



PASA GUIDANCE

GMP Stalemate Cases

October 2018

Acknowledgments

PASA is grateful to the authors of the Guidance:

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1. Introduction

It is likely that, on completion of any GMP reconciliation exercise, there will always be some queries remaining which could not be resolved under the standard GMP reconciliation process and have reached a “stalemate” in terms of trying to resolve them with HMRC. Often trustees and administrators assess what other schemes are doing in these cases so PASA thought it would be helpful to prepare some guidance setting out details of the types of queries that can arise in stalemate situations and suggesting some options for resolving these. PASA does not intend that the options specified are recommendations or that the list is exhaustive. Every scheme is different and so different solutions may be needed but this guidance is designed to facilitate the discussion between the trustees and the administrator to help in bringing any remaining GMP reconciliation queries to a conclusion and so putting both parties in a position where this exercise can effectively be closed down.

Possible options

In all these cases there are three possible options as follows:

- Accept that HMRC are correct which may mean accepting a liability or that the figures held by the administrator need to be corrected
- If the trustees are confident the GMP figure they hold is correct they can choose to effectively ‘do nothing’
- Undertake further investigative work

The right solution will depend on a number of factors including:

- Past precedents
- Confidence in data quality
- Extent of investigations already undertaken
- Impact on members
- Impact on liabilities
- Cost effectiveness of undertaking further work

Timing

At present many schemes that were previously contracted out on a defined benefit basis are undergoing a GMP reconciliation exercise. This has been prompted by the abolition of contracting out in April 2016. The final date for schemes to submit queries to HMRC for clerical review is 31st October 2018 and HMRC have undertaken to respond to all queries raised by 31st March 2019. HMRC will accept further “automated” queries for three batches of automated reviews (any cases requiring clerical reviews submitted to these batches will not be reviewed). The cut-off date for these final three automated batches is 21st December 2018. There is a possibility that some queries may resolve themselves through being addressed under another trustees’ exercise (disputed transfers out are an example of this).

Types of stalemate cases

Set out below are examples of some of the types of cases that may fall into the 'stalemate' scenario. This list is not intended to be exhaustive but covers the type of cases that occurs most frequently. PASA would be happy to add further examples and suggested solutions so please do let us know if there are any that it would be useful to add.

Geraldine Brassett
Chair of the Industry Policy Committee

October 2018

2. Membership reconciliation

The first types of stalemate case relate to the reconciliation of the scheme membership. These can be split into the following two broad categories:

- Members on HMRC records but not on scheme records
- Members on scheme records but not on HMRC records

2.1. Members on HMRC records but not on scheme records

Background	Options for resolution	Status	Number of queries
No liability members – Scheme believes member has received a refund			
<p>There may be members who, according to the administration records, have received a refund of contributions. However, HMRC have no record of the refund which may be due to HMRC not having received a Contributions Equivalent Premium (“CEP”).</p>	<p>CEP < £17: Legally there is no requirement to pay the CEP if it is less than £17. Notify HMRC and accept the scheme record.</p> <p>CEP is greater than £17 but relatively small: Consider paying the CEP with no further investigation.</p> <p>CEP is substantial: For larger amounts it may be worth carrying out investigative work to determine whether or not a CEP does indeed need to be paid.</p> <p>Accept scheme record: Where it is not possible to query cases with HMRC then the trustees may decide to accept the administration record and therefore accept the risk that the member could contact the scheme in future regarding their refunded benefits and/or state scheme benefits.</p>		
No liability members – Scheme believes member has transferred out			
<p>These are cases where the administration system indicates that the members have transferred out of the scheme, extinguishing the GMP liability.</p> <p>However, the records do not show where the benefits were transferred to and a subsequent check of any paper files does not similarly provide this information.</p> <p>HMRC will not accept the transfer out status without a qualifying SCON or ASCN.</p>	<p>Contact member: Although theoretically it may be possible to resolve these cases by contacting the member to obtain evidence of where their benefits were transferred to, in practice this approach is rarely successful.</p> <p>Accept scheme record: Accept scheme record but reconsider in the event that the member who supposedly transferred-out ever comes forward claiming membership of the scheme.</p>		

