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**8<sup>th</sup> January 2009**

## **DWP clarifies benefit crystallisation position for protected rights in SIPPs**

The Department of Work and Pensions (DWP) has recently clarified the position of taking benefits from protected rights funds under an income drawdown facility.

Over the past few months IPM has received a number of enquiries from our introducers concerning SIPPs with both protected and non protected rights funds. Their issue is whether there is a restriction on the proportions of a SIPP that can be crystallised i.e. are you able to fully crystallise the protected rights element of the SIPP yet leave the non protected rights element uncrystallised?

The DWP have confirmed that the protected rights element of a SIPP is not to be disproportionately eroded compared to the rest of the fund. Put simply, the proportion of protected rights benefits within a SIPP that are crystallised should be no greater than the proportion of the non protected rights benefits taken.

### **Example**

Client has a SIPP value of £80,000 of which £40,000 is protected rights and £40,000 is non protected rights. The client wishes to take half their entitlement of the pension commencement lump sum (Maximum entitlement is £20,000 therefore half the entitlement is £10,000).

It would not be possible to fully crystallise the protected rights element of the SIPP to raise the £10,000 as this would fail the DWP's proportionality test. A minimum of half of the non-protected rights element of the SIPP would need to be crystallised to make the lump sum payment with the remainder being made up from the protected rights element i.e. a minimum of £5,000 from each element of the SIPP.

Conversely there is no restriction on the proportion of the non protected rights element that can be crystallised in relation to the protected rights element. In theory the full non-protected rights element can be crystallised whilst leaving the protected rights element uncrystallised.

Where advisers need to take care is when recommending the transfer of a fully crystallised protected rights policy to an uncrystallised, non protected rights SIPP. Once the transfer completes this will automatically trigger the fully crystallisation of the non protected rights element of the SIPP. *Whatever percentage of protected rights have been crystallised prior to the transfer, at least the same percentage must then be applied to the non protected rights from the date the transfer-in takes effect.*

If you wish to discuss the contents of this note or enquire about the services that IPM can provide further please contact either Jonathan Lochery or James Randall.

**Please note that the advice given is IPM's view on how the legislation works, and should not be taken as a definitive statement of the law.**

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