

# Advance

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## LTU'S LEGAL CASE GOING TO THE HIGH COURT

The Bank, the Trustee Board and LTU have agreed to refer the Union's landmark legal action on Guaranteed Minimum Pensions (GMPs) to the High Court. Given what's gone on over the past 18 months that's not a sentence I expected to write.

Under what's called a 'Part 8' referral the High Court will be asked to determine the answers to a series of questions on the equalisation of Guaranteed Minimum Pensions. The answers to those questions, which will be agreed by the three legal teams involved in this case, will have implications for 165,000 female members of the Bank's defined benefit pension schemes and up to 5 million women across thousands of pension schemes. Many male members could also be affected because part of their pensions are not

guaranteed to increase at all. This is a landmark legal case that will be followed very closely by the pensions industry.

### LTU'S LANDMARK PENSION DISCRIMINATION CASE

**£20**  
BILLION

THE COST OF EQUALISING GMPs

**165**  
THOUSAND

FEMALE MEMBERS OF THE BANK'S PENSION SCHEMES COULD BE ENTITLED TO PENSION INCREASES

**5**  
MILLION

WOMEN COULD ALSO BENEFIT FROM GMP EQUALISATION

**2.4**  
THOUSAND

PENSION SCHEMES, INCLUDING SOME OF THE BIGGEST IN THE COUNTRY, COULD BE AFFECTED BY LTU'S LEGAL ACTION

The Department of Work and Pensions, whose legal experts have already said that GMPs must be equalised, has told the Union that it wants to be considered an 'interested party' to the case and we wouldn't be surprised if they don't appoint their own legal team to be represented at the High Court hearing.

### WHAT'S IT WORTH?

GMP equalisation affects up to 2,400

pension schemes and millions of women. According to a number of industry bodies it's going to cost £13bn to clear up the mess.

[Continued overleaf >>](#)

### Inside...

- GMPs: A Brief History
- What's the Legal Issue?

# Advance...

## LTU'S LEGAL CASE GOING TO THE HIGH COURT (cont.)

We think that's a conservative estimate and the figure, once you take into account all the associated legal and actuarial costs, is closer to £20bn.

LTU's actuarial adviser has looked at a range of members and estimated that the overall difference in benefits, depending on the calculating method used, could be worth up to £2,000 per female member of staff.

If you multiply that by the number of female members – active, pensioner and deferred – of the Bank's pension schemes then that equates to nearly £300 million excluding the cost of implementing any pension changes.

LTU has submitted the cases to the Employment Tribunal on behalf of those thousands of members who registered to be part of our class action lawsuit. All those cases will be 'stayed' pending the outcome of the High Court action.

**Those members who benefited from the Union's non-signers legal victory, which was opposed by the General Secretary of Accord, will know that the wheels of justice move very slowly.**

Our expectation is that the case will go to the High Court

next year. We will keep members informed of development through regular Newsletters.

**Mark Brown**  
General Secretary



## GMPs

**G**uaranteed Minimum Pensions (GMPs) arrived on the pensions scene on 6th April 1978. Individuals could accrue an entitlement to an earnings-related addition to their basic state pension, called the State Earnings

“As GMPs are not expressly excepted from the application of the equal treatment rule then, in my judgement, by virtue of that rule, they must be equalised.”

*Williamson (2000)*

Related Pension Scheme (SERPS). Employers could 'contract out' their pension schemes, which is what Lloyds did, if they provided a pension at least as good as a statutory minimum known as the Guaranteed Minimum Pension (GMP). The GMP is part of a member's total pension.

It's been accepted by almost everyone that GMPs are by their nature discriminatory between men and women and that's because:

- Men and women accrue GMPs at different rates;
- Men and women are entitled to GMPs at different ages (65 for men, 60 for women); and
- Many schemes, including the Lloyds schemes, apply different increases to GMPs than to non-GMP pension benefits.

GMP accrual was abolished from 6th April 1997 onwards. However, although GMPs have been abolished, pension schemes are

# A BRIEF HISTORY

still liable to pay GMPs that have been earned for periods of service between 1978 and 1997.

## LLOYDS BANKING GROUP PENSION SCHEMES

The latest figures from the Bank, set out in the charts opposite, show that there are some 235,000 active, deferred and pensioner

“Each Member State shall ensure that the principles of equal pay for male and female workers for equal work or work of equal value is applied. (Art.157).”  
Formerly Article.119. Treaty of Rome.Rome.

members of the Bank’s main defined benefit pension schemes.

The vast majority of those pension scheme members are female and most of those will receive pension scheme increases that are lower than male members of staff.

Female pensioner members are actually receiving pensions now that are increasing at a lower rate than male pensioners.

As with all things to do with pensions it’s not as straightforward as a male v female issue because in some circumstances the pensions of male members could be increasing at a lower rate than the pensions

of female members.

And the issue is much bigger than the Lloyds Bank and HBOS Schemes because it affects all pension schemes that ‘contracted out’ of the additional state pension scheme.

The latest available data from the Office for National Statistics show that there are 2,400 ‘contracted out’ private sector pension schemes.

