City of Westminster

Pension Board

Date:	**09 July 2019**
Classification:	**General Release**
Title:	**Local Government Pension Scheme Cost Cap, McCloud Case and Actuarial Valuation Consultation**
Wards Affected:	**All**
Policy Context:	**Effective control over council activities**
Financial Summary:	**There are no immediate financial implications arising from this report.**
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1. EXECUTIVE SUMMARY

1.1 This paper provides the Pensions Board Members with a summary of the background information on the history LGPS cost cap in public service pensions and recent developments regarding the McCloud case, which has suspended the cost cap until the outcome of the Supreme Court ruling.

1.2 This paper also covers proposed changes to the triennial actuarial valuation process.

2. RECOMMENDATIONS

2.1 The Pension Board is recommended to note the report and make appropriate comments.

3. THE EXIT CAP

3.1 In 2010, following the Lord Hutton report concerning provision of public service pensions, one of the key recommendations was that public service defined benefit schemes should have a “cost cap” mechanism to control the cost of future pension provision.

3.2 HM Treasury's concern was the risk around how long a pension is expected to be paid (pensioner longevity). If future pensions in payment were longer than initially anticipated, then the additional costs should be reflected in a reduction in pension payment or, alternatively, an increase in member contributions in order to offset the increased cost of members pensions.

3.3 Whilst the original concept from the Hutton report was a cost "cap", it was also argued that there should be a "floor". This would apply where the duration of pension paid to retired members is shorter than expected. In this event, theoretically, it would mean an increase in pensions benefit or a reduced employee contribution rate.

3.4 As new cost cap/floor mechanisms were constructed to accommodate the above factors, there was an unexpected slowdown in UK longevity improvement. The result of this was that the cost floor became a far more significant issue than was initially anticipated at the time of the Hutton report, as this slowdown in longevity would mean pension payments would not be for as long as initially envisaged.

3.5 Whilst the cost cap/floor calculation would normally be underway at this time, the Government Actuaries Department (GAD) has suspended the process, pending the outcome of the McCloud Supreme Court case.

4. MCCLOUD CASE

4.1 In connection with the cost cap/floor process above, revised actuarial assumptions were implemented to reflect the slowdown in longevity and had nearly reached completion when the Appeal Court judgment of the McCloud case was reached. This is a case where the Appeal Court examined transitional protections offered to judges in the reform of the Judiciary Pension Scheme, which were intended to partially protect them from changes being made to future pension benefits over a transition period.

4.2 The reforms to the judges' scheme and protection offered to older judges were found to be age discriminatory, on the basis that younger members of the judges' scheme were offered no such protection. In December 2018, the Appeal Court found against the Government. The Government then appealed the decision to the Supreme Court.

4.3 On 27th June 2019, it was announced that the Supreme Court had denied the Government's request to appeal the Appeal Court decision.

4.3 The implications of this case are that the transitional changes to public service schemes, when moving from final salary to career average revalued earnings (CARE), are now deemed to be unlawful, mainly on age discrimination grounds. Following the denial of the Government's request for an appeal, there will now be a further wait for a resolution which will either be imposed by the Employment Tribunal or negotiations which would then be applied to all public sector schemes.

4.4 Implications to LGPS pensions following this decision will be backdated to 1 April 2019. As it is unlikely there will be any agreed resolution before the 2019 actuarial valuation is complete, there are several possible ways of treating the cost management process. Fund officers are currently liaising with the fund actuary and the LGPS Scheme Advisory Board will also issue advice in due course.

5. TRIENNIAL ACTUARIAL VALUATION

5.1 With regard to the current triennial valuation, the Government has issued a consultation paper which suggests moving to quadrennial valuations (every four years instead of the current three) in line with the other public service pension schemes. Post 2019, the next valuation is widely expected to be 2024, both for LGPS Funds in England and Wales, and Scotland.

5.2 Whilst this would mean that LGPS scheme would fall into the same four-year cycle as the other public sector schemes and be aligned, a gap of five years between valuations would not be without complications in setting employer contributions over such a long period. It is likely that there would be an interim valuation in 2022 to solve the problem of the five-year gap.

5.3 The consultation on the actuarial valuation process is included at Appendix 1.

If you have any questions about this report, or wish to inspect one of the background papers, please contact the report author:

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BACKGROUND PAPERS: None

APPENDICES:

Appendix 1: Local Government Pension Scheme: Changes to the Local Valuation Cycle and the Management of Employer Risk