

London Borough of Croydon Pension Fund – McCloud initial analysis

Background

In April 2014 and 2015, following an extensive review of all public service pension schemes including the Local Government Pension Scheme (LGPS) the Government introduced new career average (or CARE) pension scheme arrangements across all public services.

As part of this change, a “transitional protections” underpin was implemented for those within 10 years of retirement. The underpin ensured that members would receive the better of the final salary benefits under the previous scheme, or else the CARE benefits from the new Scheme, for service up to 31 March 2022.

Soon after the reforms were introduced a number of legal challenges were made against the transitional protections on various grounds, including age discrimination (the protections were seen to favour older scheme members). These challenges, and eventual ruling, have become known as the “McCloud” case.

The Court of Appeal has ruled in the McCloud case that the Government’s 2015 public sector pension reforms unlawfully treated existing public sector employees differently based upon members’ ages on the 1 April 2012. This ruling has meant that all members, regardless of age, who fit the specified criteria are now eligible for this underpin. As such, at the point in which benefits are calculated or crystallised, a check needs to be performed to see which are the more generous benefits. This check must also be done retrospectively.

The McCloud ruling applies across all Public Sector pension Schemes. The impact on the LGPS has arisen due to the move to the 2014 Scheme in England and Wales and the 2015 Scheme in Scotland.

On 17 July 2020 the Ministry of Housing, Communities and Local Government (MHCLG) published a consultation on a possible amendment to the existing underpin in order to comply with the Court of Appeal ruling on McCloud. The ruling covers active, deferred, leavers and pensioners and so will require administering authorities to revisit decisions made since the introduction of the CARE scheme in 2014. As well as responding to the various questions set out in the consultation paper, therefore, LGPS administering authorities also need to consider the impact any remedy might have in terms of their own membership.

Overview

We have been asked to complete an initial assessment on the number of members of the London Borough of Croydon Pension Fund who could be impacted by the McCloud ruling. That is members who were active on 1 April 2012 and who accrued any benefits on or after 1 April 2014. This group of members includes various types of records ranging from those who are currently active, to those who are now pensioners, and includes leavers and deaths.

This report provides an estimate of the numbers of members who fall into various categories, which are affected by the McCloud ruling. The intention is that the London Borough of Croydon Pension Fund can use this information as the basis of formulating a detailed and targeted plan to deal with the different groups of affected members.

Analysis approach

We have prepared a report-writer to extract the necessary information from the Altair system. We have then distilled this data down, using various criteria to filter out members who are not in scope (e.g. those not active at 31 March 2012 or those who have not accrued benefits since 1 April 2014). This leaves a core population of members we think will be in scope and will need a check on their benefits.

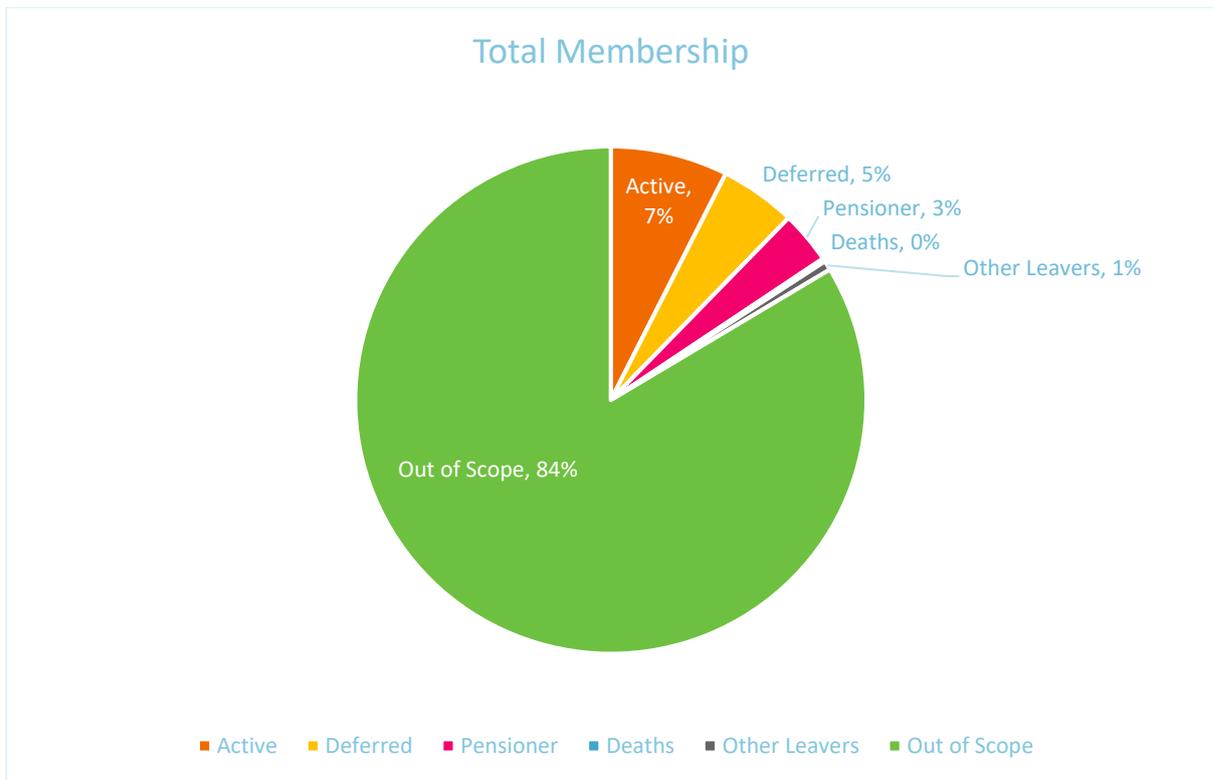
We have then summarised these by status (e.g. active, deferred, pensioner, leaver, death). We have also picked out those pensioners who are now captured following the change to regulations. Furthermore, we have broken the analysis down by employer and shown this separately, to allow you to begin discussion with individual employers, and communicate the scale of the issue to them.

