

Lancashire Local Pension Board

Meeting to be held on Tuesday, 11 July 2023

Electoral Division affected:
(All Divisions);

Regulatory Update

Contact for further information:

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Brief Summary

This report sets out an update on various pension related regulatory issues to assist Board members to exercise their functions as a member of the Pension Board effectively.

Recommendation

The Board is asked to consider and note the contents of the report.

Detail

1. McCloud

Background

There has continued to be activity in respect of the McCloud judgment focusing on the terms of the remedy and tax related matters. These are outlined below.

By way of a recap, when the Government reformed public service pension schemes in 2014 and 2015, transitional protections were introduced for older members, which were known as the "statutory underpin". In December 2018, the Court of Appeal ruled that younger members of the judicial and firefighters' pension schemes had been unlawfully discriminated against because the protections did not apply to them.

This ruling is called the McCloud judgment, after a member of the Judicial Pension Scheme involved in the case. Because of the ruling, there will be changes to all public service pension schemes that provided transitional protection, including the LGPS.

The changes are called the McCloud remedy and are intended to remove the age discrimination found in the McCloud court case.



2020 Consultation response

As reported at the Pension Board in April 2023 the first consultation on amendments to the statutory underpin ran in 2020. The Department for Levelling Up, Housing and Communities (DLUHC) published the [consultation response](#) in April 2023 confirming the steps it will be taking to resolve the McCloud age gap discrimination in respect of the LGPS in England and Wales. Alongside the response, in collaboration with the Scheme Advisory Board, DLUHC published a [factsheet](#) summarising the remedy for members.

The response confirms the main changes to the underpin that were proposed in the 2020 consultation:

- Underpin to be extended to younger members who are in scope.
- Underpin service will be from 1 April 2014 to the earlier of 31 March 2022, the date of leaving active service or reaching final salary normal pension age;
- Members will be in scope of underpin protection if they:
 - were active in the LGPS or another public service pension scheme on or before 31 March 2012,
 - were an active member of the career average scheme,
 - did not have a disqualifying gap in service (more than 5 years), and
 - leave active membership with a deferred or immediate entitlement to a pension, or they die in service.

The amendment regulations for the McCloud remedy will come into force from 1 October 2023.

2023 Consultation

On 30 May 2023 DLUHC launched a second [consultation](#) on amendments to the statutory underpin. This will cover reconsulting on some areas, and consulting on issues not covered in the first consultation. The department are also seeking views on [draft scheme regulations](#) which would implement the remedy. The consultation closes on 30 June 2023. LPP are holding a round table discussion with Fund representatives on the topic of McCloud on 21 June, before responding to the consultation.

The consultation includes the following areas:

- Aggregation
- Club transfers
- Flexible retirement
- Divorce

2023 Tax consultation

In February a set of regulations was laid to put members who are affected by the McCloud remedy "as far as possible, into the tax position they would have been in had the discrimination not happened". HM Revenue & Customs (HMRC) has now published a technical consultation on a further set of draft tax regulations which set out further changes to how pensions tax rules will apply as a result of the McCloud remedy. They also give pension scheme members details of approaches to any



annual allowance, lifetime allowance or unauthorised payments tax charges they may have for the tax years from 2019–20 to 2022–23 inclusive. The consultation closes on 19 June 2023.

HMRC have published a remedy newsletter which states that they intend to publish remedy guidance for pension schemes in Autumn 2023.

2. Scheme Advisory Board Cost Management Process

Following a [consultation](#) which was reported on at the Local Pensions Board in April, DLUHC has now published the Local Government Pension Scheme (Amendment) (No. 2) Regulations 2023.

These Regulations now move the SAB cost control process to a four-year cycle, bringing it into line with the timescale for the HM Treasury cost control mechanism making the process administratively more efficient. In addition, more flexibility has been introduced regarding the recommendations SAB can make. Previously where the cost of the Scheme following the valuation was below or above the target overall cost, it was only permitted for SAB to make recommendations to bring the cost of the scheme all the way back to target cost. Following these amendments SAB can now make recommendations to bring the cost of scheme back to or towards the target costs.

