



# Report to Pension Fund Board

**Date:** 15 December 2021

**Title:** McCloud update

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**Recommendation:** The Board is asked to NOTE the current position regarding the McCloud remedy.

## Executive summary

When the Local Government Pension Scheme (LGPS) changed from final salary to career average earnings accrual on 1 April 2014, an underpin to protect older scheme members was introduced. In some form, protections applied across all public sector pension schemes. Appeals were submitted in the judges and firefighter's schemes regarding their protections and on 20 December 2018, the Court of Appeal ruled that the protections were unlawful on the grounds of age discrimination. Although the ruling only applied to these two schemes, the government confirmed it would be applied to all public sector pension schemes.

The Ministry of Housing, Communities and Local Government (MHCLG) issued a consultation on 16 July 2020 with proposals for changes which would remove discrimination from the LGPS. The consultation closed on 8 October 2020.

On 13 May 2021, Luke Hall, Minister of State for Regional Growth and Local Government made a ministerial statement confirming that

- The age requirement for underpin protection will be removed
- A member will not need to leave with an immediate entitlement to benefits to qualify for underpin protection
- The remedy period will end on 31 March 2022
- The underpin calculation will be based on final pay at the underpin date, even if this is after 31 March 2022
- There will be two stages to the underpin calculation: the first on the underpin date which is the date of leaving or age 65 if earlier, the second when the benefits are paid
- The regulations will be retrospective to 1 April 2014.

We originally expected MHCLG, now the Department for Levelling Up, Housing and Communities (DLUHC) to issue a full response to the consultation and to publish draft regulations later this year. Due to the Cabinet reshuffle this has now been delayed and we are expecting the response and draft legislation in February 2022. It is still expected that the regulations will come into force in April 2023.

## **Content of report**

In anticipation of the additional administration the McCloud remedy will require, Pension Fund Committee approved extra resource for the administration team. Three additional Pensions Officers joined on 12 July and a Senior Pensions Officer joined on 16 August. Training of the Pensions Officers is going well and the Senior Pensions Officer fortunately had previous LGPS experience.

To address the discrimination, hours changes and service breaks are now required for scheme members subject to the extended underpin for the period 1 April 2014 to 31 March 2022. Buckinghamshire Pension Fund (BPF) scheme employers have been asked to submit monthly data in respect of this from April 2021 to March 2022 with a bulk data exercise being undertaken for the period April 2014 to March 2021.

There are 339 employers/payroll providers who are required to provide data. 251 requests for historical data have been issued (74%). So far, 40 employers have returned their data template. Employers are provided with details of scheme members where the additional data is required to assist them, based on data held on the pensions administration system. On receipt of data, checks are made to ensure data has been received for all members where it is expected.

System testing has taken place on the data received to ensure the interface works correctly and to check for any errors. Issues on data matching have been raised with our system provider and they are working with us to resolve these issues.

## **Next steps and review**

The next update will be provided at the July 2022 Board meeting.