



Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to be held on 14 September 2021

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Subject: McCloud – Effects on Local Government Pension Scheme (LGPS)

Summary statement:

In July 2020 the government released a long awaited consultation on applying the remedy to address the age discrimination inherent with the transitional protections that were adopted by the public service scheme in 2014.

Recommendation

The Local Pension Board note the report

Rodney Barton
Director

Portfolio

Report Contact Caroline Blackburn
Phone: (01274) 434523
Email:caroline.blackburn@bradford.gov.uk

Overview & Scrutiny Area

1. Background

1.1 In April 2014 a series of changes were made to the LGPS to reform the schemes benefits structure. These changes were implemented as part of a wider project across Government to reform public service pensions and put them on a more sustainable, affordable and fairer footing for the longer term.

1.2 In the LGPS these changes included:

- Moving benefits from a final salary to a career average basis, and
- Linking member's normal pension age with their state pension age.

1.3 Transitional protections for members nearing retirement were implemented to ensure older workers would not be any worse off as a result of the reforms.

1.4 In the McCloud and Sargent court cases the Court of Appeal found these transition protections unlawfully discriminated younger members.

2. Public Service Pensions and Judicial Offices Bill

2.1 Recently there has been a major step in the implementation of the “McCloud” age discrimination remedy with the Public Service Pensions and Judicial Offices Bill introduced before Parliament on 19 July 2021. The Bill amends the Public Service Pensions Act 2013 and its equivalent in Northern Ireland, making provision to rectify unlawful discrimination in the way in which schemes were reformed in 2015 (2014 for the LGPS in England and Wales) and includes retrospective measures.

2.2 As expected, it confirms the remedy period will cover membership from the date of reform (1 April 2014 or 2015) to 31 March 2022 for eligible members. For the LGPS (referred to as Chapter 3 schemes in the Bill), the Bill enables LGPS regulations to make provision for final salary benefits to be paid in respect of the remedy period (1 April 2014 to 31 March 2022), i.e. it is the enabling legislation which will allow the LGPS regulations to implement the McCloud remedy by extension of the underpin.

2.3 Further draft LGPS regulations are expected by the end of 2021. This will enable progress to be made on upgrading administration systems to allow for the changes as well as help administering authorities plan their communication and rectification programmes.

2.4 For unfunded schemes (Fire Pension scheme), the Bill confirms that the government will proceed with the deferred choice underpin, meaning that all eligible members will be treated as members of their legacy scheme for the period between 1 April 2015 and 31 March 2022, but with the choice of whether to take legacy or reformed scheme benefits when their pension becomes payable.

2.5 All public servants who continue in service from 1 April 2022 onwards will do so as members of their respective reformed scheme and the legacy schemes will be closed in relation to service after 31 March 2022. The Bill also sets out parameters for the treatment of changes in pension contributions and special cases. The provisions in relation to the unfunded schemes will come into force by 1 October 2023 at the latest.

- 2.6** There is no date specified when the provisions will come into force for the LGPS, however a recent Written Ministerial Statement said that the Government's intention is that regulations for the LGPS will come into force on 1 April 2023.

3. Information required from employers

- 3.1 As a result all employers are required to provide details of any part time service or service breaks where this data is currently missing back to April 2014. This information will allow an accurate calculation of the benefits that would have awarded under the Final salary scheme for the underpin check.
- 3.2 Communications with employers requesting this information has already commenced.

4. Recommendations

The Local Pension Board note this report