



Institute
and Faculty
of Actuaries

GMPs: Equalisation and Conversion

David Everett

Pensions Conference – 19 June 2019



GMPs: equalisation and conversion

1. The GMP inequality issue

- How it arose
- What the Lloyds judgment said
- How the issue can be addressed
- Some universal difficulties

2. GMP conversion

- What it is
- How it can be used
- Some difficulties specific to conversion

3. Taking the discussion forwards

- The working groups
- Further High Court references



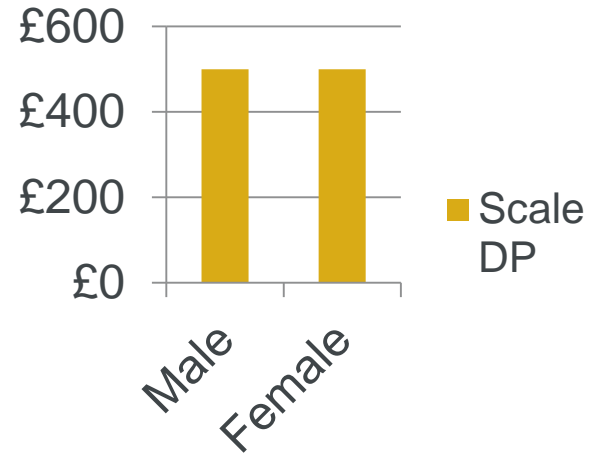
1. The GMP inequality issue



Institute
and Faculty
of Actuaries

Schemes did not necessarily discriminate

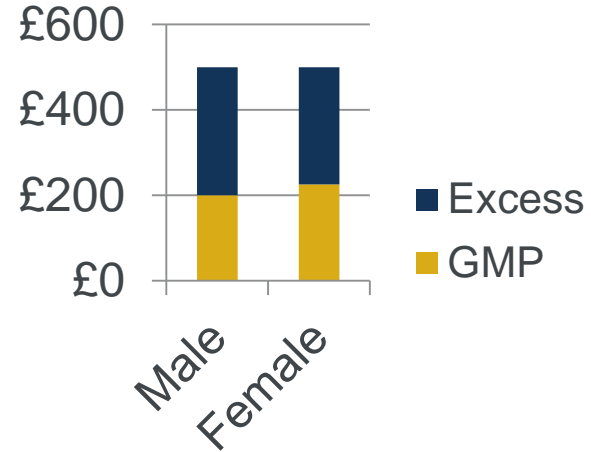
(Other than on retirement ages)



But DWP created unequal GMPs...

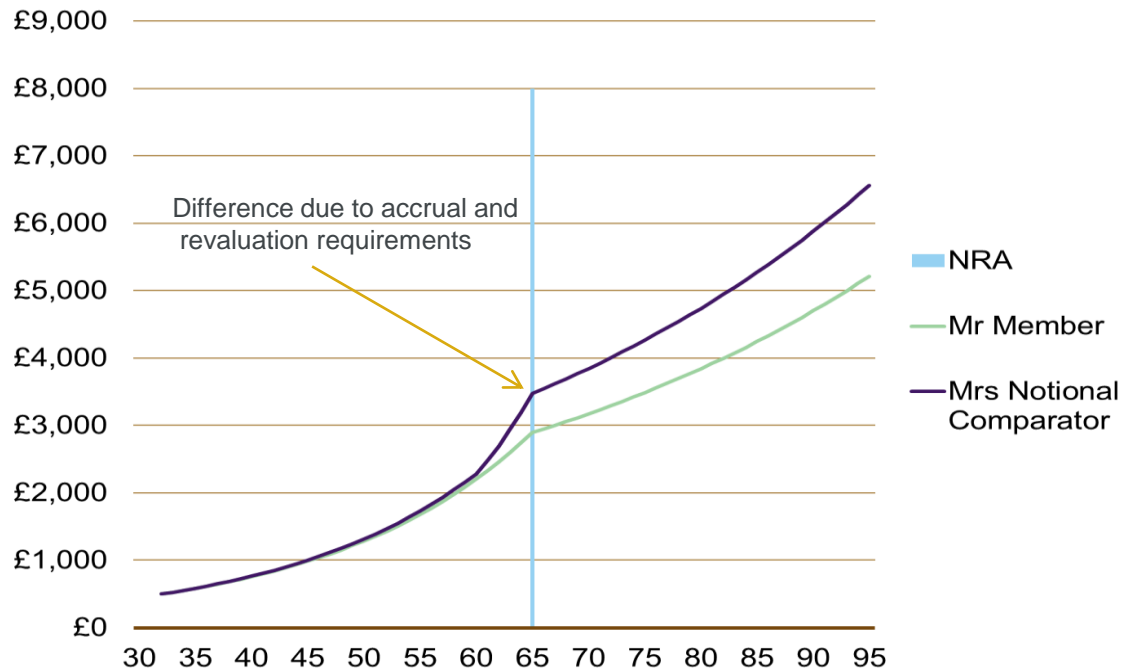
... and then facilitated unequal scheme benefits

- DWP legislation requires that a woman's GMP accrues at a greater rate than that of a man in recognition that a woman's working life for State pension purposes was five years shorter than that of a man.
- An equal scheme pension becomes unequal due to further DWP legislation under which:
 - The rate of GMP revaluation may differ to that on the excess;
 - Increases on the GMP in payment may differ to that on the excess;
 - There is a potential uplift on the GMP on coming into payment set by reference to a sex discriminatory GMP pensionable age.



