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To: Chief Executives  
Salaries and Wages  
Human Resources  
Pension Contacts

Circular 08/2023

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At: All Employing Authorities

Dear Colleagues,

**Department for Communities Consultation on the McCloud Remedy in the Local Government Pension Scheme (Northern Ireland) (“LGPS (NI)”)**

This Circular is issued to highlight the current Department for Communities consultation on further proposed changes to increase the scope of the McCloud Remedy as well as seeking views on issues relating to the proposed remedy. This is a short five-week consultation, closing on 1 September 2023, as the Regulations implementing the McCloud remedy must be made by 1 October 2023. Links to the consultation are on our [website](#) and it is also published on the [Department’s website](#). We will publish our response to the consultation on our website in due course. A brief description of some of the changes is set out below.

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## **1. The Underpin Protection**

In the LGPS (NI) the underpin works by comparing the pension payable under the current career average revalued earnings (CARE) Scheme with the pension that would have been payable for the period from 1 April 2015 to 31 March 2022 had the Scheme not changed from final salary in April 2015 and the higher pension is paid. This protection is called the underpin.

This new consultation proposes a revised underpin for all active contributing members who were in the LGPS (NI) in the period from 1 April 2015 to 31 March 2022. To be included in the underpin protections a member must meet the following additional criteria:

- active in the CARE LGPS (NI) during the period from 1 April 2015 to 31 March 2022; and
- active in the LGPS (NI) or another public service pension scheme on or before 31 March 2012; and
- does not have a disqualifying gap in service of more than 5 years.

A member's underpin period will run from 1 April 2015 (or their date of joining the LGPS (NI) if later) to 31 March 2022 or, if earlier, the date the member reaches age 65 or leaves the LGPS (NI).

The above proposed underpin will have retrospective effect to 1 April 2015 and will apply to a greater number of active members as well as members who are deferred, already gone on pension or died. This will mean NILGOSC reviewing all pensions calculated or paid from 1 April 2015 to determine whether the new underpin should apply.

## **2. The Revised Underpin Calculation**

The consultation proposes that the underpin calculation becomes a two-stage process.

Firstly, an assessment is carried out at the underpin date, which is either the date a member leaves service, the day before a reduction in hours or grade if taking flexible retirement or the day before they reach their final salary NPA (age 65). This assessment calculates provisional figures for CARE and final salary pensions at that date.

The second stage is then a final underpin date calculation, which is usually when someone takes their pension. Depending on the type of retirement, early retirement reductions, late retirement increases or ill-health enhancements, if applicable, are included in this assessment of whether CARE pension or final salary pension is higher for the underpin period. If final salary pension would have been higher than CARE pension, then the difference is added to the member's pension.

### **3. Other proposed amendments**

- Aggregation - members do not need to aggregate other LGPS (NI) benefits to be eligible for the underpin.
- Flexible retirement – if eligible, underpin protections would continue to apply to pension built up after the flexible retirement. This appears to be complex as a flexibly retiring member could then have multiple underpin dates.
- Payment of compensation - the draft regulations allow for payment of compensation where a member suffered a loss e.g. they are a pensioner and now qualify for an underpin addition, which did not apply before.
- Payment of interest - the draft regulations allow for payment of interest where payments are being made later than they would have been due to the McCloud discrimination.

These late changes in the McCloud remedy for the LGPS (NI) will, if implemented, certainly bring administration and software challenges for NILGOSC. **It will also require the collection of further data sets from employers to include hours and service breaks for new members now in scope and also pay at age 65 for those who have passed their 65<sup>th</sup> birthday since 1 April 2015. We will be requesting this additional information from employers within the next few months and would appreciate a timely response.**

If you have any questions regarding the content of this Circular, please contact either myself or any member of the Pensions Development team.

Yours sincerely,

Zena Kee  
Head of Pensions Policy