



Report to Pension Fund Board

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Title: McCloud update

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

Executive summary

1.1 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.

MHCLG, now the Department for Levelling Up, Housing and Communities (DLUHC) were originally expected to issue a full response to the consultation and publish draft regulations by the end of 2021. The latest position provided by DLUHC is that work is continuing on the Government response to the 2020 consultation and the McCloud regulations.

Content of report

- 1.2 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 and a Senior Pensions Officer joined in the summer of 2021.
- 1.3 To address the discrimination, hours changes and service breaks are 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 submitted this data monthly in respect of April 2021 to March 2022, with a bulk data exercise being undertaken for the period April 2014 to March 2021.
- 1.4 There are 378 employers/payroll providers who are required to provide data. 376 requests for historical data have been issued (99.5%). So far, 215 employers have returned their data template (56.9%). 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.
- 1.5 Issues on data matching were raised with our system provider and they have released a fix for this which we are testing. We are waiting for data verification tools to be issued.

Next steps and review

- 1.7 The next update will be provided at the December 2022 Board meeting.