The introduced inequality – simple case

Equal pension on leaving at 32, unequal payments begin at 65

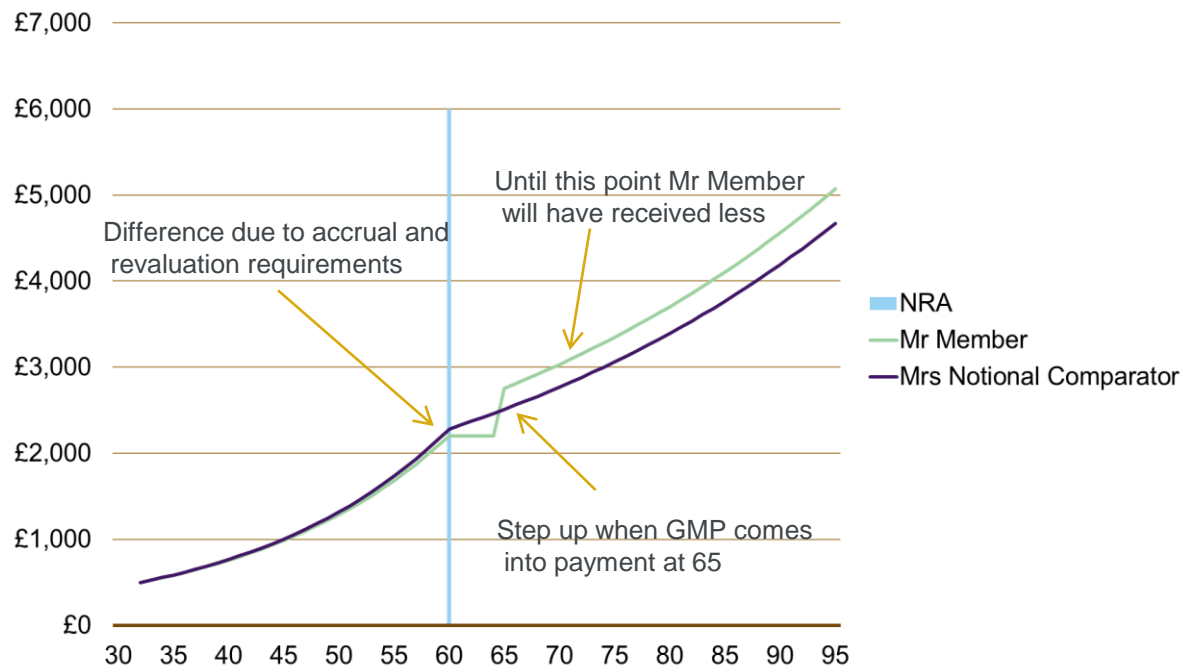


GMP revaluation	6.25%
Excess revaluation	4.00%
GMP indexation	2.50%
Excess indexation	0.00%



The introduced inequality – cross-over case

Equal pension on leaving at 32, unequal payments begin at 60



GMP revaluation	6.25%
Excess revaluation	4.00%
GMP indexation	2.50%
Excess indexation	0.00%



What the Lloyds judgment said

In brief

- The 26 October 2018 High Court judgment confirmed that
 - occupational pension schemes **do** need to adjust scheme benefits to remove the inequalities that arise from unequal 90-97 GMPs.
 - there are several different ways to address such GMP inequalities, some of which require the employer's consent
 - there is no statutory limitation on arrears so such payments to pensioners will depend on scheme rules and in some cases trustee discretions
- The follow up judgment on 6 December 2018 confirmed that it is not necessary to equalise benefits before applying the conversion method



The methods tested

What they are

Methods A1-A3

Equalise each unequal aspect separately

Method B

Immediate switch through providing the better of total male or female comparator pension on a year by year basis

Method C1

As for Method B, but if favoured sex changes from one gender to the other, do not switch until accumulated gains in prior years are exhausted

Method C2

As for Method C1, but also make an allowance for interest on the accumulated gains in prior years, thus further delaying the switch

Actuarial value

Method D1

Provide an additional benefit of equal actuarial value to any uplift arising from valuing the male and female income streams independently

Method D2

Apply GMP conversion to deliver new benefits inclusive of any uplift through valuing the male and female income streams independently

Dual record keeping




The methods tested

What the Court said

Methods A1-A3


Offends 'minimum interference' from employer perspective but still possible with employer consent



Method B


More costly for cross-over cases (in benefit terms) than C2 – requires employer consent

Might be used in some circumstances




Method C1

More costly for cross-over cases (in benefit terms) than C2 – requires employer consent



