

Consultation response: Changes to the Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023

Hymans Robertson is an independent consultancy, whose services include providing specialist actuarial, governance, administration and investment services to pension schemes.

We have a specialist public sector team, which employs over 100 people exclusively delivering advice and solutions to the LGPS. Alongside our actuarial work, our team of governance, administration and project consultants provide advice to our LGPS clients on a range of matters.

Our response to [the SPPA consultation](#), which ran from 2nd September 2024 to 28th October 2024, is below.

Question 1 – Do you agree with these amendments? If not, please provide your reason below.

Annual benefit statements

We agree with the proposal to formally remove the requirement for McCloud to be reflected in members' 2023/24 annual benefit statements (ABSs). Whilst the deadline for the issue of ABSs has now passed, the huge amount of work involved in addressing the McCloud discrimination has meant that including underpin information in ABSs less than a year after the remedy regulations were made is unlikely to have been realistic for the vast majority of members affected. We support retrospective amendments to the legislation to make clear that this is the case.

We also support the suggestion that flexibility is provided for 2024/25 statements too, and believe an approach similar to that used for LGPS England and Wales would be appropriate. This would mean that whilst the default would be that 2024/25 ABSs should include underpin information for affected members, individual authorities could determine specific members or classes of members this would not apply to.

Whilst it is important that members affected by the McCloud case receive information about how the case may affect their pension promptly, it is important that this is balanced against the full variety of member situations and the complexity of delivery – for example:

- Authorities are reliant on the delivery of significant software developments to reflect the remedy and prevent the need for manual processing. This is important and sensitive work given the need for accuracy in calculations, and there may be challenges in delivery which affect timetables.
- The remedy for transferred service from other public service pension schemes is highly complex and relies on LGPS funds receiving updated information from other schemes, who will themselves be implementing their own remedy and going through their own software developments.
- In many cases, additional data will be needed from employers to calculate members' underpin rights – where that data is not easily obtainable from employers or there are verification issues, calculating and applying underpin rights before 31st August 2025 may be highly challenging.

An approach which allows administering authorities to take local decisions on which members can receive underpin information in their 2024/25 ABSs and which cannot seems best placed to ensure that the statements are accurate and reflect local realities on the delivery of the McCloud remedy.

With regards draft regulation 6, which would implement the ABS change, we have the following comments:

- That currently the draft regulation would only remove the requirement for underpin information to be reflected in 2023/24 statements, not introduce flexibility for 2024/25 too.
- The draft regulation appears to prevent administering authorities from reflecting the McCloud remedy in 2023/24 ABSs. Whilst rare, there may be members where the authority was able to reflect the new underpin in their ABS (for example, where they had sought a retirement estimate) and in these cases we believe the legislation should allow them to have done this.
- In paragraph (3)(b), a closing bracket is missing.

Other amendments

We agree with the other changes being proposed, which are mostly intended to bring the LGPS Scotland remedy regulations in line with those of LGPS England and Wales.

In paragraph 65 of SPPA's [McCloud implementation statutory guidance](#), it is noted that there is an error in the 2023 Regulations and that Scottish Ministers intend to address this. It is highlighted that the regulations require interest to be applied for retrospective adjustments to Club transfers when the Club memorandum says (paragraph 4.41) that interest should not be applied.

This SI may be an opportunity to correct the regulations on this issue. This could be done by amending regulation 14(3) of the 2023 Regulations so that the requirement to take steps to pay interest on transfers only applies where the original transfer was not a Club transfer.

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