

Regulatory Update

Pension Committee Meeting September 2020

McCloud Judgement

On 16 July 2020, MHCLG published a consultation on amendments to the statutory underpin which are designed to remove age discrimination from the LGPS. In summary the consultation proposes that qualifying members, all who were active in 2008 scheme on 31st March 2012 and accrued benefits in the 2014 scheme without a disqualifying break, would be protected by the application of a revised underpin which will be applied retrospectively for those who have already left the scheme. The consultation runs until 8th October 2020 and we are currently in the process of formulating a response.

Please see the McCloud Judgement Briefing Paper (Annex), attached to this report for full details of the proposals, including the impact this will have on the administration, the number of members in scope of the remedy proposed, the potential additional resource this will require and possible options available for external support.

Cost Management Process

The Government Actuary Department (GAD) is undertaking an actuarial valuation of the LGPS as at 31 March 2016 as part of the cost control process. This work was on hold because of the changes to the scheme in response to the McCloud judgment. The Government made an announcement confirming that the cost control mechanism pause will be lifted, and the cost control element of the 2016 valuations process will be completed for all public service pension schemes. They further confirmed that the cost of addressing the discrimination identified in the McCloud judgment will be included in this process. The SAB are currently considering its position on the SAB employer cost cap process now that the proposals to rectify age discrimination for the LGPS are available.

Public Sector Exit Payments Cap

On 21 July 2020, HM Treasury published the Governments response to the consultation on restricting exit payments in the public sector. This was followed by the publication of draft regulations which include a list of employers who will be covered by the cap, which is set at a total of £95,000. Exit payments include redundancy payments, severance payments, pension strain costs and other payments made as a consequence of termination of employment.

The Regulations will need to be approved by both houses of parliament and will come into force 21 days after that process is complete. We understand it is the intention that the cap will be in force for the end of the 2020 calendar year.

This will affect LGPS members in England and Wales who currently qualify for an unreduced pension because of redundancy or efficiency retirement. It will also apply to members whose employer agrees to the early release of their benefits without actuarial reduction, apart from ill health retirement which is excluded. If the cap is breached, then the member may have to take a reduced pension. MHCLG has looked at options to introduce choice to allow members in this position to opt for a deferred pension instead. We also expect the

introduction of a standard strain cost calculation so that the cap will apply equally to members across the country.

On 7 September, MHCLG released a consultation which will have far-reaching implications for funds, employers and members alike in England and Wales. At the root of the proposals are the changes required to the LGPS to implement the HMT 95k cap, however, further proposals that were not expected on reform of exit payments, which will have implications for members being made redundant, especially those aged 55 or over who don't even exceed the cap, are also included. The consultation will run until the 9th November. We are currently waiting for draft LGPS regulations which will hopefully provide further clarification on the proposals, who they cover, and may lead to a change in the current understanding.

Written Ministerial Statement on Survivors Benefits

On 20 July, the Chief Secretary to the Treasury made a written statement on public service pensions, survivor benefits for opposite-sex widowers and surviving male civil partners. The statement was in relation to a Teachers Pension Scheme Employment Tribunal case where male survivors of female scheme members remain entitled to a lower survivor benefit than a comparable same-sex survivor and confirmed that government believes that this difference in treatment will also need to be remedied in those other public service pension schemes, where the husband or male civil partner of a female scheme member is in similar circumstances. We await guidance from MHCLG on what action administering authorities in England and Wales should take.

Review of employer contributions and flexibility on exit payments

MHCLG have published a second partial response to the Local valuation cycle and the management of employer risk consultation that was issued in May 2019. The response confirms that the LGPS 2013 Regulations will be amended to allow greater flexibility on employer exit payments and the ability to review employer contributions between valuations. The LGPS (Amendment) (No.2) Regulations 2020 provide for the changes and come into effect from 23 September 2020.