Method C2


Trustees default position – as don't need employer's consent






Method D1

Offends "minimum interference" from member's perspective



Method D2

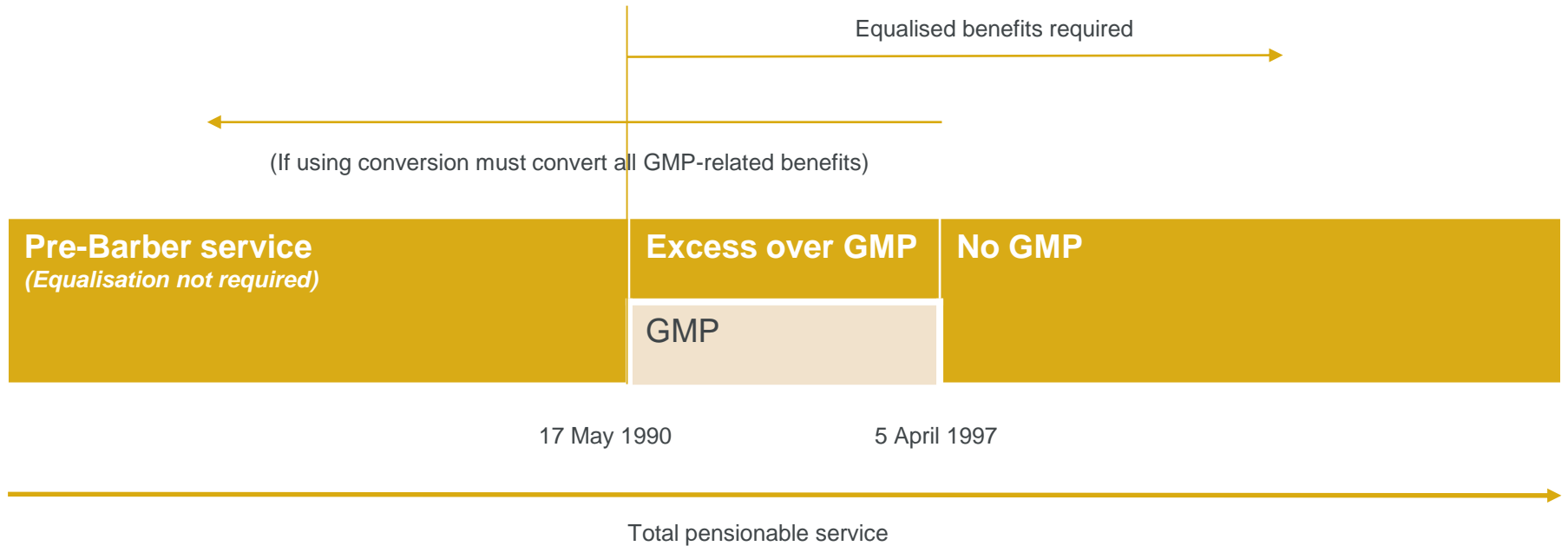
Available with employer consent





But lets get this into context

The inequality is potentially only a small part of the benefit



So is a proportionate approach acceptable?

Given the actuarial uplifts?

% uplift (% of 90-97 benefits)	Number of members	Value of uplift (£)	Average uplift (£)	All members		Total value	Uplift as % of Total value
				Value of 90-97 benefits (Amount A)	Uplift as % of Amount A		
No uplift	101	-	-	3,298,094	0.0%	8,885,641	0.0%
0.00 < x < 1.0	8	3,267	408	789,230	0.4%	2,065,786	0.2%
1.0 ≤ x < 2.0	24	20,020	834	1,258,628	1.6%	3,341,934	0.6%
2.0 ≤ x < 5.0	142	175,755	1,238	5,753,963	3.1%	12,323,989	1.4%
5.0 ≤ x < 10.0	3	3,470	1,157	63,465	5.5%	66,829	5.2%
10.0 ≤ x < 20.0	7	11,881	1,697	67,729	17.5%	609,770	1.9%
20.0 and above	3	9,206	3,069	44,398	20.7%	549,104	1.7%
No 90-97 service	413	-	-	-	n/a	20,062,636	0.0%
Totals	701	223,599	319	11,275,506	2.0%	47,905,688	0.5%

Probably not

✗ De minimis / tolerance concept unlikely to fly

✗ D1 not blessed by the Court

✗ Claim compromise route may not work

✗ Unclear how to treat no further liability cases



Data challenges

- GMP reconciliation and rectification
- Re-creation of member record on leaving pensionable service
 - Scheme assumptions and practices audit
 - Making assumptions when data not present
 - Dealing with past ‘errors’ / erroneous practices
- Deciding how to construct the comparator record

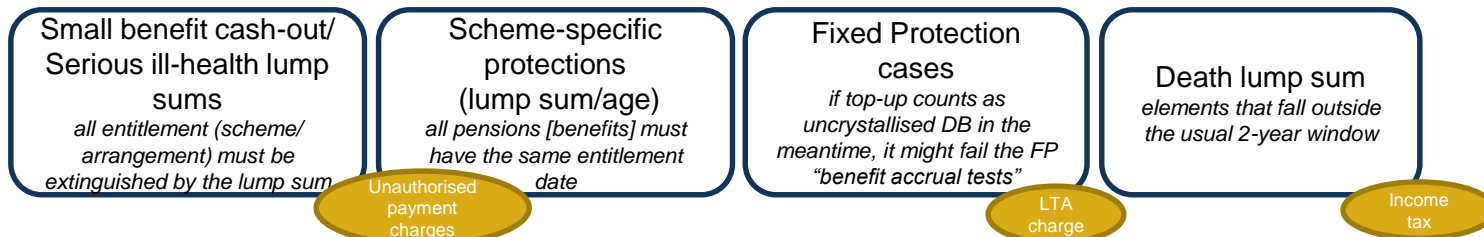


Tax challenges

A unique situation - neither “data rectification” nor “genuine error” in the usual sense

