

Meeting:	Pension Board
Date:	18/12/2023
Title:	McCloud Case update
Purpose:	For information only
Author:	Meirion Jones, Pensions Manager

1. Introduction - What is the McCloud court case about?

When the Government reformed public service pension schemes in 2014 and 2015, they introduced protections for older members. In December 2018, the Court of Appeal ruled that younger members of the Judges' and Firefighters' Pension schemes have been discriminated against because the protections do not apply to them.

The Government has confirmed that there will be changes to all main public sector schemes, including the Local Government Pension Scheme (LGPS), to remove this age discrimination. This ruling is often called the 'McCloud judgment' after a member of the Judges' Pension Scheme involved in the case.

2. What does it mean for the LGPS?

When the LGPS changed from a final salary to a career average pension scheme in 2014, members who were within 10 years of their Normal Pension Age (usually age 65) on 1 April 2012 were provided with a protection called the 'underpin'. When a protected member takes their pension, the benefits payable under the career average and final salary schemes are compared and the higher amount is paid.

The Government will need to provide protection to younger members equal to the basic protection provided to older members to remove the disadvantage. The Government recently consulted on the changes that need to be made to achieve this. The public consultation on the proposed changes ended on 8 October 2020. Following further consultation in early 2023, the final regulations came into force on **1 October 2023**.

3. Who will these changes apply to?

The Government intend for the changes to apply to members who were in service on 31 March 2012 and also have service after 31 March 2014 (without a break of more than five years).

If a member left the scheme before 1 April 2014, then these changes do not apply to their benefits as all their service will have been built up in the final salary scheme.

4. Will many members see an increase in their pension?

Most members are unlikely to see an increase to their pension, and where an increase is applied, it is likely to be small. This is because most members will build up a higher pension in the career average pension scheme than they would have under the final salary scheme.

5. What work needs to be carried out?

The McCloud project is a substantial project for the Fund and employers, with very little change expected to the value of member benefits at the end of the project. It is however an excellent opportunity to ensure that our data is correct and up to date, so that we can provide correct data on the Pension Dashboard.

At a fund level, the work will involve:

- identify those in scope for the new underpin protection (active members and leavers);
- obtain the data needed to calculate final salary benefits from employers (mainly relating to part-time hours and service breaks);
- validate the data and update scheme member records;
- recalculate benefits for all the scheme members who have left, and pay any underpayments/adjust the level of pensions going forward;
- Communicate with members;
- make changes to systems and administrative processes to carry out ongoing administration using the new underpin protections from the effective date.

From the employers' perspective, this work will include:

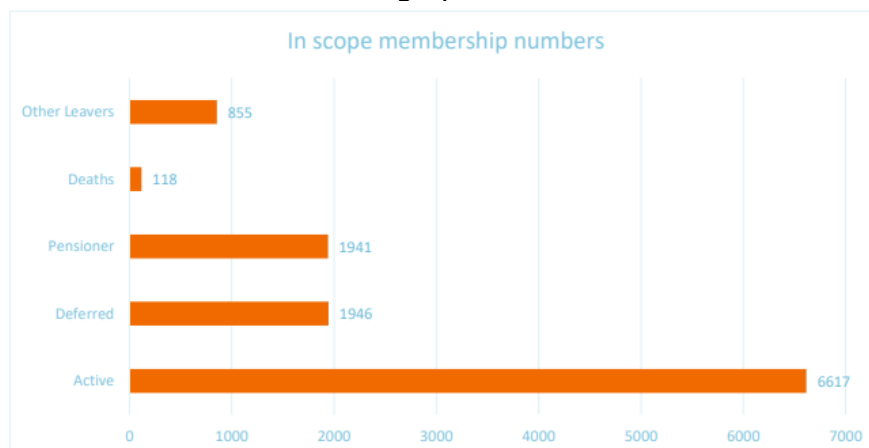
- providing historical data in relation to scheme members;
- updating processes and systems to ensure that data is also provided on an ongoing basis for existing scheme members.

The fund will work closely with employers to assist them in understanding the requirements and looking for easements in how this information can be provided.

6. What work has been carried out so far?

The work so far has included:

- Identify those in scope for the new underpin protection (active members and leavers). In working with Hymans Robertson, we have identified in the region of 11,500 members that we believe will be affected by McCloud and will require some sort of review. In terms of actual numbers in each section, the chart below quantifies the numbers of members in each category:



While 6617 active members does not appear to be a lot of active records to assess, it is worth noting that a number of people who work as support staff in schools or in

the care profession have a number of different posts with hours that vary annually – these records can take a considerable amount of time to decipher and correct;

- Requesting information from the small and medium employers. 22 employers have been contacted and a prompt reply was received by most. We are currently awaiting a reply from one remaining employer. Out of the 22 employers, only 5 records had to be amended;
- Regular meetings with our main employers take place in order to discuss the data requirement and to track progress. Data has started to come through and work has started to verify the data.
- The work to recalculate benefits for all the scheme members who have left and pay any underpayments or adjust the level of pensions going forward has commenced, with all the death cases having been recalculated.
- Under disclosure regulations, a letter has recently been sent to all active, deferred, pensioners, and dependent members to inform them of the material change to the scheme following the introduction of the McCloud regulations. Approximately 19,000 letters have been sent out in the mail, with a similar number being uploaded to the My Pension Online website for people who have registered for this service. The letters sent out in the mail were accompanied by an 'activation key' for the My Pension Online website. It is hoped that this activation key will encourage more members to sign up for the online service.

7. What needs to be done?

Work to be done include:

- Continue to work with the employers in order to obtain the data needed to calculate the final salary benefits;
- validate the data and update scheme member records;
- Continue to recalculate benefits for all the scheme members who have left and pay any underpayments/adjust the level of pensions going forward.

8. Conclusion

The McCloud project will be a major project for the fund over the next few years. Work has started well and we are confident that, with the co-operation of the employers, that we can complete the work successfully.

As mentioned in the Pensions Dashboard report, we hope that the work in verifying the data for the McCloud case will ensure that our data is of a high quality so that members can see complete and correct data on the dashboard or on our own My Pension On-line portal.