Background	Options for resolution	Status	Number of queries
Members with no record on administration system			
<p>There may be members where HMRC hold a GMP but the scheme does not even have a record for that member.</p> <p>In this category we are focussing on members who have contracted-out periods of service that exceed the maximum time limit for a Contributions Equivalent Premium (“CEP”) to be permitted. The trustees may wish to consider separately any members where a CEP could be paid.</p>	<p>Contact member: Although theoretically it may be possible to resolve these cases by first tracing and then writing to these members to identify where their GMP liability is held, in practice this approach is rarely successful. It may be appropriate to consider a de minimis level under which the cost of the above approach is deemed disproportionate.</p> <p>Accept scheme record: Accept scheme record but reconsider in the event that the member who supposedly has a GMP liability ever comes forward claiming membership of the scheme.</p>		

2.2. Members on scheme records but not on HMRC records

Background	Options for resolution	Status	Number of queries
HMRC records indicate GMP liability lies with a different scheme			
<p>There may be instances where HMRC records indicate that although the member has a GMP for the relevant period of contracted out service that GMP liability lies with a different scheme.</p>	<p>'Wait and See': Some of these cases may resolve themselves as part of the industry-wide reconciliation activity currently in progress and when final SRS cuts are issued in March.</p> <p>Contact other scheme: If a review of scheme records is inconclusive, consider writing to the other scheme to establish whether they hold the liability. This option is rarely pursued given the cost implications and limited likelihood of a helpful outcome.</p> <p>Accept the administration record: If after a review of scheme records, it is still believed that the GMP lies with the scheme, accept the administration records.</p>		
HMRC believe there is no GMP liability			
<p>HMRC may have advised they have no GMP liability on their records for the members. This may be because:</p> <ul style="list-style-type: none"> Members may have died and HMRC have advised that their spouse does not qualify for WGMP. This could be due to the spouse being young or never claiming bereavement allowance. Members were never contracted out. This could be because members were working overseas, were contracted-in, were paying women's reduced rate national insurance contributions, or had a partial transfer transferring out GMP benefits only. 	<p>Accept the administration record:</p> <p>Whilst there is an option to accept that there is no GMP and amend member benefits accordingly, there is no evidence to suggest that the administration records are incorrect. For such cases the Trustees may decide to accept the current position and make no changes to the administration record.</p>		

Background	Options for resolution	Status	Number of queries
Spouses pension in payment but no record of original member			
<p>A common type of stalemate case is where there are spouses who have a pension currently in payment but where the administrator is unable to locate a record for the original deceased member.</p> <p>This lack of historic information on administration records causes an issue and potentially the only way of resolving this is to write to the spouse directly to confirm their partner's NINO.</p>	<p>Contact spouse: Consider writing to the affected spouses and ask them to complete a form regarding the original members' basic details. Once this is received the administrator can use the gathered information to correspond with HMRC on the applicable cases. Before undertaking such an exercise schemes should assess the likelihood of success, particularly for cases where the deceased member passed away more than a decade ago.</p> <p>Accept scheme records: If records for the original members cannot be traced or it is not practical to do so, consider accepting the scheme records</p>		
Member with records held in Isle of Man			
<p>HMRC may advise that the GMP liability for a specified member is held in the Isle of Man. HMRC will therefore not hold data for the specified member.</p>	<p>Contact HMRC Isle of Man - In order to resolve this, the administrator will need to write to HMRC Isle of Man.</p> <p>Accept scheme records: Where it is not possible to contact HMRC Isle of Man then the alternative outcome for trustees may be to accept the current position as there is no data available to contradict it. For such an approach no change to the administration record would be required.</p>		
National Insurance Number held on Scheme Records does not match HMRC Records			
<p>HMRC may return some cases stating that the National Insurance number held on the scheme records is incorrect and as such they cannot trace this member.</p>	<p>Contact member: Consider writing to these members to confirm their National Insurance Number and date of birth. Without this information it will not be possible to complete the GMP reconciliation for these members. Incorrect National Insurance number would normally only be held for preserved members. Normal practice is to write to the last address held on file. Should this prove to be inaccurate, it may be necessary to perform a trace to locate the members' current address. Before undertaking such an exercise, the Trustees should assess the cost to the scheme, the likelihood of success (which may be low) and the benefit this will bring.</p> <p>Accept scheme records: If records for the original members cannot be traced or it is not practical to do so, consider accepting the scheme records</p>		