Transfers in

We are aware that there will be members who have transferred in from other Funds, who may be impacted by the McCloud ruling. This report does not explicitly consider those members. Further work would be required to identify these members. We would be happy to discuss this with you in further detail if required.

Results

Based on the data provided to us, we have identified in the region of 5,000 records that we believe will be affected by McCloud and will require some sort of review. This is around 15% of the fund. The breakdown between the various status types is shown in the charts below.



The above suggests that a large portion of the fund is unaffected, which is good news. The fact that 5,000 records are likely to need reviewed does, however, still pose a significant administration burden on the administering authority and employers.

In terms of actual numbers in each section, the chart below quantifies the numbers of members in each of these categories.



It is evident that, while the active members are the most affected group, as would be expected, the cases which could pose the biggest problems to Funds are those where benefits are currently in payment/have been paid – current pensioners and any deaths, as well as any members who have elected to transfer benefits to another scheme. There are over 1,250 of these cases in the London Borough of Croydon Fund.

Of the affected pensioners, the table below shows the effect of extending the underpin.

Pensioner type	Number affected
Originally affected pensioners	766
Newly affected pensioners	246

“Originally affected pensioners” refers to those active members who were within 10 years of retirement age at 31 March 2012 and remained active members as at 1 April 2014, but have subsequently retired and been measured against the original underpin.

“Newly affected pensioners” refers to members who were active on 1 April 2012 and 1 April 2014 who were not covered by the original underpin but have since retired after 1 April 2014.

Numbers in scope across Fund employers

We have also provided a breakdown of the number of in scope members by employer. This might help you to identify any particular employer more adversely affected than the others.

Employer	Number of impacted members
Croydon Council	3,113
STEP Academy Tudor	13
Croydon College	132
Forest Academy	10
Greenwich Leisure Ltd (GLL)	18

Pegasus Academy Trust	96
St Marys Catholic Infant	12
Meridian High Academy	28
St Chad's	20
Shirley High School Academy	22
Woodcote High	33
West Thornton Primary School	38
Applegarth Academy	22
Oasis Academy Byron	10
Good Shepherd (A)	12
Gilbert Scott Primary School	8
STEP Gonville Academy (A)	51
Fairchildes Primary School	50
Collegiate Trust-Riddlesdown	47
South Norwood (Pioneer)	25
Crescent Academy	14
Croydon Vol Action	14
Oasis Academy Coulsdon	26
Kensington Primary (A)	18
AXIS Europe plc	13
Veolia	6
NorburyáManor BE College	30
Kingsley Academy	46
Orchard Park High School (A)	30
Brit School	25
Harris City Acad.CrystalPalace	39
Monks Orchard	12
Beckmead Academy Trust	12
Harris Academy South Norwood	33
Courtwood School	9
Chipstead Valley Primary	24
Broadmead Primary School	45
Folio Education Trust	19
St Aidans	9
keyRing	3
St Marys Catholic Junior (A)	14
Harris Academy Purley	33
Atwood Primary School	19
Keston Primary School	11
ARK Oval Primary Academy	33
St James the Great R.C Primary	15
St Joseph's College	17
WALLINGTON CARS	4
The Quest Academy	14
Harris Primary Academy Benson	21
STEP - Heathfield Academy	1
Woodside Primary (A)	19
Winterbourne Junior Boys	8
Churchill Croydon	7
Oasis Academy Shirley Park	58

