

Local Government Pension Scheme 2024/05

- Who should read:**
- Secretary General, Convention of Scottish Local Authorities
 - Chief Executive, Scottish Local Authorities
 - Chief Executive, Water Authorities
 - Principal Reporter, Scottish Children's Reporter Administration
 - Chief Executive, Scottish Environment Protection Agency
 - Director General, Strathclyde Passenger Transport Executive
 - Clerk, Strathclyde Passenger Transport Authority
 - Chief Executive/Director, VisitScotland

Action: This circular should be brought to the attention of Pension Managers, Superannuation Sections and LGPS Employer Payroll Departments. **You may also wish to draw it to the attention of the Directors of Finance and Administration**

Subject: **Changes to a) remove the requirement to include McCloud Remedy Underpin Information in 2024 Annual Benefit Statements and b) clarify remedy interest calculations**

Date: 31 July 2024

Proposed changes to regulations

- 1. The purpose of this circular is to** notify all interested parties that Scottish Ministers are preparing to consult on regulations to remove the requirement to include McCloud Remedy underpin information on the 2024 Annual Benefits Statements (ABS), due to be issued to members by 31 August 2024.
2. As it is currently written, the legislation requires administering authorities to include McCloud Remedy underpin information for qualifying active members in ABS from this year onwards.
3. We recognise that there are significant steps needed to accurately update members' records to include the underpin information, including the collection, validation and testing of data from employers, updates to IT systems, and amendments to individual records. All these steps will need to be undertaken before ABS can reflect a member's underpin rights.

4. In light of the difficulties in obtaining this information and to help ensure this does not detract from work on other aspects of the McCloud remedy, such as assessing where the value of past and immediate payments to members may need to be corrected, SPPA will shortly consult on draft regulations to modify the requirement to include underpin information in the 2024 ABS.

5. Administering authorities will be given the discretion to provide this information for members, if they have access to the necessary information. The amendments will be backdated to 1 October 2023, so that ABS provided by administrators before the regulations are made are included within the change.

6. SPPA will also seek views on whether to extend this to the 2025 ABS. If Ministers decide to take this approach, authorities will not be required to include the estimated underpin information for eligible members if they are not confident that they possess the necessary information in full. Where this decision is taken, underpin information for that member would not need to be included until the 2026 ABS. We are proposing that any administering authorities planning to exercise this discretion makes this decision by 31 July 2025, and informs affected members of this decision via their ABS for 2025.

7. As these modified regulations will not be in force before the 2024 ABS deadline of 31 August 2024 (and as confirmed in the Local Government Pensions Committee Bulletin 253), the Pensions Regulator (TPR) expects all administering authorities to report that they will not be in a position to include underpin information in the 2024 ABS. SPPA will also make TPR aware that the breach should be resolved when the regulations come into force later in 2024.

Calculating interest on payments resulting from McCloud

8. Part 3 of the LGPS (Remediable Service) (Scotland) Regulations 2023 (the 2023 regulations) sets out which past cases must be recalculated by administering authorities. Where additional payments are due as a result of the recalculation, regulation 14 of those regulations sets out the special interest rules to apply.

9. We are proposing to make changes consistent with the provisions in the LGPS in England and Wales, which provide that interest is calculated from “the earliest date from which the administering authority would have been able to make the payment”. The 2023 regulations do not currently explicitly provide the date from which the interest is to be calculated.

10. In addition, in respect of recalculating top-up payments to trivial commutation payments, pension commencement lump sums, transfer payments and death grants, the 2023 regulations will provide that interest is calculated from the date the authority paid the original lump sum.

11. We intend to consult on amending regulation 14 with retrospective effect to 1 October 2023.

Kimberly Linge
Policy Manager, LGPS
July 2024

Any questions?

Please contact kimberly.linge@gov.scot if you have any enquiries about this circular.