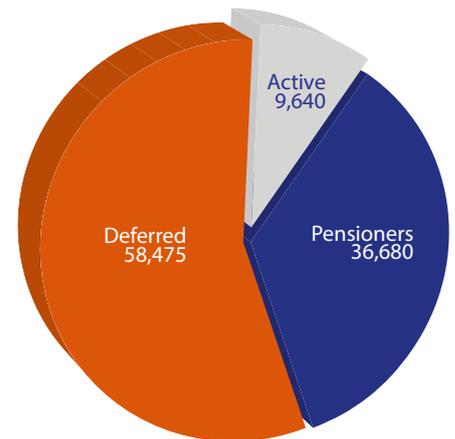
And there are 7.8 million members of private sector defined benefit pension schemes of which 5 million are female and many of those will receive pension increases at a lower rate that those of male members.

Most of the FTSE 100 giants will have massive GMP liabilities which are going to add billions to their already burgeoning deficits.

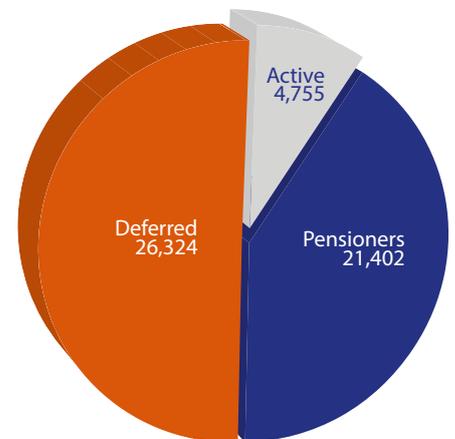
Research conducted by Lane, Clark and Peacock shows that FTSE giants such as BAE Systems, BT, BP, Barclays and RBS each have deficits running into several billions, equivalent to a significant chunk of their stock market valuations.

The deficit of BAE for example is around £4.5bn, more than a third of its market capitalisation. BT’s £10bn is more than a quarter of its market capitalisation.

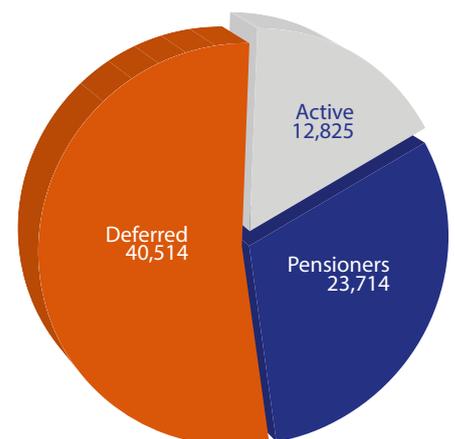
Lloyds No 1 Scheme



Lloyds No 2 Scheme



HBoS Scheme



# WHAT'S THE LEGAL ISSUE?

The issue is the way that pensions are increased under the rules of the Bank's pension schemes after they come into payment. In short, GMPs and the amount of pension in excess of GMP increase at different rates.

GMPs that were earned between 6 April 1988 and 6th April 1997 are increased by the Bank's schemes in line with the increase in the consumer prices index (CPI), capped at 3%.

The excess over GMP is increased by the schemes at a different rate. The rate of increase varies for each of the Bank's schemes:

- For most members of the Lloyds Bank Pension Scheme No 1, the amount of pension in excess of GMP increases in line with the retail prices index (RPI), up to a maximum of 5%.
- For most members of the Lloyds Bank Pension Scheme No. 2, the amount of pension in excess of GMP increases in line with the CPI, up to a maximum of 5%.
- For most members of the Scottish Widows scheme, the amount of pension in excess of GMP increases in line with the retail prices index (RPI) with no maximum.
- For most Halifax and Clerical Medical members, The amount of pension in excess of GMP is increased in line with the RPI up to a maximum of 5%, with a guaranteed minimum increase of 3% for pension earned before 1 April 2004 in the case of Halifax pensions and 5 April 2006 in the case of Clerical Medical pensions.

You will see that whenever inflation exceeds 3% (as measured by the CPI), the increases for GMPs are lower than the increases for the excess over GMP. The position in the Bank of Scotland and Birmingham Midshires schemes is slightly different, as explained below.

The important point to note is that the difference between the rate of increase for GMPs and the excess over GMP only applies once a member's GMP starts being paid. A woman's GMP starts being paid on her 60th birthday, and a man's GMP starts being paid on his 65th birthday. Unlike the State pension age, these GMP payment ages are not being equalised.

The way in which GMPs are calculated is very complex, and depends on the member's GMP pension age (i.e. 60 for a woman and 65 for a man). That means that there is a second discriminatory effect: a man's GMP is usually smaller than a woman's, which means that the portion of a man's total pension that attracts the higher increases (i.e. the portion that is not his GMP) is larger than a woman's.

The result is that between ages 60 and 65 a man's pension is increased at a greater rate than a woman's. And from age 65 a bigger portion of the man's pension carries on being increased at the higher rate that applies to excess over GMP.

That is the source of the sex discrimination.

## Advance by Email

LTU now offers members the opportunity to receive Advance by Email.

We will send Advance in email format direct to you on the day it is sent to members by post giving you authoritative, immediate information on the issues that matter.

To register for the service all you need do is email us at [24hours@ltu.co.uk](mailto:24hours@ltu.co.uk) with the subject line 'Advance and your membership number' or phone on 01234 262868.

**We'll do the rest**