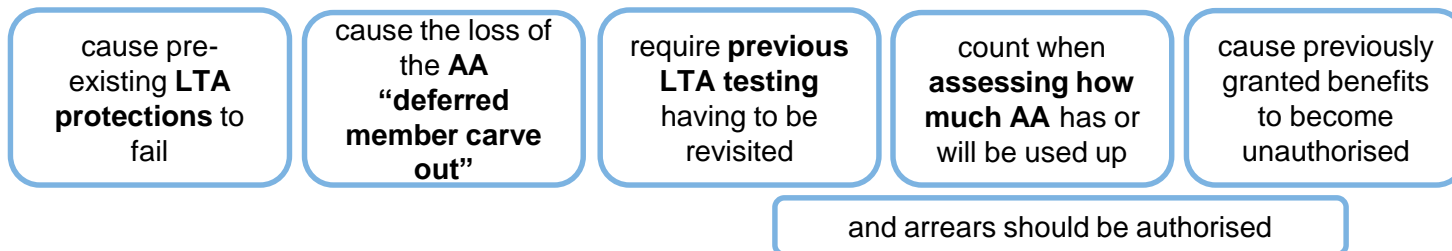
SHORT-TERM URGENT ISSUES

Trustees need to be able to pay “current benefits” knowing there might be a top-up later of amount £x; and £x might take 2+ years to identify (possibly nil) and settle. Want HMRC reassurance on the following tax rules:



LONG-TERM ASPIRATION of HMRC help via guidance, management powers, and law change

Ideally HMRC agrees a way that the top-ups should NOT (and conversion should NOT):

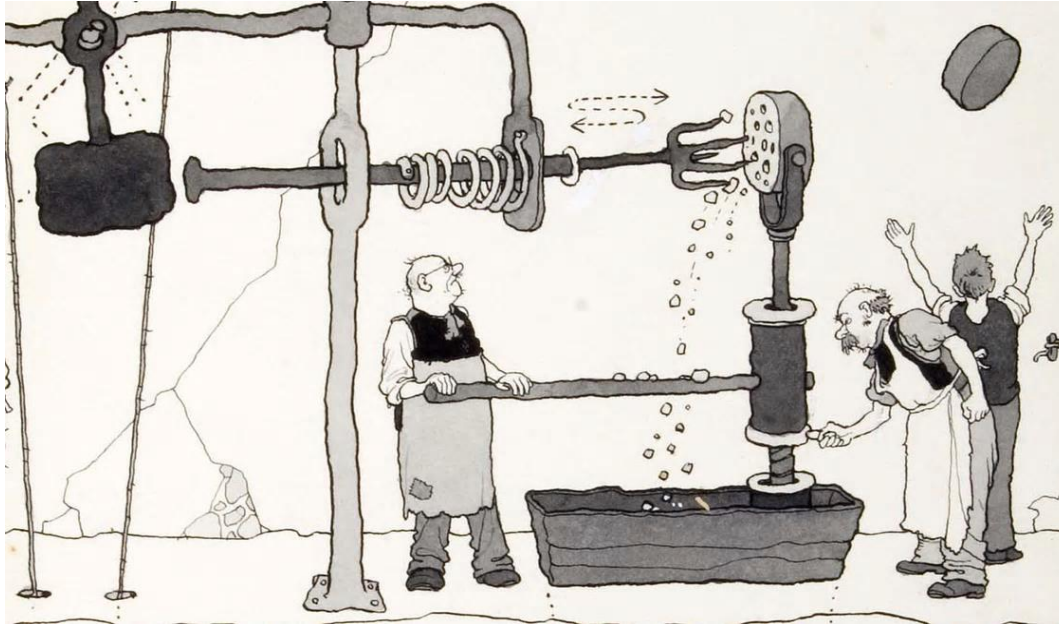


These lists are not comprehensive!



Institute
and Faculty
of Actuaries

2. GMP conversion



What GMP conversion is about

A simplification initiative – nothing to do with GMP inequalities

- “Amendment of the scheme in relation to an earner so that it no longer contains the guaranteed minimum pension rules”
- Subject to safeguards:
 1. Post conversion benefits at least actuarially equivalent to pre conversion benefits
 2. Pension in payment cannot reduce
 3. Cannot turn non-money purchase benefits into money purchase benefits
 4. Must include contingent survivor benefits in accordance with the legislative provisions
 5. Must follow procedural requirements



