

ITEM No ...7.....

REPORT TO: PENSION SUB-COMMITTEE OF THE POLICY & RESOURCES
COMMITTEE & PENSION BOARD – 13 DECEMBER 2021

REPORT ON: OPERATIONAL IMPLICATIONS OF LEGISLATION TO ADDRESS
DISCRIMINATION IN LGPS

REPORT BY: EXECUTIVE DIRECTOR OF CORPORATE SERVICES

REPORT NO: 343-2021

1. PURPOSE OF REPORT

The report outlines the operational requirements of implementing the incoming legislation to address age discrimination in the LGPS and advises of the draft timescale of actions to be taken and the additional resources that will be required to implement the remedy the cases that have been identified within Tayside Pension Fund to have been affected.

2. RECOMMENDATION

The Sub-Committee is asked to note the contents of the report and approve the recruitment of additional resources identified as required for successful implementation.

3. FINANCIAL IMPLICATIONS

The financial implications referred to in the report are unable to be fully identified as there are unquantified direct costs of increased pension payments for a significant number of members. The cost of the additional resources required internally in relation to the significant pension administration burden is estimated at £167,092 per annum.

4. BACKGROUND

On 19 July 2021, a bill was put before Parliament amending the Public Service Pensions Act 2013 to fix unlawful discrimination in public service pension schemes. Measures that have been identified as being required by pension funds to address and rectify have since been described as the “remedy”.

The appeal case (known as McCloud and Sargent) identified that unlawful discrimination existed between 2 categories of LGPS members:

- Those who were in service on 31st March 2012 and were within 10 years of their Normal Pension Age (NPA) on 1st April 202 and as such benefited from the underpin protection provided in the 2015 Scheme Regulations.
- Those who were in service on 31st March 2012 and were more than 10 years of their Normal Pension Age (NPA) and as such did not benefit from the underpin protection provided in the 2015 Scheme Regulations.

The remedy will remove the unlawful discrimination by providing underpin protection to the second group noted above, and as such will treat both categories of scheme members equally. To achieve this, legislation is required to provide all scheme members (who were in the scheme on 31st March 2012) with the same underpin for the period 1st April 2015 to 31st March 2022 (or if the member has left/retired after 1st April 2015, to their exit date). This legislation is expected in the first half of 2022, with an effective date shortly thereafter.

The remedy will also ensure that there will be automatic retrospective adjustment of benefits for applicable scheme members who have ceased scheme membership. This is a significant body of work and administratively complex.

5. ACTIONS REQUIRED

5.1. Pre-exercise scope assessment and information required from employers

The following details the overarching classification of the distinct categories of membership in relation to the requirements

- All members who were in the scheme on 31st March 2012 and who continued in scheme membership after 1st April 2015. This body of members are described as being “**in scope**”.

These have already been identified as affecting 14,408 members, covering 15,207 employments.

- All scheme members who joined after 31st March 2012 are described as being “**out with scope**”. Whilst this category of member does not require any amendment to their scheme benefits, the recommended approach of the SPPA and LGA is to also gather relevant membership information from employers for these to ensure that all records across the scheme are consistent, and that no further work would be required by employers should any future change in the regulation occur.

These have already been identified as affecting a further 29,306 members, covering 35,127 employments.

For both the above noted categories of members, it will be necessary for employers to advise on each change of hours, part-time, and additional hours worked (upon which contributions have been paid), as well as any adjustments to reduced working weeks, with percentages and totals for all variable hours worked. Along this the details of all unpaid service breaks are required as alongside hours worked they directly affect the total amount of membership to be credit to scheme members. Priority will be stressed to ensure all information for the “in scope” caseload is provided.

Communication with employers around this exercise will be key, and they have already received initial briefings as part of the end of year financial year briefing sessions earlier in the year. Advice has already been issued to the employers about this body of work, and we are about to issue templates and guidance notes to employers. We are planning further employer sessions to ensure that they are fully informed and given an opportunity to share best practice for collecting data in a group setting.

The Fund are cognisant of challenges that will be encountered in relation to the following:

- Members that have changed employer over the remedy period – Analysis and evaluation of the membership data will be largely manual due to the various constituent elements of employment.
- Some Fund employers may have exited/ceased – Consideration will need to be given as to the treatment of the affected membership of these employers.
- Employers that have changed payroll provider/systems over the period or had technical issues with the payroll data – These employers may encounter problems, and will require additional support.
- That data returned from employers will require further analysis/evaluation to ensure that the data provided is complete and accurate in order to ensure that the member record can be updated accurately prior to any re-calculation of benefits to be subsequently processed.

