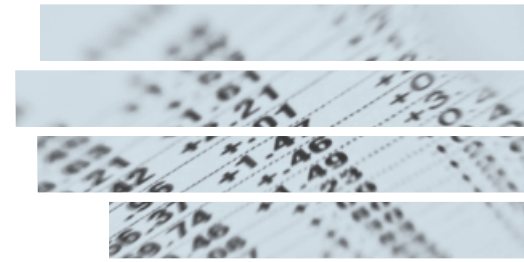


# The Benefits

Protected rights and the James Hay SIPP



This fact sheet is designed to give a high level overview of the differences between protected and non-protected rights and the subsequent impact on the benefits provided by the James Hay SIPP.

## What are protected rights?

Unlike non-protected rights, which are an accumulation of contributions directly made by an employer and/or the scheme member themselves, protected rights are an accumulation of National Insurance Contribution rebates into a scheme where the member has opted out of the State Second Pension (formerly SERPS).

## What are the key differences between protected & non-protected rights?

Since 1 October 2008, the differences between protected & non-protected rights have narrowed and protected rights can now be accepted into Self Invested Personal Pensions (SIPPs). Prior to this date there were restrictions on the type of pension scheme protected rights could be transferred to, with additional conditions attached to permitted investments, member's benefits and death benefits. The regulations to allow protected rights in SIPPs also removed the legislative restrictions on investments, however, a number of key differences from non-protected rights remain on member's benefits and death benefits. It is worth noting that these remaining key differences are currently scheduled to be removed in 2012.

### Differences on member's benefits:

- The Pension Commencement Lump Sum cannot exceed 25% of the protected rights value, regardless of any transitional protected entitlement in excess of this figure
- It is not permissible to do partial annuity purchase
- If an annuity is purchased, unisex rates must be used
- A guarantee period of up to 5 years only can be included in an annuity
- Any lifetime allowance charge due cannot be paid from protected rights

### Differences on death benefits (under age 75):

- All of the fund must be used to provide an income to a surviving spouse or civil partner (if there is one)
- If there is no surviving spouse/civil partner, then a lump sum can be paid to another individual as nominated by the deceased. If no nomination has been made then a lump sum is payable to the estate
- The value of any lump sum paid will be included in the deceased's estate for IHT purposes, regardless of who it is paid to

NB An unsecured pension fund lump sum death benefit is subject to a 35% tax charge as well as forming part of the member's estate for IHT

### Differences on death benefits (age 75 or over)

If a member dies while taking alternatively secured pension:

- All of the fund must be used to provide an income to a surviving spouse or civil partner (if there is one)
- If there is no surviving spouse/civil partner, the fund must be used to provide an income for a dependant(s) of the member
- If there is no surviving dependant, a lump sum must be paid to a registered charity nominated by the member. If no nomination has been made the scheme administrator will choose a charity.

### Differences on death benefits (annuity)

If the member is married or in a civil partnership at the time an annuity is purchased it must provide a 50% spouse's/civil partner's pension upon death

## General notes

- If protected rights and non-protected rights are held in the same pension scheme, they must be separately identifiable, otherwise all the monies must be treated as protected rights. For this reason James Hay holds protected rights and non-protected rights under separate plans
- Where both non-protected rights and protected rights are held in the same scheme and income withdrawal is being used to provide benefits, the protected rights must not be eroded disproportionately to the non-protected rights. This is a Department for Work and Pensions (DWP) rule and is covered in further detail in our 'proportionality' fact sheet.

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