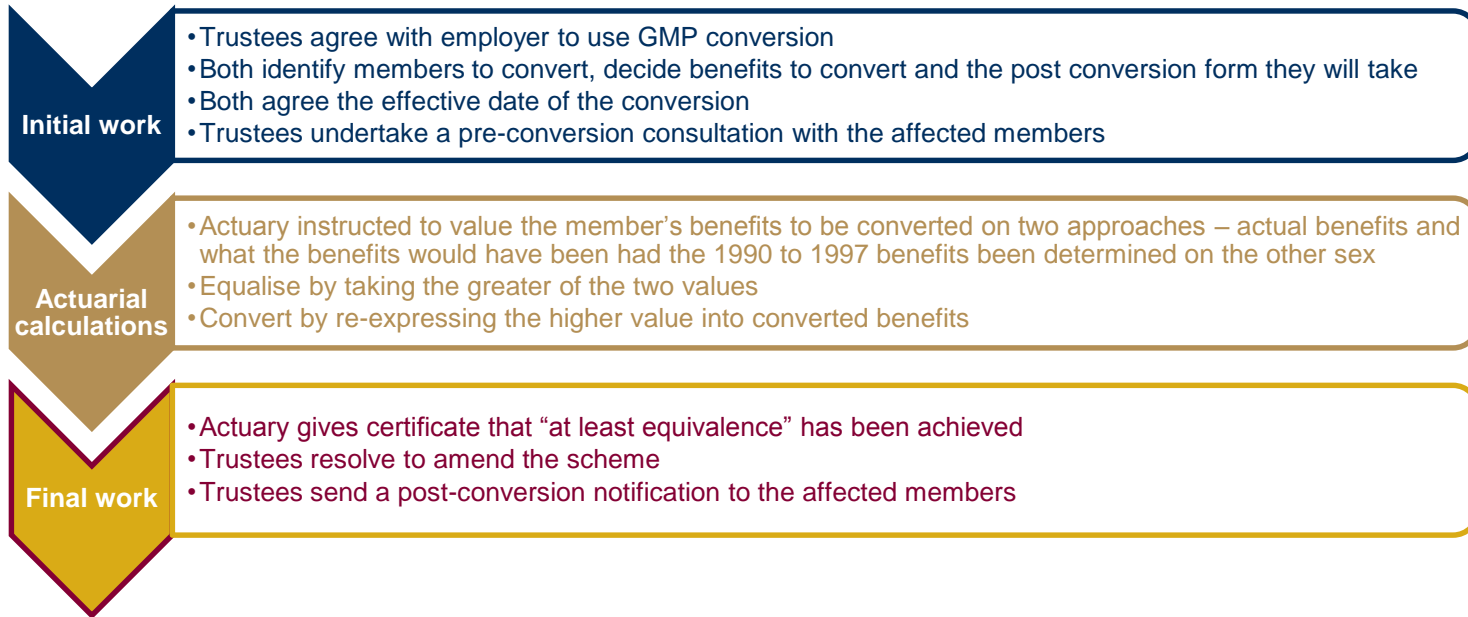
Why GMP conversion to resolve GMP inequalities?

- It preserves actuarial value and so is ‘fair’ to affected members
- It should be much more popular with trustees than dual record keeping as
 - It is “once and done” so should be significantly cheaper to maintain
 - It avoids fundamental rewrite of all admin systems, some of which are legacy and may not be able to cope
 - Members are more likely to understand their benefits
- The Government and the High Court supports it
- BUT – it is hardly ‘minimum interference’

