



Department for Levelling Up,
Housing & Communities

Local Government Finance Stewardship
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LGPS administering authorities
Via LGA distribution list

Email: lgpensions@levellingup.gov.uk

March 2022

Dear Colleagues

Local Government Pension Scheme (LGPS) England and Wales - 2022 triennial valuations

I am writing to set out DLUHC's current position on McCloud remedy for administering authorities to consider whilst undertaking the 2022 valuations.

In December 2018, the Court of Appeal found that the transitional protections introduced to the judicial and firefighters' schemes during the reform of public service pensions in 2015 discriminated on grounds of age. On 15 July 2019 the UK Government issued a written ministerial statement to confirm that as transitional protection was provided in all public service schemes, the ruling (generally referred to as the McCloud judgment) had implications for all those schemes, including the LGPS in England and Wales.

Whilst proposals to address the specific discrimination in the LGPS have been set out in a written ministerial statement on 13 May 2021 [here](#), changes have not yet been made to regulations. The amending regulations are expected to be made later this year. We are aware that a lack of clarity may lead to differences in approach between funds and, all other things being equal, could possibly result in differences in employer contribution rates. We are keen to avoid this where possible.

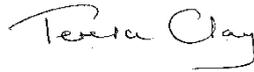
We therefore suggest that all administering authorities, for the purposes of the 2022 triennial valuation, should value members' benefits as required by the various Regulations in force as at 31 March 2022 except for the following assumptions:

- It should be assumed that the current underpin (which only applies to those members within 10 years of their NPA at 31 March 2012) will be revised and apply to all members who were active in the scheme on or before 31 March 2012 and who join the post 1 April 2014 scheme without a disqualifying service gap.
- The period of protection will apply from 1 April 2014 to 31 March 2022 but will cease when a member leaves active service or reaches their final salary scheme normal retirement age (whichever is sooner).
- Where a member remains in active service beyond 31 March 2022 the comparison of their benefits will be based on their final salary when they leave the LGPS or when they reach their final salary scheme normal retirement age (again whichever is sooner).
- Underpin protection will apply to qualifying members who leave active membership of the LGPS with an immediate or deferred entitlement to a pension.

- The underpin will consider when members take their benefit so they can be assured they are getting the higher benefit.

DLUHC expects that all administering authorities will reflect the above amendments when valuing past service liabilities and setting employer contribution rates at the 2022 triennial valuation and that they will confirm their approach in the Funding Strategy Statement. It is likely that the Government Actuary's Department will also seek to ensure that this is the case when carrying out their Report under Section 13 of the Public Service Pensions Act 2013. DLUHC emphasise that this letter does not preclude final regulations taking a different approach to McCloud remedy to that outlined here. Therefore, administering authorities should make provision in their funding strategy for revisiting employer contributions if the actual outcome is materially different from that outlined above.

Yours faithfully

A handwritten signature in black ink that reads "Teresa Clay". The signature is written in a cursive, flowing style.

Teresa Clay
Head of Local Government Pensions