

# **LGPS McCloud determination – London Borough of Haringey Pension Fund**

## **1. Summary**

This paper:

- Provides background to the McCloud case, the implementation timings, and the determination decision that authorities can take.
- Provides a brief summary of the funds' expected progress on McCloud implementation by 31<sup>st</sup> August 2025.
- Sets out the challenges that the fund has faced in implementing the remedy.
- Contains a draft determination to extend the McCloud implementation for certain qualifying members.
- Sets out the steps that will be taken following a determination.

## **Recommendations**

The Pensions Committee is recommended to:

- Determine that the McCloud remedy should not be reflected in qualifying members' annual benefit statements for 2024/25 (where applicable) and that the McCloud implementation phase should be extended to 31st August 2026 for all qualifying members, except where the McCloud remedy work has been concluded.
- Agree that, where a determination is made for a member and they receive an ABS for 2024/25, they be informed of the determination and the reasons for it in the ABS.
- Agree that, where a determination is made for a member and they do not receive an ABS for 2024/25, the website be updated so that members in this category are informed of the determination.

## **Background**

### McCloud discrimination

In 2014 and 2015, the Government introduced reforms to public service pension schemes, like the LGPS, to make them more sustainable and affordable. This included a range of changes, such as the move to a career average benefit structure (from the prior final salary structure) and changes in the normal pension age. Older members of these schemes who met certain qualifying criteria were protected from the impacts of the changes.

Following legal challenges, in December 2018, the Court of Appeal found (in the case known as 'McCloud') that the protections given to older members of public service pension schemes earlier in the decade constituted 'unlawful discrimination' against younger members of the schemes. In July 2018, the Government confirmed that it would take steps to resolve the discrimination.

### LGPS remedy

After years of work on the McCloud remedy within Government, the Government made regulations to rectify the discrimination in the LGPS in September 2023. These regulations extended the 'underpin' to the younger members who were discriminated against. The underpin was the mechanism through which older members of the LGPS were originally

protected. Members with underpin protection participated in the career average scheme, but the underpin meant their administrator would compare their new career average benefits against what they would have had in the old final salary scheme and give them an addition to make up any shortfall. It effectively gave them the best of both schemes for a period.

Applying the McCloud remedy in the LGPS has been a huge task, due to its complexity, the huge number of members who qualify and the fact it is being applied retrospectively to benefits already built up (underpin protection applied from 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2022 for most members).

### Implementation and 'determination' power

Because of the significant implementation challenges, the Government has issued regulations and guidance setting out its views on when the remedy work must be concluded.

Under paragraph 9 of the [McCloud implementation guidance](#), the Government define a 'McCloud implementation phase' (MIP). This is the period within which the Government say that the McCloud remedy implementation must be done. The default is that the MIP runs until 31<sup>st</sup> August 2025, but the Government have made regulations to allow this to be extended to 31<sup>st</sup> August 2026, through making a 'determination'.

A determination can be made for individual members or classes of members and is a local decision. It can be used broadly or narrowly, but to make a determination to extend the MIP, an authority must consider it 'reasonable in all the circumstances' of a case.

Whilst making a determination may have benefits in the sense of giving authorities more time to implement the McCloud remedy, its use should be balanced with the following factors:

- Affected members have suffered unlawful discrimination and can expect that the McCloud discrimination should be resolved as quickly as possible.
- The Government's guidance states that, in their view, most of the McCloud remedy work should be concluded by 31 August 2025. Whilst this does not legally change the scope of the determination power, it should be considered as a factor.

We believe there have been material breaches in the law that will need to be reported to the Pensions Regulator. The [statement](#) issued by the Pensions Regulator on 18 June 2025 was considered when making this decision.

## **2. Progress to date**

There are a range of elements to the McCloud project that have been necessary to complete, or at least commence, before rectifying individual cases could begin. These have been an important part of the overall project which we have been working on:

- **Technical understanding** – the LGPS remedy is complex and applying the regulations to cases accurately has required acquiring an in-depth understanding of the detail of the remedy.
- **Project management** – due to the number of members affected and the variety of issues arising, careful project management has been necessary to ensure that the remedy is delivered efficiently.

- **Software** – the fund has been dependent on updates to software systems to be able to calculate benefits accurately and efficiently.
- **Data collection and verification** – the McCloud remedy has required the gathering of additional data for members from employers (particularly age 65 pay information for those remaining in active service after this), and the subsequent verification of this.
- **Undertaking qualifying checks** – the McCloud remedy has seen a significant broadening of the underpin qualifying criteria, meaning there is a requirement for a large-scale exercise to write out to members to identify details of their public service pension history.

Much of this work was not able to progress until Autumn 2023, when the final remedy regulations were made by the Government.

Since then, officers have been working to implement the McCloud remedy and, despite the challenges, have made progress, including:

- Since 01<sup>st</sup> October 2024, being able to reflect the McCloud remedy in the benefit calculations of members retiring.

### 3. Challenges

In implementing the McCloud remedy, the fund has experienced the following challenges that have impacted our ability to conclude all the McCloud remedy work by 31<sup>st</sup> August 2025.