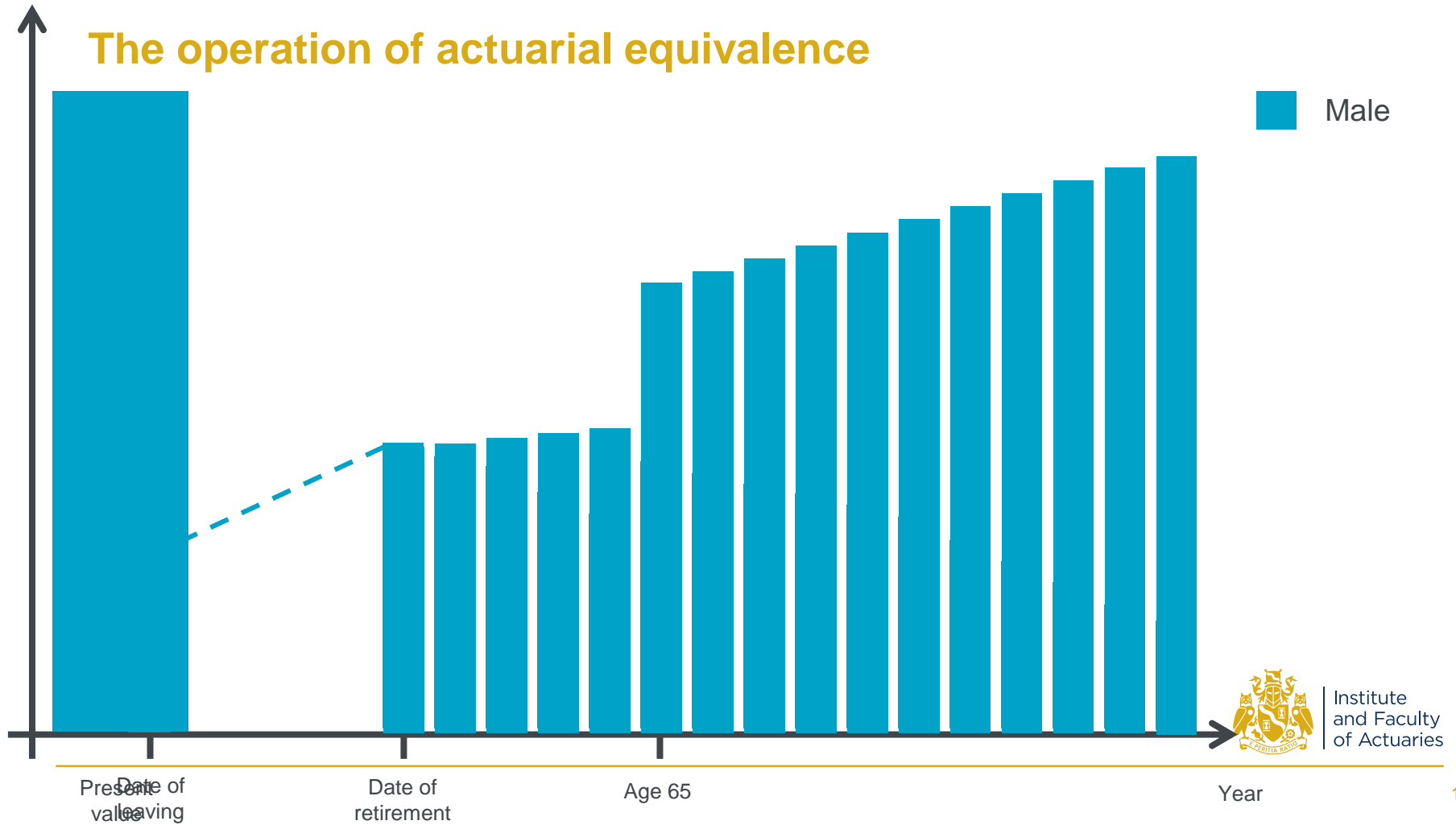


The ten-step process

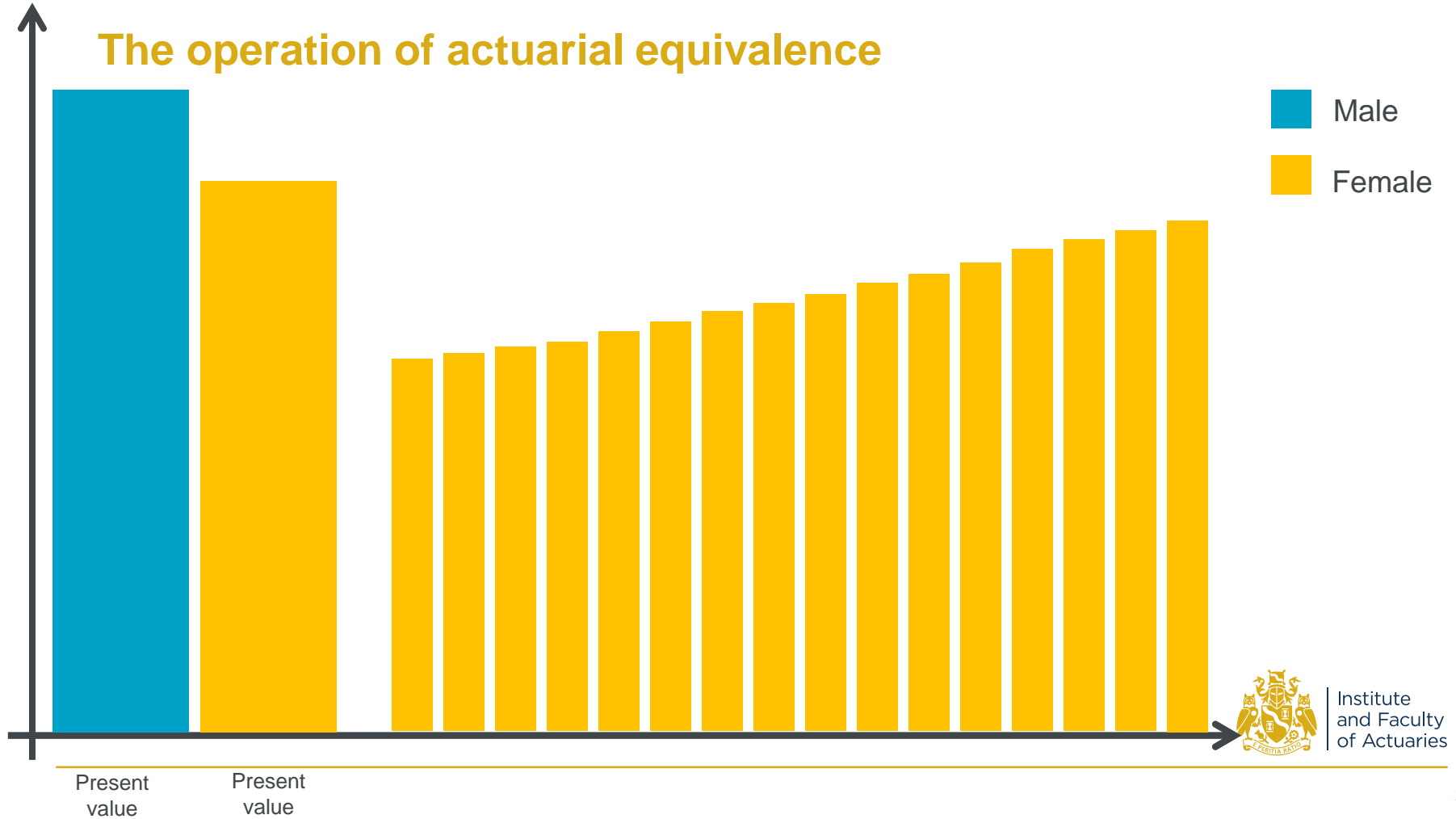
Operating within the current GMP conversion law



