

PENSIONS COMMITTEE**22 JUNE 2021**

REPORT TITLE:	LGPS UPDATE
REPORT OF:	DIRECTOR OF PENSIONS

REPORT SUMMARY

This report informs Members on the publication of a Written Ministerial Statement on McCloud and the remedy for the LGPS, along with recent developments on ongoing national issues and overriding legislation that will impact on the administration of the LGPS.

RECOMMENDATION

That Members note the operational implications emerging from impending changes to the regulations and industry developments.

SUPPORTING INFORMATION**1.0 REASON/S FOR RECOMMENDATION**

- 1.1 There is a requirement for Members of the Pension Committee to be kept up to date with legislative developments as part of their decision-making role.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 Not relevant for this report.

3.0 BACKGROUND INFORMATION**The McCloud Remedy**

- 3.1 On 13 May 2021, Luke Hall, Minister for Regional Growth and Local Government, made a Written Ministerial Statement on McCloud and the LGPS.
- 3.2 To provide some context for new Committee Members, the 'Court of Appeals' ruling in December 2018 confirmed that the transitional protections provided for members of the Judges' and Firefighters' pension

schemes when the public sector pension reforms were implemented in 2014 and 2015, were age discriminatory.

This was because eligibility for these protections was based on an age criterion. Similarly, age-restricted transitional protections were also provided across the other public service pension schemes including the LGPS and last year the government announced that it would seek to remedy the position.

- 3.3 In the LGPS the transitional protections took the form of a final salary underpin to the new CARE benefit structure implemented in 2014.

On 16 July 2020, MHCLG released the much-anticipated consultation on the McCloud remedy for the LGPS in England and Wales and can be accessed from the following link:

[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)

The consultation closed on 8 October 2020 and a response to the consultation is expected later this year.

- 3.4 The recent written statement can be accessed from the following link:

<https://questions-statements.parliament.uk/written-statements/detail/2021-05-13/hcws26>

- 3.5 The statement confirms the key changes that the Government will make to the LGPS regulations to remove the unlawful age discrimination. The statement confirms that:

- a) the age requirement for underpin protection will be removed
- b) a member will not need to leave with an immediate entitlement to benefits to qualify for underpin protection
- c) the remedy period will end on 31 March 2022
- d) the underpin calculation will be based on final pay at the underpin date, even when this is after 31 March 2022
- e) there will be two stages to the underpin calculation:
 - the first on the underpin date – the date of leaving or on the normal pension age in the 2008 Scheme, if earlier
 - the second when the benefits are paid
- f) the regulations will be retrospective to 1 April 2014.

We expect MHCLG to issue a full response to the consultation later this year.

- 3.6 A Public Service Pensions Bill will introduce amendments to incorporate the McCloud judgment into public service pension schemes, and subsequently MHCLG will publish draft regulations later this year implementing the remedial McCloud provisions in readiness for the effective date of 1 April 2023.
- 3.7 Whilst the effective date is welcome in terms of allowing more time to implement the changes, it adds to the number of retrospective leaver calculations that need to be reviewed for all qualifying leavers from 1 April 2014 to 31 March 2023.
- 3.8 In preparation for the enactment of the legislation, Fund Officers have undertaken a project to identify qualifying members who are in scope for underpin protection and are verifying the data held in relation to hour changes and breaks in service received for membership accrual post 1 April 2014.

Cost Management of Public Sector Pension Schemes

- 3.9 Under the new public service pension scheme framework implemented by the Public Service Pension Act 2013, the costs of the reformed pension schemes must be periodically assessed to ensure the reforms remain affordable and sustainable.
- 3.10 There are two processes running in parallel, an “Employer Cost Cap” as determined by HM Treasury in order to demonstrate consistency between the public service pension schemes, and a “Future Service Cost” process operated by the Scheme Advisory Board to reflect the specifics of the LGPS experience in assessing the cost of pension scheme reform.
- 3.11 The 2016 review of the cost of public sector pension schemes, in the form of the ‘cost management process’, has recommenced following the pause in 2019 due to the uncertainties associated with the McCloud judgment and the impact for the LGPS.
- 3.12 HMT has already confirmed that the McCloud remedy will be taken into account in its ‘cost management process’ and where the inclusion of the McCloud remedy cost leads to a breach of a cost cap (potentially triggering a benefit reduction) a reduction to benefits will not be applied.
- 3.13 The Scheme Advisory Board is deliberating as to whether it is appropriate to allow for McCloud in the ‘Future Service Cost’ process and an announcement is expected during the summer.

Request for Exit Payment Data

- 3.14 MHCLG wrote to Chief Financial Officers of Councils on 27 May 2021 to request historical information on redundancy and exit payment costs over the past five years. This information will then be considered as part of the Government's review of the public sector cap on exit payments, the reintroduction of which appears to remain a pressing key policy objective.
- 3.15 It is expected that details will emerge in the coming months on the extent and timeline of the policy.

Consultation on Increasing the minimum pension age from 55 to 57 in April 2028

- 3.16 Merseyside Pension Fund responded to the recent consultation on the national increase of the minimum pension age from age 55 to 57.

A copy of the response is attached as Appendix A to the report.

- 3.17 The main purpose of the government proposal is to ensure that pension savings are only used to provide income and security in later life and to broadly realign the earliest retirement age to be 10 years earlier than state retirement age.
- 3.18 The Fund response to the consultation questions highlighted the main points of concern, that there is a tangible risk that the increase to minimum pension age will be unpopular with savers, as this will require employees to both work and lock money away for a longer period.

It is the Fund's view that the policy objective appears counterintuitive to the success achieved by Government, to extend pension provision amongst workers via the auto-enrolment programme.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are none arising from this report.

5.0 LEGAL IMPLICATIONS

There are none arising from this report.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The Written Ministerial Statement for McCloud provides a sufficiently high level policy directive to allow pension funds and software providers to scope and plan the required changes to administrative processes and software.

It also provides enough information for funds to inform employers of requirements and to work collaboratively in developing national communications for members of the LGPS; in readiness for the effective date of 1 April 2023.

- 6.2 The Fund is mindful that if the minimum pension age increases from age 55 to 57 some employees will rush to retire before the step-up in minimum retirement age takes effect.

As such additional resources will be necessary to enable schemes to implement engagement campaigns with members, to ensure that they make informed decisions when accessing benefits, as opposed to making 'knee-jerk' reactions to the change in the regulations. This additional resource requirement will be considered nationally along with the development of any communication materials on a collaborative basis.

7.0 RELEVANT RISKS

- 7.1 There are none arising from this report.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 The relevant consultations are set out in this report.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone.

An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision, or activity.

- 9.2 MHCLG and HMT undertake equality impact assessments with regard to the statutory reform of the public sector pension schemes and LGPS.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are none arising from this report.

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APPENDICES

Merseyside Pension Fund Response -Increasing Minimum Pension Age

BACKGROUND PAPERS SUBJECT HISTORY (last 3 years)

Council Meeting	Date
The LGPS Update is a standing agenda item on Pensions Committee	