

Dear Sirs

## **McCloud Consultation response**

Further to the Department for Levelling Up, Housing and Communities' request for comments on its consultation on the McCloud remedy we would respond as follows.

### **Question 1 – Do you agree with the rules about aggregation and underpin protection that we are proposing?**

The removal of a potential requirement for scheme members to aggregate benefits does reduce the administrative burden of needing to provide a further window of opportunity for members to aggregate periods of membership within LGPS. However, it does widen the scope of membership periods for people who may benefit from the McCloud remedy and also introduces a fresh administrative burden on Administering Authorities who will need to establish details of previous periods of membership within the LGPS when not already held. The NI Database may be able to assist with this but does not provide full details of the period of membership.

### **Question 2 – Do you agree with our proposed approach regarding Club transfers?**

Where members have already transferred pension rights from another public sector scheme this will be relatively straightforward. However, for those who may have elected not to transfer, or not even have wished to investigate transfers, there will be an increased burden on Administering Authorities in both collecting and providing this data. This should be taken into account by the Government, in conjunction with the increased burdens identified across different aspects of this consultation and other changes that have been, or are being, made by various Departments and Agencies.

### **Question 3 – Do you agree with our proposal to extend underpin protection to the period after flexible retirement, if it is in the underpin period?**

The proposal appears to provide an equitable solution. However, consideration should be given by the government to the impact on the administration of LGPS Funds. Whilst our Fund has not experienced a significant number of flexible retirements between 1 April 2014 and 31 March 2022, this may not be true universally across the wider LGPS so the proposals could add a burden, particularly when combined with the various other changes being made by the Government and its agencies.

### **Question 4 – Do you agree with our proposal for multiple final underpin dates if a member takes 'partial' flexible retirement?**

The Fund would agree that there should be a check in place to ensure members receive the correct benefit, and it is important that an equitable solution is put in place to mitigate the risk of further challenge. However, consideration should also be given to the extent to which an additional burden will be placed on administration teams in the context of the full array of changes being proposed.

**Question 5 – Do you agree with our proposed method for calculating a CEV for a member with underpin protection?**

What has been proposed appears to be a sensible solution.

**Question 6 – Do you agree with our proposal to remove pension debits from the calculation of the provisional assumed benefits and underpin amount?**

What has been proposed appears to be a sensible solution.

**Question 7 – Do you have any comments on the approach being adopted for these members?**

It is encouraging that the Consultation references the work being done to create guidance. However, it is currently unknown how many people are likely to gain an entitlement to benefits in the LGPS. It is possible that the numbers may not be significant for each Fund but it seems likely that each case where a new member gains an entitlement will be complicated with a significant amount of work being required, triggering the associated costs. In turn this, when viewed through the prism of the total number of changes being made both in relation to the McCloud remedy and other areas, means there is likely to be a significant resourcing cost to Funds, which will need to be paid for.

**Question 8 – Are there any areas where specific scheme regulations regarding excess teacher service would be necessary or beneficial?**

It is encouraging that the Consultation makes clear that the Department for Education, Teacher's Pensions and the LGA are working together with a view to providing guidance on this particular group. This guidance will be beneficial.

**Question 9 – Do you have any comments on the government's approach to compensation?**

If decisions about compensation levels are to be made locally it is sensible to provide guidance at a national level to prevent inconsistencies between different Funds within the LGPS.

It is, however, concerning that the cost of paying compensation for the discrimination caused by the implementation of regulations by the Responsible Authority will need to be met by Administering Authorities and, ultimately employers and members of the Scheme.

**Question 10 – Do you have any comments on the government's approach to interest?**

The method of calculation does not seem unreasonable.

However, the payment of interest lies with the Administering Authority and, by extension, the employers and members. A fund should be created by central government to cover the costs incurred by Administering Authorities in making these interest payments as they directly relate to the actions of government rather than Administering Authorities.

Additionally, the rationale behind interest payments on pensions in payment being calculated from the mid-point between the day on which benefits were first underpaid and the date of payment. This is inconsistent with the existing interest provisions with the LGPS Regulations which provide for interest to be paid on pension payments when more than one year late.

**Question 11 – Do you agree with the approach we have proposed for injury allowance payments?**

No concerns

**Question 12 - Do you have any comments on our equality impact assessment?**

No comment

**Question 13 – Are you aware of additional data sets that would help us assess the impacts of the LGPS McCloud remedy on the LGPS membership?**

No

**Question 14 – Do you have any comments on the draft regulations?**

The main issue relates to the additional burden the new, and often complex, work will place on the administration of the LGPS. There have been a significant number of changes made in the last 2 years which have increased the burden and, as a direct result, cost of administering the LGPS.

Whilst the LGPS has benefitted from positive investment returns in the last valuation cycle, this cannot be taken for granted. As such there cannot be a reliance on future positive returns in order to pay for the extra work and compensation etc that will be caused by the implementation of the Regulations.

**Question 15 – Do you have any other comments you would like to make on McCloud remedy in the LGPS?**

No