

## Appendix D

### Local Government Pension Scheme (England and Wales) Amendments to the statutory underpin

Please note that the author of this response has declared a personal interest in this consultation as he is an active member of the LGPS.

Question 1 – Do you agree with our proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members?

No response.

Question 2 – Do you agree that the underpin period should end in March 2022?

Yes, as this is the last date a protected member can reach their 2008 Scheme NPA.

Question 3 – Do you agree that the revised regulations should apply retrospectively to 1st April 2014?

Retrospective application of the proposed draft regulations will lead to significant administrative complexity, and employers must be fully funded for this increased cost. It will also result in increased employer contributions, which must be funded by Government.

Question 4 – Do the draft regulations implement the revised underpin which we describe in this paper?

No response.

Question 5 – Do the draft regulations provide for a framework of protection which would work effectively for members, employers and administrators?

No response.

Question 6 – Do you have other comments on technical matters related to the draft regulations?

No response.

Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?

Yes.

Question 8 – Are there any other comments regarding the proposed underpin qualifying [sic] criteria you would like to make?

No response.

Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?

No response.

Question 10 – Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?

Yes.

Question 11 – Do you consider that the proposals outlined in paragraphs 50 to 52 would have ‘significant adverse effects’ in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?

No response.

Question 12 – Do you have any comments on the proposed amendments described in paragraphs 56 to 59?

No response.

Question 13 – Do you agree with the two-stage underpin process proposed?

This will increase administrative complexity and cost, which employers must be fully funded for by Government.

Question 14 – Do you have any comments regarding the proposed approaches outlined above?

No response.

Question 15 – Do you consider there to be any notable omissions in our proposals on the changes to the underpin?

No response.

Question 16 – Do you agree that annual benefit statements should include information about a qualifying member’s underpin protection?

Yes.

Question 17 – Do you have any comments regarding how the underpin should be presented on annual benefit statements?

It should be as clear and simple as possible and highlight the assumptions used in calculating the estimate.

Question 18 – Do you have any comments on the potential issue identified in paragraph 110?

No response.

Question 19 – Do the proposals contained in this consultation adequately address the discrimination found in the ‘McCloud’ and ‘Sargeant’ cases?

No response.

Question 20 – Do you agree with our equalities impact assessment?

No response.

Question 21 - Are you aware of additional data sets that would help assess the potential impacts of the proposed changes on the LGPS membership, in particular for the protected characteristics not covered by the GAD analysis (age and sex)?

No response.

Question 22 – Are there other comments or observations on equalities impacts you would wish to make?

No response.

Question 23 – What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?

There is an immediate need for guidance on processing immediate cases.

Question 24 – Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?

Retrospective application of the proposed draft regulations will lead to significant administrative complexity, and employers must be fully funded for this increased cost.

Question 25 – What principles should be adopted in determining how to prioritise cases?

No response.

Question 26 – Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators?

No response.

Question 27 – What issues should be covered in administrative guidance issued by the Scheme Advisory Board, in particular regarding the potential additional data requirements that would apply to employers?

The additional data requirements need to be highlighted as soon as possible, so that employers have time to collate, check and submit any data required. Our service will also have to deal with the additional burden of providing data for the firefighter pensions schemes. It is likely this will require additional dedicated internal resource, which we believe should be funded by the Government.

Question 28 – On what matters should there be a consistent approach to implementation of the changes proposed?

Changes must be consistent across all administering authorities.

Question 29 – Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?

The changes will inevitably increase the cost of employer contributions. Any increases must be funded by Government to avoid costs being passed to local taxpayers.

## References

- (1) United Kingdom. Ministry of Housing, Communities and Local Government. Local Government Pension Scheme (England and Wales) Amendments to the statutory underpin. 2020. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/901173/Condoc - amendments to LGPS underpin - FOR PUBLICATION.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901173/Condoc_-_amendments_to_LGPS_underpin_-_FOR_PUBLICATION.pdf) (Accessed: 18 August 2020).