



Glasgow City Council

Strathclyde Pension Fund Committee

Report by Director of Strathclyde Pension Fund

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Item 11

4th September 2019

## Scheme Developments

### Purpose of Report:

To update the Committee regarding developments affecting the Local Government Pension Scheme.

### Recommendations:

The Committee is asked to **NOTE** the contents of this report.

Ward No(s):

Citywide: ✓

Local member(s) advised: Yes  No  consulted: Yes  No

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## **1 Background**

The Committee is provided with periodic updates on changes to legislation, regulations or guidance affecting the Local Government Pension Scheme (LGPS). This report covers several current developments.

## **2 McCloud Judgement**

### **2.1 Background**

When the LGPS Scotland benefit structure was reformed in 2015, transitional protections were applied to members within 10 years of normal retirement age. The benefits accrued from 1 April 2015 by these members are subject to an 'underpin' which means that they cannot be lower than what they would have received under the previous benefit structure. The underpin ensures that these members do not lose out from the introduction of the new scheme.

### **2.2 Age Discrimination Cases – Court of Appeal**

In December 2018 the Court of Appeal upheld a ruling (the "McCloud/Sargeant" cases) that similar transitional protections in the Judges' and Firefighters' Pension Schemes were unlawful on the grounds of age discrimination as they applied to older but not younger members.

### **2.3 Supreme Court**

Having considered the Court of Appeal ruling, the UK Government requested leave to appeal to the Supreme Court. This was denied at the end of June 2019.

### **2.4 Government Response**

On 15<sup>th</sup> July, a written statement by the Chief Secretary to the Treasury confirmed that:

- the government respects the Court's decision and will engage fully with the Employment Tribunal to agree how the discrimination will be remedied in respect of the litigants;
- as 'transitional protection' was offered to members of all the main public service pension schemes, the government believes that the difference in treatment will need to be remedied across all those schemes;
- government will be engaging with employer and member representatives, as well as the devolved administrations, to help inform proposals in respect of the other public service pension schemes; and
- initial estimates suggest remedying the discrimination will add around £4bn per annum to scheme liabilities from 2015.

### **2.5 Impact on Strathclyde Pension Fund**

Quantifying the impact of the judgement at this stage is very difficult because it will depend on the remediation methodology agreed, members' future salary increases, length of service and retirement age, and whether (and when) members withdraw from active service. The Government Actuary's Department (GAD) has estimated that the impact for the LGPS England & Wales could be to increase active member liabilities by 3.2%. The Strathclyde Pension Fund's actuary has adjusted GAD's estimate to better reflect the Fund's local assumptions and circumstances, particularly those for

salary increases and withdrawal rates. The revised estimate results in around a £266m (1.8%) increase in active member liabilities as at 31 March 2019.

### **3 2017 Review of Employer Cost Cap**

#### **3.1 Background**

During 2018, based on 2017 actuarial data, GAD commenced a review of the cost of the scheme in comparison to the employer cost cap put in place when it was introduced in 2015. In January 2019, HM Treasury announced that the cost cap mechanism would be paused pending the outcome of a potential appeal in the McCloud case.

#### **3.2 McCloud**

Given that the potential appeal was denied during June, it is anticipated that the Cost Cap valuation will resume. No timetable for this has been confirmed and the process will now be complicated by the interaction between the Cost Cap and McCloud – i.e. if retrospective changes are required to the scheme in light of the McCloud judgement, these may need to be factored into the Cost Cap valuation.

#### **3.3 Impact on Strathclyde Pension Fund**

Expectations, based on similar valuations of other schemes are that the lower limit of the cost cap will have been breached- i.e. the scheme now appears to cost less than was estimated when it was implemented. This would require a revision (improvement) to the benefits package to ensure that the target cost for the scheme is achieved. This is likely to result in upward pressure on employer contributions when the 2020 actuarial valuations of the Scottish LGPS funds are carried out.

### **4 Exit Payment Cap**

A government consultation on the subject of public sector severance payments was carried out in Scotland in 2017. Details of the Scottish Government's proposed response emerged during June. The proposals involve a £95k cost cap on exit payments. This is superficially similar to proposals in England & Wales. However, in Scotland the cost cap:

- will be introduced administratively rather than through legislation;
- will not include employer pension costs; and
- will not apply to the Local Government Pension Scheme (though local government will be encouraged to carry out its own review).

### **5 Structure Review**

There have been no further announcements in respect of the review of the structure of the Local Government Pension Scheme in Scotland currently being carried out by the Scheme Advisory Board.

### **6 Policy and Resource Implications**

#### **Resource Implications:**

*Financial:*                      None

*Legal:* None

*Personnel:* None

*Procurement:* None

**Council Strategic Plan:** Strathclyde Pension Fund aligns with the theme of a well governed city.

**Equality and Socio-Economic Impacts :**

*Does the proposal support the Council's Equality Outcomes 2017-22* The Scottish Government has responsibility for the scheme regulations and ensuring equalities issues are addressed within them.

*What are the potential equality impacts as a result of this report?* None. To note only. Section 2 addresses an age discrimination issue.

*Please highlight if the policy/proposal will help address socio economic disadvantage.*

**Sustainability Impacts:**

*Environmental:* Environmental issues are addressed in the Fund's Responsible Investment strategy.

*Social, including Article 20 opportunities:* Social issues are addressed in the Fund's Responsible Investment strategy

*Economic:* Economic issues are addressed in the Fund's Responsible Investment strategy.

**Privacy and Data Protection impacts:** None.

**7 RECOMMENDATIONS**

The Committee is asked **to NOTE** the contents of this report.