5.2. Revision assessments and calculations

Appendix A details the “in scope” cases that will require automatic adjustment of benefits for applicable scheme members, and these will have to retrospectively for those who have ceased scheme membership. It is important to note that this a significant body of work with various differing administrative complexities in addition to normal pension operations.

6. OUTLINE PROJECT PLAN & TIMELINE

As previously noted, the legislation is expected in early 2022, therefore the plan in Appendix B has been developed in line with this, and allows for recruitment and training to be undertaken prior to the legislation being brought into effect.

7. RESOURCES REQUIRED

Whilst the project will be managed and supported internally by existing operational management, based on the information known currently, the following additional resources will be required:

Role	Category	Grade	Cost
Asst IT/Systems Process Analyst	Technical Support	7	£29,571
Senior Pensions Assistant	Administration	7	£29,571
4 x Pensions Assistants	Administration	6	£107,950
Total annual cost per current salary scales			£167,092

Whilst every effort has been made to estimate the additional resources required to support the exercise and ongoing workload, there may be further requirement if statutory requirements are detrimentally impacted.

8. POLICY IMPLICATIONS

This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management.

There are no major issues, however whilst there is no immediate legal impact, the review could require amendment to regulations and legislation.

9. CONSULTATION

The Chief Executive and Head of Democratic and Legal Services have been consulted in the preparation of this report.

10. BACKGROUND PAPERS

None

ROBERT EMMOTT
EXECUTIVE DIRECTOR OF CORPORATE SERVICES

3 DECEMBER 2021

IN SCOPE CASES REQUIRING ANALYSIS AND POTENTIAL REVISION

Category	Description	No. Cases	Action Required
Pensioners	Retirement cases where underpin protection was previously calculated	4683	May require revision. Includes those with retirement benefits in payment but also those who elected to trivially commute benefits (i.e. take their benefits as single lump sum payment)
Actives	Retirement cases where no underpin applied as at the date of retirement / deferral.	12541	Calculation and comparison required. This will also include trivial commutation cases as above.
Deferred		2894	
Dependants	Main scheme members benefit at retirement/death may require to be recalculated in line with the remedy	179	Resulting survivor's pension will also need to be recalculated and adjusted if affected
Deceased	Death grants paid have been based on the amount of paid and unpaid pension over guarantee period.	301	Recalculation. For cases where recipients are not scheme members, updated contact and bank details will be required.
Transfers Out	Where member has transferred previous calculated benefit value out of the Fund without underpin	11	Assessment of whether underpin was protected, and potential recalculation and contact with recipient scheme to request additional transfer (if viable in their scheme rules).
Divorce	Pension Debit / credit following Pension Sharing Order has been calculated without underpin	30	Recalculation and reapplication. For cases where recipients are not scheme members, updated contact and bank details will be required.
Aggregations	Election of members to bring together deferred and active periods of membership from other relevant funds. where calculations made without underpin	2252	Recalculation and reapplication. In some cases where the member has elected previously to leave benefits separate may be able to aggregate / amalgamate their benefits in order to gain underpin protection.
Concurrent	Where member has / has not elected to amalgamate periods of overlapping membership, and calculations made without underpin		

APPENDIX B

DISCRIMINATION ADDRESS - OUTLINE PROJECT PLAN
NOVEMBER – DECEMBER 2021
System reports generated and analysed actioned to identify members both “in” and “out” of scope
Communication to employers to be drafted and issued. Meetings with employers to be arranged from December 2021
Data templates and communications to be issued to employers for their completion and return
Identification, review and rectification (where possible) of possible known issues, i.e. exited/exiting employers, change of employer
Process design
JANUARY – MARCH 2022
Employers to complete and return the data templates
Monthly progress meetings with employers to discuss issues and provide assistance
Implement amendments to regulations/software
Member communication to be drafted once regulations are amended. Employer communication sessions to be held
Staff recruitment / Analysis of existing resources to provide training and support.
APRIL – JUNE 2022
Staff recruitment / Training
Analysis of returned employer data. Queries to be returned to employer, and meetings to be held with the employers as required
Provisional followed by upload of data returned from employer
JULY to SEPTEMBER 2022
Setting of the order by which cases are to be reviewed and amended. Member communication issued advising of the processing order of caseloads to manage expectations
Fund policy decisions where employer has been unable to provide data
Project Team process notes to be written, tested and finalised per policy decisions. This stage can only occur if the Altair system software has been updated
Review/amendment of member communication re notifications to be issued following the review/amendment of benefits
Task/Workflow to be tailored for allocation of cases and Project governance.
Live casework commences. This stage can only occur if the Altair system software has been updated
OCTOBER 2022 ONWARDS
Live casework continues for “in scope” cases.
Weekly Project team meetings to be held, to review progress, review and amend process, discuss and solve issues from the caseload as it is actioned.