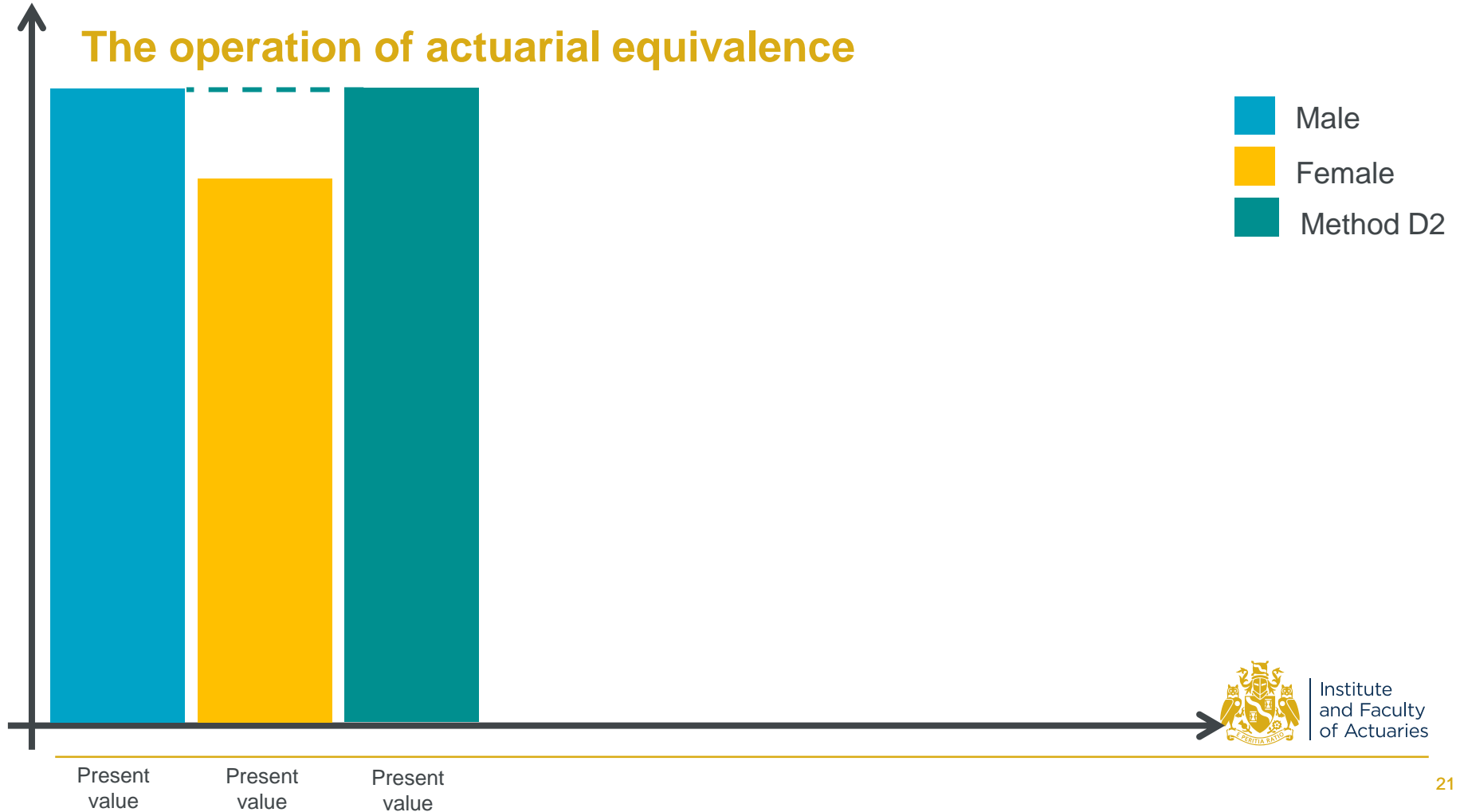
The operation of actuarial equivalence



The operation of actuarial equivalence



The operation of actuarial equivalence



But there are a variety of approaches

Mirror image

Switch to 90-97 benefits of advantaged sex
All GMP becomes a pseudo-GMP

Minimal interference

Accept a reshape but limit it

Member choice

Minimal interference but with member choice to
reshape further

Widespread simplification

Substantial reshaping of many members
and benefits



That will influence the scope of the project

Service period, Membership category

How much to convert?

- 1990-97 only (retaining a pseudo GMP)
- All the GMP with only the benefit that accrued with it – including those with only pre-1990 GMP
- All 1978-97 service so long as it contains a GMP
- All pre 1997 service so long as it contains a GMP

Which category to convert?

- Active
- Deferred
- Pensioner
- Survivor



And which will be influenced by constraints

Pensions in payment

Cannot reduce

Contingent survivor pensions

Must be provided in accordance with unclear legislative provisions

Pension increases

Flattening potentially conflicts with fiduciary duties



There are some actuarial challenges

As the legislation is silent on

- The methodology to use to test actuarial equivalence
 - Such as how to treat active members
- The approach to actuarial assumption setting
- Use of unisex actuarial assumptions



Remember – the actuarial assumptions determine the converted benefits



Institute
and Faculty
of Actuaries

And there are some legal challenges

This 10-year old law has yet to be used

- Which ‘employer’ needs to consent and what if there is no ‘employer’?
- What is the nature of the required pre-conversion consultation?
- What other amendments are “*necessary or desirable as a consequence of, or to facilitate, the GMP conversion*”?