3. Reconciliation of GMP amounts

The other type of stalemate cases relate to the reconciliation of GMP amounts. It is assumed that schemes have already adopted a specified tolerance whereby differences below a specified amount are not pursued further.

Possible reasons for the discrepancy are detailed below along with options for resolution:

Background	Options for resolution	Status	Number of queries
Transfer-in documented on HMRC records but not scheme records			
<p>HMRC believe the scheme has received a transfer-in but a review of the administration records shows no trace of the transfer in.</p>	<p>The following actions should have already been undertaken or rejected:</p> <ul style="list-style-type: none"> • Query with HMRC - Request details of transferring employer, transferred-in contracted-out service period, transferring scheme's SCON. • Query with the employer – is it an internal transfer or bulk transfer that the employer recognises. • Query with the transferring scheme – if you have details of the supposed transferring scheme, it may be possible to query the transfer with the administrator. In practice, this option is generally not considered practical to pursue. <p>The likelihood of success in contacting another scheme or employer should be assessed before any such action is taken.</p> <p>Accept the Administration Record: If it is not possible to determine the transferring scheme then the scheme records can be accepted as is with no change to the administration record being required.</p>		
Transfer-in on scheme records but not HMRC records			
<p>Administration records clearly show a transfer in but HMRC have no record / were not notified.</p>	<p>Query with HMRC: If the scheme has clear evidence of a transfer-in, provide HMRC with details of the transfer including the SCON for the transferring-scheme. The scheme records can then be accepted.</p> <p>Accept the Administration Record: If it is not possible to query the case with HMRC then the scheme records can be accepted as is with no change to the administration record being required.</p>		

Background	Options for resolution	Status	Number of queries
Revaluation rates differ on scheme records and HMRC records			
<p>HMRC or the scheme may have recorded an incorrect rate of revaluation.</p>	<p>Notify HMRC of correct revaluation rate – this may impact on the member’s state pension.</p> <p>Pay any outstanding premium due - if the scheme revalued the GMPs at Limited Rate Revaluation, when the member left contracted-out employment was the Limited Rate Revaluation Premium paid? If not, HMRC may have recorded the revaluation rate as Section 148. Payment of the premium should resolve the issue.</p> <p>The scheme records can then be accepted.</p> <p>Accept the Administration Record: If it is not possible to request that HMRC adjust the revaluation basis, and the revaluation basis recorded on the Administration record is correct, then the scheme records can be accepted as is with no change to the administration record being required.</p>		
Other cases			
<p>These would normally cover cases where the member files have been reviewed for evidence and, where possible, the GMP has been recalculated using the Contracted Out Earnings on file. In some circumstances, however, despite undergoing all possible checks the outcome is that it is still not possible to reconcile the GMP held by the scheme with that held by HMRC so a decision needs to be taken as to which figure to accept.</p>	<p>Accept HMRC: If there is a lack of evidence to support the scheme position, and the difference in GMP amounts is small, there is an argument to accept HMRC’s figures. This also provides the benefit of consistency with state pension figures.</p> <p>Accept the Administration Record: If there is evidence to support scheme records and no reason to doubt them, there may well be a good argument to accept the scheme records.</p>		



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