

MHCLG McCloud Consultation Questions

Warwickshire County Council and Warwickshire Pension Fund Response:

Question 1 – Do you agree with our proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members

The underpin will be extended to 31 March 2022 for qualifying members or their underpin date if earlier.

Warwickshire County Council (WCC) and Warwickshire Pension Fund (WPF) support the proposal to extend the underpin to younger scheme members as detailed in the consultation document.

Question 2 – Do you agree that the underpin period should end in March 2022?

This is consistent with the original government commitment that members within 10 years of retirement from 1 April 2012 should be protected.

Question 3 – Do you agree that the revised regulations should apply retrospectively to 1st April 2014?

For consistency the regulations should be retrospective.

Question 4 – Do the draft regulations implement the revised underpin which we describe in this paper?

Yes.

Question 5 – Do the draft regulations provide for a framework of protection which would work effectively for members, employers and administrators?

The regulations would work but will cause a significant and complex administrative burden that administrators and employers will need to meet.

Question 6 – Do you have other comments on technical matters related to the draft regulations?

No.

Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?

Yes.

Question 8 – Are there any other comments regarding the proposed underpin qualifying criteria you would like to make?

No.

Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?

Yes.

Question 10 – Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?

Yes. To not extend this may leave the Scheme open to further challenge. Consideration should be given to allowing administering authorities the discretion to extend the period further where through no fault of the member it is not possible to inform and make a decision.

Question 11 – Do you consider that the proposals outlined in paragraphs 50 to 52 would have ‘significant adverse effects’ in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?

Where a member’s salary experience in the CARE scheme turns out such that a final salary treatment would have been better than the career average treatment a member could be losing out.

Question 12 – Do you have any comments on the proposed amendments described in paragraphs 56 to 59?

The Fund welcomes these amendments which address anomalies in the current 2014 regulations, however they will cause a significant administrative burden.

Question 13 – Do you agree with the two-stage underpin process proposed?

Yes, this enables (where applicable) the early retirement factors to be taken into consideration when the member crystallises their benefits.

Question 14 – Do you have any comments regarding the proposed approaches outlined above?

No.

Question 15 – Do you consider there to be any notable omissions in our proposals on the changes to the underpin?

No.

Question 16 – Do you agree that annual benefit statements should include information about a qualifying member’s underpin protection?

Yes.

Question 17 – Do you have any comments regarding how the underpin should be presented on annual benefit statements?

The Fund will rely on guidance from the LGA Communication Group and the Scheme Advisory Board, but would expect the presentation to be understandable to a lay person.

Question 18 – Do you have any comments on the potential issue identified in paragraph 110?

It is appropriate to apply the annual allowance test at the underpin crystallisation date, this is the date where the member realises the pension growth.

Question 19 – Do the proposals contained in this consultation adequately address the discrimination found in the ‘McCloud’ and ‘Sargeant’ cases?

Yes.

Question 20 – Do you agree with our equalities impact assessment?

Yes.

Question 21 - Are you aware of additional data sets that would help assess the potential impacts of the proposed changes on the LGPS membership, in particular for the protected characteristics not covered by the GAD analysis (age and sex)?

No.

Question 22 – Are there other comments or observations on equalities impacts you would wish to make?

No.

Question 23 – What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?

Clear and consistent communications for members and employers are essential, using plain English, being set out in a way that is understandable to a lay person, and being available in ways accessible to all.

Question 24 – Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?

There will be a significant impact on pension administrators and scheme employers. Dealing with retrospective cases will put a strain on resources in what is a limited market either for additional administrative staff or third party administrators.

Question 25 – What principles should be adopted in determining how to prioritise cases

It seems logical to deal with dependants and retirement cases as the first priority.

Question 26 – Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators

No.

Question 27 – What issues should be covered in administrative guidance issued by the Scheme Advisory Board, in particular regarding the potential additional data requirements that would apply to employers?

Consideration should be given to assisting scheme employers who may not have access to historic information about their LGPS members. Also, how members of defunct employers can be assisted again where there is little or no chance of retrieving historic information.

Question 28 – On what matters should there be a consistent approach to implementation of the changes proposed?

A consistent unified approach should be taken by all funds in order to be fair to and consistent with members.

Question 29 – Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?

Where increased costs relate to an employing organisation that is funded to any extent by local tax payers preventing an impact on local taxpayers would require additional external funding to cover the cost. However, the additional cost of the remedy is relatively immaterial overall for the majority of employers and will be spread over many years where it does increase employer contributions.