

Scheme Advisory Board update on the McCloud judgement

15 November 2019

Next steps for the LGPS

We understand that the LGPS will be treated separately from the rest of the public sector in respect of the McCloud remedy.

It is likely that the remedy will involve the extension of some form of underpin to members in scope who are not currently offered protection. Therefore, a full history of part time hour changes and service break information from 1 April 2014 will be needed in order to recreate final salary service. We recommended that administering authorities make Scheme employers aware of this.

It is also likely that, in order to ensure reverse discrimination does not occur, all leavers since 2014 will need to be checked against a new underpin.

We have had discussions with GAD (in their role as an adviser to the SAB) around the mechanics of how a remedy might work in the LGPS including the range of potential issues (both retrospective and ongoing) which could arise from the application of some form of underpin to a wider membership.

We expect decisions relating to members in scope, the extent of final salary service protection, the requirement for retrospection and the inclusion of ancillary benefits (transfers, survivors etc) to be determined centrally.

We don't expect to see any remedy implemented before the end of financial year 2020/21. Therefore, issues around FRS102 and audit will once again need to be addressed.

Tax implications

We expect pension tax issues be decided centrally. We anticipate that a notional underpin may need to be taken into account in annual allowance calculations for active members going forward and that revisions to previous years' calculations for all members may be necessary.

Cost cap

We understand that cost cap calculations will be re-run once the McCloud remedy has been agreed ie McCloud costs will be fed into the cost cap calculations.

Administration issues

We do not underestimate the challenges and concerns around administration and scheme complexity. However, decisions on the scope, extent and nature of the remedy will be largely driven by the views of government lawyers. They will seek to ensure that any agreed remedy removes, as far as possible, the risk of challenge.