

ASSESSMENT OF BROAD COMPARABILITY OF PENSION RIGHTS

Statement of Practice by the Government Actuary

The Government has issued a Code of Practice entitled “*Transfers of Government Staff: A Fair Deal for Pensions*”, describing the key steps which the Government is taking when staff are transferred within the public service, or from the public service to the private sector, with their work. Central to the process is the requirement for an assessment of whether pension arrangements being offered to employees by their new employer are “broadly comparable” to those provided by their existing employers. This requirement relates only to the period of employment after the change of employer. Exceptionally, if comparability is not available, there is a requirement for the valuation of any detriment on pensions to be offset by elements of the remuneration package outside the pension scheme.

This Statement of Practice sets out the principles on which the Government Actuary’s Department (GAD) undertakes its assessments of broad comparability.

Assessments may be commissioned by a public service employer, or by a contracting authority, on a one-off basis in relation to a specific group of staff. They may also be commissioned by a private sector employer with a view to obtaining a “passport” that his pension scheme is broadly comparable to a specific public service scheme for any group of employees who may transfer from that scheme to his employment over a given period. In either case, the principles are the same. For a passport, where a specific group of employees cannot be identified, the tests are conducted using a very large range of employee profiles containing different characteristics affecting the value of pension rights, for example age, gender, salary level and service length.

Benefits Against Which Assessment Is Made

The assessment will be made against those benefits provided as a right from the current employer’s pension scheme, for which the employees are eligible, and the contributions which employees pay towards that scheme. The assessment will not take account of any benefits which are payable solely as a result of a member being declared redundant, either compulsorily or voluntarily, where those exceed the normal benefits available to an individual who resigns from employment at that time.

The assessment excludes the injury benefits payable by public service employers which provide a minimum income guarantee as a result of injury or death while in the service of the employer.

It is recognised that there is uncertainty over the legal protection for benefits available on redundancy and injury within the Transfer of Undertakings (Protection of Employment) Regulations 1981. If so requested by a public service employer or contracting authority, an additional assessment of comparability of the arrangements being offered by the new employer against a base of those on offer with the existing public service employer will be undertaken.

General Principles

The general principles on which the assessment of broad comparability is made on transfers from the public service to the private sector are set out below. Corresponding principles apply on other transfers. It must be recognised that there is a very wide range of possible remuneration packages, including pensions, and that some flexibility may need to be applied in the practical implementation of these principles.

Value

- The overall value of the new scheme should be equal to or greater than that of the current scheme.
- In addition to the test of overall value, assessments of value will be made separately for different types of individual, e.g. for different pay levels, for different ages, and for any other characteristics which could reasonably be expected to have a material impact on the value of pension benefits.
- Value is assessed by calculating, on consistent assumptions and methods, the underlying employer costs, in excess of the employee's share of the cost, of providing the benefits under the scheme which will accrue over the remaining working life.
- Value is considered as that in the hands of the employee gross of any liability to tax.

Contributions

- Schemes with higher employee contributions, will not be deemed broadly comparable because of the implied reduction in net pay (unless a compensating pay rise is proposed).

Benefits

- The range of benefits provided under the new schemes must at least match that provided by the current scheme.
- Benefits must be available from the new scheme in respect of the same events and at the same time as would have arisen in the existing scheme.

- In some cases, the amount of benefit may be lower on a particular contingency than under the current scheme, but this will need to be balanced by better benefits on other contingencies.
- Normal retirement age – at which full unreduced retirement benefits are available without employer consent and at which deferred benefits are payable – will be no greater than in current scheme.
- The initial rate of pension at normal retirement age should normally be no lower than that in the former scheme.
- Shortfalls in the level of pensions increases offered must be offset by better benefits elsewhere.
- In defined benefit schemes, benefits and contributions must be calculated on a definition of pensionable pay of at least the value of that applying in the current scheme.
- Under the arrangements for contracting-out of the State Earnings-Related Pension Scheme currently in place, schemes which are either contracted-out or not contracted-out will be considered for broad comparability.
- Time spent with the current employer which would have counted towards qualification for benefits in the existing scheme will count in the new employer's scheme as qualifying service, regardless of whether or not accrued rights are transferred to the new scheme.

Membership

- All those eligible to participate in the current scheme will automatically be admitted to the new scheme from the date of transfer of employment without medical examination. This would not interfere with an employee exercising his/her right to choose to opt out of scheme membership.

Security

- It is recognised that the security of a private sector scheme cannot be provided in the same form as that applying in the public service, but specific safeguards will be sought in the following areas:
 - member representation on trustee bodies
 - protection of accrued rights, on an on-going basis, on any rule change
 - changes inspired by the employer, including loss of the contract, involving joining another pension scheme will trigger the offer of a bulk transfer payment or enhancement of benefits within the scheme, to a level commensurate with existing benefits.

Type of Scheme

- Only defined benefit schemes will be certified as broadly comparable to defined benefit schemes; only defined contribution schemes will be certified as broadly comparable to defined contribution schemes.
- A test of adequacy of contribution (for a defined contribution scheme) or of benefit design where broad comparability cannot apply (for a defined benefit scheme) will be carried out with the aim, but not the certainty, of ensuring benefits of similar value are expected to emerge.
- When the transfer is between defined benefit and defined contribution schemes, (or vice versa), specific provision should be made for death benefits.

Certification

Pension proposals which satisfy my view of broad comparability will be certified as such. The onus, as set out in the certificate, will be on the current employer to ensure that the pension promises made by the prospective new employer are delivered for the staff concerned.

The certificate will detail the key design features of the proposed pension arrangement and any associated undertakings provided by the new employer. It will be written in plain English. It will be in a form which can be distributed to the employees and their representatives.

Where a passport application is being considered an interim certificate will be issued if the formal documentation and approvals from regulatory bodies are not in place.

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