The economic check which was proposed in the consultation was not introduced at this time, and SAB state that this is open for future discussion.

3. Pensions Dashboards

In March, the Pensions Minister announced delays to the delivery of Pensions Dashboards. On 8 June the Minister issued an updated [statement](#) setting out further details of the delay. Details are set out below.

- Legislation will be updated to set an overall connection deadline for all schemes, which will be 31 October 2026. This will replace the [previous staging timeline set out in legislation](#).
- The individual connection deadlines for schemes will be set out in guidance, and will be before the final deadline of 31 October 2026. DWP is planning to collaborate with the industry this year before publishing this guidance.
- The date that Dashboards will go live to the public (Dashboards Available Point) has not been announced yet, but the Minister on 8 June said that this could be earlier than 31 October 2026. This indicates that Public Sector Schemes will have an earlier staging date than 31 October 2026.

The previous staging timeline for public service pension schemes was 30th September 2024 (for find requests i.e. requests to the administrator to confirm if an individual is a member of the Fund) and 1st April 2025 (for value data i.e. pension benefit information for active members). The pensions team will monitor the impact of the statement on this timeline.



The Pension Regulator urges schemes "to continue preparing for dashboards, in particular by getting to grips with members' data.". LPPA are continuing their preparations in line with the original deadlines.

4. "Club" Transfers

It was reported as an extra update following the last Local Pension Board meeting that the Superannuation Contributions Adjusted for Past Experience ("SCAPE") discount rate is primarily used for valuations of the unfunded public service pension schemes and to set their employer contribution rates. It is also used to set the actuarial factors for the calculation of Cash Equivalent Transfer Values and divorce calculations in the LGPS. Following changes to the SCAPE discount rate in March 2023, the Cabinet office have said they plan to issue new Club transfer factors and memorandum which will come into force on 1 October 2023, which will mainly impact members affected by McCloud.

The Public Sector Transfer Club allows those who move between Club schemes to transfer on special terms, so they will receive a similar amount of pension in their new scheme, regardless of any increase in salary. Normally to qualify as a Club transfer the election to transfer must be made within the first 12 months of joining the new scheme. The Cabinet Office (as secretary to the Club) have clarified that where a Club transfer takes place outside the required 12 month time limit, in exceptional circumstances and providing that both schemes agree, the transfer can proceed on a Club basis. However, the Cabinet Office have no authority to compel the schemes to accept the belated Club transfer.

5. SCAPE Discount Rate Change

Following the change to the SCAPE discount rate in March, transfer calculations and CETV values for divorce were suspended with immediate effect. On 1 June 2023 revised factors were received from the Government Actuary's Department. LPPA have loaded and tested in the UPM system.

6. SAB website updated

The SAB's website has recently been updated. The content remains the same, though the look of the site has changed.

Areas of the website which members of the Board may be interested in include: -

[SAB meeting and agenda papers](#)

[Committee meeting and agenda papers](#)

[Responsible Investment Advisory Group meeting and agenda papers](#)

[News items](#)



7. Climate Change risk reporting and FOI requests

TPR have published a [review](#) on climate related disclosures for private sector schemes, the findings of which may be useful for LGPS funds ahead of the TCFD reporting requirements (now expected to commence from 1 April 2014, with the first reports due in late 2025). The pensions team is in the process of project planning for implementation of TCFD. A key aspect of this is education and training. A Responsible Investment workshop, due to take place in October 2023, will initially cover this issue and subsequent workshops will be required thereafter.

8. PR Corporate Plan

TPR has published its [Corporate Plan for 2023/24](#). The plan outlines TPR's key priorities for the year. These include:

- working with the Financial Conduct Authority and Department for Work and Pensions to develop a value for money framework
- launching the new defined benefit funding code (the "General Code of Practice")
- increasing its attention on tackling scammers
- supporting schemes to prepare for dashboards.

The document also includes TPR's plans beyond March 2024.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Without the required knowledge and skills, those charged with governance and decision making may be ill-equipped to make informed decisions regarding the direction and operation of the Pension Fund.

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Tel
N/A		

Reason for inclusion in Part II, if appropriate
N/A