Issue	Description of impact
Scale and complexity	<p>The McCloud remedy is a major project, with the Government estimating 1.8 million LGPS (E&amp;W) members are affected. Final regulations were only implemented in the month before the remedy became effective.</p> <p>The calculations are highly complex and affect most LGPS benefits. The retrospective nature of the remedy means a large number of calculations have to be revisited to determine where additional benefits are due.</p> <p>The fund has limited experience at the level required to understand and process these calculations manually, as set out in the 'resource' section below.</p>
Resourcing	<p>The business-as-usual requirements for the governance and administration of the pension fund are significant and these must still be completed, even with significant one-off projects like McCloud. This has limited our ability to dedicate resource particularly to McCloud (especially with the other projects which have been underway, such as Dashboard and TPR's general code of practice).</p> <p>The Fund has experienced significant resourcing challenges generally following a turnover of staff. This has resulted in vacancies, including at a team leader level, which have been difficult to fill. In order to address these challenges, an apprenticeship program has been set up. Whilst filling some vacancies with apprentices has improved the</p>

	<p>resourcing position, it has required senior resource to establish the program and develop training programs. Moreover, the apprentices are inexperienced, and senior resource is again diverted in order to assist with training and support. This has contributed to the overall lack of skilled resource available to dedicate to the McCloud project.</p>
Administration software	<p>The number of members affected and the complexity of the calculations means up-to-date software is a crucial part of implementing the McCloud remedy.</p> <p>Because the final remedy regulations were not finalised until so late, this has impacted on the availability of software capable of implementing the remedy. Software delivery itself has been very late and has been delivered in tranches; some updates have been less successful than others and have resulted in the requirement for manual spreadsheet workarounds. Many calculations are still not fully automated and are not expected to be for a period of time.</p>
Data issues	<p>Implementing the McCloud remedy requires additional data to be held for final salary calculations, and the fund has had to seek this from employers. This has been a highly resource intensive exercise for employers as they have had to collate and provide hours and service break data from their payroll systems, backdated over many years. This has also required significant work from our team in verifying and uploading this data to records.</p> <p>Where employers have been unable to provide the requested data, the fund has had to make assumptions regarding member's salary and service information. The process of reviewing the available data and making such assumptions within agreed parameters is a time intensive exercise and has exacerbated delays in the project overall.</p> <p>Steps to identify qualifying members have been taken through the use of the LGPS NI database to establish potential previous qualifying service. The fund is also in the process of producing and issuing bulk communications to members regarding previous service in public service pension schemes which could put them in scope of the McCloud remedy. The expected issue date of these communications is 30<sup>th</sup> July 2025, however we will need to allow members a reasonable response time before finalising their records.</p>
Other national developments	<p>The implementation of McCloud has come at a time of significant national developments in the LGPS which have limited fund resource for the McCloud remedy. The introduction of the Pension Dashboard and the issue of TPR's General Code of Practice in early 2024 are all highly significant developments that have had to be</p>

	<p>progressed alongside McCloud and the business-as-usual operations of the Fund.</p> <p>The 2025 valuation is currently underway. Undertaking the 2025 valuation is a statutory requirement with highly challenging timescales, and which requires significant resource, both from administrators and fund management.</p> <p>The abolition of the lifetime allowance and changes to the normal minimum pension age are also highly technical changes which have required amendments to workflow processes and software updates.</p>
Local and other factors	<p>The fund also begun the implementation of an automated mortality screening process, this project commenced March 2023 and required the system set up, testing and final sign off. This project was completed September 2023.</p> <p>In addition to business-as-usual responsibilities, in September 2023 the fund concluded a large and time-consuming project to move employers to monthly data collection.</p> <p>In addition, an external proof of life project for overseas members was conducted and biometric ID implemented as of January 2024.</p> <p>The Fund has also undertaken various communications projects including redesigning the annual report, pensioner newsletter, member forms and updating the fund website for accessibility compliance. These have put additional strain on the capacity of the business-as-usual pensions function to deliver large scale projects like McCloud.</p>

#### 4. Determination

The combination of the factors set out in the previous section has meant that the fund will be unable to conclude the McCloud remedy work for all qualifying members in the fund by 31<sup>st</sup> August 2025. Officers have therefore considered carefully the use of the determination paper contained in regulation 2(4)(b) of [the Local Government Pension Scheme \(Information\) Regulations 2024](#), which is discussed further in paragraph 9 of the [McCloud implementation statutory guidance](#).

Officers propose that the London Borough of Haringey Pension Fund determine that the McCloud remedy should not be reflected in annual benefit statements for the 2024/25

scheme year for all London Borough of Haringey Pension Fund members who qualify for the McCloud remedy.

It is also proposed that this determination would apply to qualifying members who are not due to receive an annual benefit statement in 2024/25 under regulation 89 of the 2013 Regulations. In line with paragraph 9 of the McCloud implementation guidance, this determination would extend the McCloud implementation phase for applicable members to 31<sup>st</sup> August 2026.

Officers consider this decision would be reasonable in all the circumstances and would allow the fund to focus efforts on implementing the McCloud remedy for the remaining groups by 31<sup>st</sup> August 2026.

## **5. Next steps**

Following this determination, officers will take steps to:

- Inform members where a determination has been made in their 2024/25 ABS, if they are due to receive one, and explain what this means.
- Update the fund website to include a message that a determination has been made for some members, which will mean McCloud implementation work will continue up to 31<sup>st</sup> August 2026.
- Progress the remainder of the McCloud remedy work for members where a determination has been made so that this can be concluded by 31<sup>st</sup> August 2026. All McCloud work is expected to be 'business as usual' by 1<sup>st</sup> September 2026.