



Synopsis of Responses and Departmental Response to the consultation on statutory guidance on the implementation of the McCloud Remedy in the Local Government Pension Scheme (Northern Ireland).

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## **Synopsis of Responses to the consultation on statutory guidance on the implementation of the McCloud Remedy in The Local Government Pension Scheme (Northern Ireland).**

### **Background**

1. The Department for Communities (DfC) is the responsible authority for the Local Government Pension Scheme (Northern Ireland) (LGPS (NI)) under the Public Service Pensions Act (Northern Ireland) 2014 (2014 c.2).
2. The LGPS (NI) is a funded pension scheme administered by the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC), a non-departmental public body established in April 1950 to operate a pension scheme for district councils and other admitted bodies in Northern Ireland. The LGPS (NI) is funded by contributions from employers (who have been designated as employing authorities or admitted to the scheme) and their employees. The LGPS (NI) is provided for in several statutory rules (as amended), referred to as the LGPS (NI) Regulations.
3. In recent years, the UK Government has been taking steps to address the discrimination found in *McCloud v Lord Chancellor*<sup>1</sup> in public service pension schemes. In that case, the Court of Appeal found that in transitional protections the UK Government had given older members of public service pension schemes when schemes were reformed in 2014 and 2015 had unlawfully discriminated against younger members on grounds of age. In July 2019, the UK Government accepted the judgment impacted all schemes that provided similar protections and has since been working on implementing a remedy.
4. It is DfC's responsibility to update the legislative framework for the LGPS (NI), taking account of developments in broader public sector pension policy. In 2023, the Department made regulations to address the McCloud age

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<sup>1</sup> [Lord Chancellor -v-McCloud & others](#)

discrimination in the LGPS (NI) by extending underpin protection to the younger members who did not qualify originally due to their age. The regulations followed detailed work in the intervening years to consider how the difference in treatment should be rectified fairly, broad consultation with affected stakeholders and work to obtain the necessary legislative powers.

5. In the period after the 2023 regulations came into operation, respondents highlighted several areas where guidance on how to implement the remedy would be beneficial. Representatives from both DfC and NILGOSC, took part in a working group, chaired by the then Department of Levelling up, Housing and Communities (DLUHC), to discuss these issues and identify areas where guidance was required. This guidance is intended to support the scheme manager in the implementation of the McCloud remedy by setting out the Department's view on key issues and how technical issues should be addressed if they arise.
6. This statutory guidance will be introduced under regulation 2(3A)<sup>2</sup> of the Local Government Pension Scheme Regulations (NI) 2014. Under regulation 2(3B) of those Regulations, before preparing or revising guidance under paragraph (3A), the Department must consult such persons as appear appropriate to it.
7. The statutory guidance covers the following topics:
  - Overall approach to McCloud remedy – setting out the Department's views on how the McCloud remedy should be approached in a number of key areas, including:
    - Governance
    - Data collection and verification
    - Identifying members in scope
    - Qualifying scenarios
    - Case prioritisation

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<sup>2</sup> Paragraphs (3A) and (3B) are inserted into regulation 2 from 18 April 2022 by the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2022, (SR 2022 No. 163)

- Technical matters – outlining technical issues where the Government wishes to provide certainty on how the remedy should be approached, including:
    - Transfers – Issues regarding retrospection
    - Multiple sets of underpin figures
    - Unpaid additional pension contributions
    - Deaths of beneficiaries before payments made
  - Compensation – providing an overview of the legal framework for McCloud compensation, the conditions that must be met for direct or indirect compensation to be possible and examples of where compensation may be payable in an LGPS (NI) context.
8. The Scheme Advisory Board is responsible for providing advice to the Minister for Communities on making changes to Scheme Regulations. The Scheme Advisory Board is Chaired by a Senior official of the Department and includes four members representative of LGPS (NI) employers, four members representative of employees, nominated by the Northern Ireland Committee of the Irish Congress of Trade Unions and 2 advisors from NILGOSC. NILGOSC is the Scheme manager and is responsible for the day-to-day administration of the scheme. The statutory guidance was discussed with the Scheme Advisory Board as part of the agenda for their meeting on the 15 November 2024. Members were asked to note the position and the subsequent consultation.
9. The Minister for Communities agreed to launch a ten-week consultation on the statutory guidance. The consultation closed on the 19 February 2025.
10. DfC received a total of four responses. The breakdown was as follows.

<b>NUMBER</b>	<b>CATEGORY</b>
1	Scheme manager
3	Employer

11. The consultation asked for comments on the content of the statutory guidance generally and on the following questions:
- Whether you agree with the approaches proposed?
  - Whether the guidance is clear and contains sufficient information on each topic?
  - Whether there are any other topics that should be covered in the guidance?

### **Summary of the statutory guidance**

12. The statutory guidance covers data collection and verification, identifying members in scope, qualifying scenarios, case prioritisation, transfers, multiple sets of underpin figures, unpaid additional pension contributions, death of beneficiaries and if appropriate, compensation during the implementation of the McCloud remedy for members of the LGPS (NI).

### **Summary of comments received**

#### **Question (a) - Whether you agree with the approaches proposed?**

13. All four respondents agreed in general with the approaches proposed noting the complexities and technical nature of the guidance. The Scheme manager was supportive of the statutory guidance and suggested several minor technical amendments to clarify the guidance in the context of the LGPS (NI). These minor technical amendments did not affect the policy intent of the statutory guidance.

#### **Question (b) - Whether the guidance is clear and contains sufficient information on each topic?**

14. All employer respondents agreed the guidance is sufficient and the use of work examples is beneficial given the complex nature of the issues involved.
15. The Scheme manager highlighted areas of the guidance that they consider is unclear and suggested some minor technical amendments. These minor changes did not affect the policy intent of the statutory guidance.

**Question (c)** - Whether there are any other topics that should be covered in the guidance?

16. Two employer respondents have indicated that no further topics should be covered in the guidance. One employer respondent has asked, what safeguards are in place in reference to compensation being paid only upon receipt of a claim from the member. Also, what information can be provided by the Scheme manager to ensure the average member is fully aware that the compensation process is open to them. Further information on the implementation of the McCloud Remedy in the LGPS (NI) is available on the Scheme manager's website.

17. The Scheme manager suggested that further guidance could be provided for another topic, however, this falls outside the scope of this consultation.

### **Departmental Response**

18. DfC welcomes the comments from respondents to the consultation on the statutory guidance for the implementation of the McCloud Remedy in the LGPS (NI). All respondents were supportive of the proposed changes and no objections were raised.

19. The Department will finalise and issue the statutory guidance to the Scheme manager under regulation 2(3A) of the LGPS Regulations (NI) 2014, as amended<sup>3</sup>, as soon as possible. It will also be published on the Department's website.

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<sup>3</sup> Paragraphs (3A) and (3B) are inserted into regulation 2 from 18 April 2022 by the Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2022, (SR 2022 No. 163)