But perhaps tax is the greatest challenge

As the current pension tax regime is ‘unfriendly’ to reshaping

- Much of pensions tax law is driven from pension payment starting amounts – not actuarial value
 - Very unlikely that can apply ‘actuarial value’ readings to the current law
- Highly likely that law change will be needed to avoid unreasonable tax outcomes and for this to happen HMRC has to
 - accept the need, supported by impartial evidence
 - define the scope of the easement and construct it within the current pensions tax framework
 - find ministerial and Parliamentary time to deliver it



Reshaping is a much bigger “ask” of HMRC than validation of dual record approaches



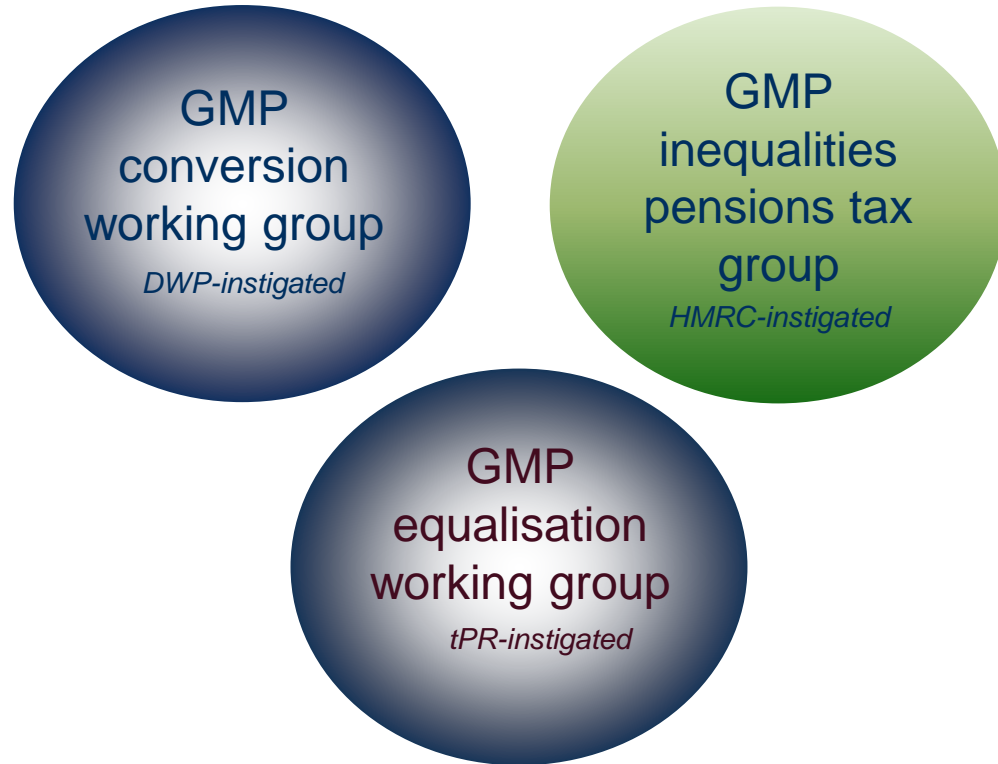
Institute
and Faculty
of Actuaries

3. Taking the discussion forwards



The industry working groups

Roles and intended deliverables



Institute
and Faculty
of Actuaries

GMP conversion working group

Making conversion work



- Proof of concept
 - Tested through consultation
- DWP delivered
- ✓ Statutory conversion guidance
 - Changes to GMP conversion law



GMP inequalities pensions tax group

Aim: Ensuring that tax issues do not frustrate or hamper equalisation



- Identification of tax issues arising from
 - Business-as-usual benefit processing post Lloyds
 - Any acknowledged GMP inequality solution
- Output: HMRC-delivered solutions
 - Clarifications and changes to readings of existing pensions tax law – communicated through Newsletters and changes to the Pensions Tax Manual
 - Changes to pensions tax law



GMP equalisation working group

Supporting schemes as they prepare for and implement equalisation



- Industry-delivered 'good practice' guidance, initially in the following areas
 - **'Impacted Transactions'** - Considerations for progressing 'inflight' transactions such as transfers out and trivial commutations
 - **'Reconciliation and Rectification'** - the interaction between these projects and suggested ways forward
 - **'Data'** - Identification of data gaps and suggestions for good practice for rectification
 - **'Methodology'** - Explaining the different methodologies and implementation considerations
 - **'Tax'** - Explaining the tax implications which arise from GMP equalisation



Further High Court developments

Possible further legal references

- Do benefits set up on a transfer-in need to be equalised?
- Do transfers out need to be topped up?
- Do any other 'no further liability' cases need to be reopened?
- Is 'de-minimis' a valid argument?
- How does anti-franking work?



But what may be asked is uncertain



Institute
and Faculty
of Actuaries

Role of the actuary

Managing risk

- Role of the actuary is to provide actuarial advice
 - Actuarial methods
 - Financial and demographic assumptions
- Role of the lawyer is to provide legal advice
 - Interpretation of legislation, scheme rules and court judgments

Administrator provides the data

Lawyer tells you what the benefits are

Actuary values them



Institute
and Faculty
of Actuaries



www.actuaries.org.uk | [Members log in](#) | [Contact us](#)

15 November
2018

Risk alert: GMP Equalisation – immediate issues

Key message:

Actuaries should ensure that the advice they provide in relation to GMP equalisation (including any adjustments to benefits or transfer values) is limited to those aspects on which as actuaries they are competent to advise - specifically, this would not include advice on the legal implications.



Institute
and Faculty
of Actuaries

Questions

Comments

The views expressed in this presentation are those of invited contributors and not necessarily those of the IFoA. The IFoA do not endorse any of the views stated, nor any claims or representations made in this presentation and accept no responsibility or liability to any person for loss or damage suffered as a consequence of their placing reliance upon any view, claim or representation made in this presentation.

The information and expressions of opinion contained in this publication are not intended to be a comprehensive study, nor to provide actuarial advice or advice of any nature and should not be treated as a substitute for specific advice concerning individual situations. On no account may any part of this presentation be reproduced without the written permission of the author.

