work will be needed to implement the changes (the changes could be e.g. amending IT systems that are used to manage payments and / or informing (potential) recipients, and / or requesting additional information from them (by e.g. sending letters) to confirm eligibility).

14. The wage level of a pensions administrator is assumed to be £19.05 per hour (including non-wage costs)[3], and the equivalent figure for a professional is £25.08[4]. For the purposes of prudency in the presence of uncertainty and the fact that implementation may require some professional's work as well (e.g. IT consultant's) we assume that both professional's and pensions administrator's work will cost £25.08 per hour on average. Multiplying the £25.08 per hour by the 22.5 hours gives an average cost of £564.

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[1] Link: https://www.gov.uk/government/consultations/occupational-pensions-draft-regulations-legislative-review-and-guaranteed-minimum-pensions-equalisation-methodology

[2] Link to source: https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/pensionssavingsandinvestments/datasets/occupationalpensionschemessurvey

[3] The gross median hourly rate for an associate professional is £15.00. This has been increased by 27% in line with the Green Book to account for non-wage costs, which gives £19.05. The hourly rate data are taken from the Annual Survey of Hours and Earnings (ASHE), 2016. https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2

[4] The gross median hourly rate for a professional, increased by 27% in line with the Green Book to account for non-wage costs, is £25.08. The hourly rate data are taken from the Annual Survey of Hours and Earnings (ASHE), 2016. https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation2digitsocashetable2

15. Adding the two average costs up (i.e. the scheme rules and booklet change costs, and the additional familiarisation / implementation costs) gives an average cost of £1,564 per affected scheme.

16. Multiplying the number of schemes affected (300) by the average cost (£1,564) gives an estimated familiarisation and implementation cost to the schemes of £469,200, which we round to £0.5 million.

17. The costs are expected to be incurred in the initial year, and there will be no ongoing costs in later years. The measure covers individuals who were members of a contracted out pension scheme between 1978 and 1997, which means we have a stable legacy base and there cannot be any on-flows of new affected schemes in future years. And where administrative processes need to be amended we expect these to be automated and therefore assume zero ongoing costs.

Sensitivity analysis

18. For the purposes of illustrating uncertainties, we have assumed that the average familiarisation and implementation cost may vary from £800 (which is half of the central assumption) to £3,200 (which is double the central assumption). All else being equal, the possible range of costs is between £0.25m and £1m.

Summary and preferred option with description of implementation plan.

20. Legislation will be changed to clarify the inherited GMP rules under the new State support environment.