

Report of the Director, West Yorkshire Pension Fund, to the meeting of West Yorkshire Pension Fund Pension Board to held on 15 December 2020 and presented again at the meeting 13 September 2022

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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 in the transitional protections that were adopted by the public service scheme in 2014.

This report details to work undertaken to date in anticipation of the regulations being made.

Recommendation

The Local Pension Board note the report

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Overview & Scrutiny Area

1. Background

1.1 In April 2014 a series of changes were made to the LGPS to reform the scheme's 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 members' 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 Sargeant court cases the Court of Appeal found these transition protections directly discriminated against younger members. As a result, the Ministry of Housing, Communities and Local Government (MHCLG) have consulted on amendments to the statutory underpin, to reflect the Courts findings, by extending the underpin to younger members.

2. MHCLG Consultation

2.1 MHCLG undertook a 12-week public consultation on proposals amending the LGPS to remove the unlawful age discrimination that arose from the protections associated with the introduction of the 2014 scheme reforms which were successfully challenged in the McCloud case.

2.2 WYPF submitted a response to the consultation. A copy of the response is attached to the LGPS update report. (Agenda item 4)

2.3 The anticipated changes present a significant challenge to administering authorities and to employers, not least of which will be a data collection exercise to enable the final salary underpin to be calculated.

2.4 Benefits accruing from 1 April 2022 will be career average for all members. The new underpin will require 2008 scheme pay to be recorded for some members for the next 40 years.

3. WYPF Actions

3.1 The final regulations have not yet been made, however a Project Group has been set up internally to start and prepare for the work involved with the McCloud exercise. In addition, a similar exercise in relation to the Fire Pension Scheme has also been undertaken for all Fire Clients. The Fire exercise is referred to as Sargeant.

3.2 In the LGPS, the Government is proposing to provide eligible younger members with a protection equal to the protection provided to older members when the scheme was

changed in 2014. To do this, we need to collect extra data (hours worked and service breaks) for all eligible members. This data is needed from the date the LGPS changed in April 2014 up to 31 March 2022 (or earlier if the member left active membership of the scheme or reached their 2008 Scheme Normal Pension Age before that date).

3.3 As the proposal is to change the regulations retrospectively from 1 April 2014, this will mean members records and benefits already awarded to eligible members will need to be revisited, including members already protected who have left active membership, or reached their 2008 scheme Normal Pension Age (to allow for different NPA in 2008 and 2014 schemes), unprotected members who have retired, left with deferred benefits, died, transferred out, or trivially commuted their benefits. Transfers in from public sector schemes will also need to be recalculated.

3.4 Initial indications suggest we will require additional data for over 70,000 members. Once we have received the data, it is anticipated that over 30,000 members benefits, which have already been awarded, will have to be checked against the new underpin requirements. (Please note these figures are for WYPF only. This exercise also needs to be undertaken for the other LGPS clients and Fire Clients).

Folder Status	Number of Entries
Active	40900 (approx.)
Deferred	11972
Deaths	793
Pensioners	16135
Pensioner Deferred	25
Transfers Out	1329
Leaver Options Pending (awaiting leaver forms)	279
Total non-active records requiring underpin check	30,533

3.5 We will be contacting employers to share a data capture template in the next few weeks. The template will be based on the MHCLG template and is being developed by our software provider.

3.6 Communication with employers has begun, with regular updates being placed on the WYPF website for employers.

4. Recommendations

The Local Pension Board note this report