St Thomas Becket RC Primary	22
Aerodrome Primary School	9
OLYMPIC SOUTH LTD	3
New Valley Primary School	10
St Cyprian's Greek Orth Prim	11
F M Conway	6
Oasis Ryelands	25
Carillion Services	27
St Mark's CoE Primary School	8
Harris Primary Academy Kenley	16
The Archbishop Lanfranc School	19
Veolia SLWP2 Sutton & Merton	15
Coloma Convent	13
Octavo Partnership	39
Castle Hill Primary	23
Arthur McKay	1
London Hire Services	10
STEP David Livingstone Academy	10
Vinci Facilities	2
Davidson Academy	21
Harris Invictus Acad. Croydon	4
Churchill Services	1
Rowdown Primary School	9
Sodexo Limited	3
Virgo Fidelis	10
Croydon Community Mediation	1
Skanska Construction UK Ltd	2
Impact Group	6
RC Archdiocese of Southwark	1
Paxton Academy	1
Capita Secure Information	17
Test Employer	3
John Ruskin College	14
Cabrini Children's Society	52
Coulsdon College	14
FUSION	7
STEP Wolsey Junior Academy	15
Creative Env Networks	1
Croydon Care Solutions (LATC)	6
Location:	2
INTERSERVE	18
Turning Point	1
EnterpriseMouchel	8
QUADRON SERVICES LIMITED	14
Brick by Brick	2
Croydon Equip Svces (Ex LATC)	3
Eldon Housing Association Ltd	10
Fairfield (Croydon) Ltd	9
Apetito	2

Oasis Academy Arena	1
Ground Control Limited	1
Harris Academy Upper Norwood	1
Busy Bee Cleaning Services Ltd	1
STEP Wolsey Infants (A)	1
Krishna Avanti Primary School	1
Croydon CAB	1
SLWP Idverde	3
Grand Total	4,997

Potential resource implications

We have also considered the resource which might be required to undertake the administration work relating to McCloud. Our estimate is based on the number of employers affected in your fund, as well as an estimation of how long it might take to resolve the specific number of in scope cases (allowing for the different types of cases e.g. active, deferred, pensioners, deaths etc) your fund has. We have shown the amount of resource you might require to perform the following tasks:

- Liaise with employers to query data/request supplementary data
- Upload any revised data onto your administration system
- Run the underpin check for “in scope” members
- Perform calculation of the updated benefits
- Notify impacted pensioners of changes to their benefits

To quantify this required resource, we have provided an indication of the amount of “man hours” which could be required under 2 scenarios, depending on the number of cases which might require updates to records.

Scenario 1 assumes that 25% of records which fall in scope, might require some form of update following queries with employers. Scenario 2 assumes that 50% of records may require updating.

Scenario 1

Based on the tasks detailed above, and assuming that 25% of in-scope records might need some form of data update, all in-scope leavers will require recalculation and only 2% of recalculated member records will lead to amended payments to pensioners/dependents or third parties. The following table shows the level of resource which might be required.

Required man-hours	Full time (35 hour) working weeks	Weeks to complete with 2 full-time staff	weeks to complete with 3 staff, 2 days per week
457	13.1	6.5	10.9

We estimate that it could take 457 hours, equivalent to one full-time member of staff working on this exclusively, for over 13 weeks, or alternatively, 3 staff members each working 2 days per week for almost 11 weeks.

Scenario 2

Scenario 2 assumes that 50% of in-scope records might need some form of data update, all in-scope leavers will require recalculation and only 2% of recalculated member records will lead to amended payments to pensioners/dependents or third parties. The following table shows the level of resource which might be required in this case.

Required man-hours	Full time (35 hour) working weeks	Weeks to complete with 2 full-time staff	weeks to complete with 3 staff, 2 days per week
584	16.7	8.3	13.9

We estimate that it could take 584 hours, equivalent to one full-time member of staff working on this exclusively, for more than 16 weeks, or alternatively, 3 staff members each working 2 days per week for almost 14 weeks.

Assumptions

Please note that under both scenarios, we have assumed full 7 hour working days, and do not allow for holidays, training days etc.

We also assume that employers are compliant with providing any data requested without much further correspondence, and that any data updates can be made efficiently without follow-up queries.

In terms of correspondence with members, the projected level of resource allows for communication with affected pensioner members or dependents. It does not allow for a communication exercise to all members notifying whether or not they are impacted.

If a full data cleanse exercise is required, significant levels of liaison with particular employers or there are backlogs of unprocessed cases to complete, then the time spent on this project by your administration team could be significantly higher.

If you would like to discuss this in more detail, or do some further, more in-depth analysis on the potential resource implications, we can discuss the analysis and options with you further.

Next steps

Having uncovered the scale of the problem in the London Borough of Croydon pension Fund, the next stage is to collect any missing data (e.g. relating to part time hours worked and service breaks etc.). You can also start to implement a detailed plan for the key components of the project.

One of those components will be to begin testing the underpin on records and then correcting records where required. This will involve identifying which cases are most pressing, and prioritising these. Different funds might have different priorities in terms of which records to look at first. We would suggest the order of priority might look like that below, but bearing in mind this is for each Fund to decide individually:

- Deaths
- Pensions in payment
- Transfers out
- Deferred members
- Actives

The project-planning stage will also involve projecting the timescale within which you want to complete the process, and balancing this with the resource you have available.

You may also wish to analyse individual employers in more detail and get a more comprehensive breakdown of the categories of affected members at employer level.

To complete these suggested next steps, it is advisable to put in place a comprehensive project plan. This would clearly set out all actions and timescales needed to implement your remedial plan, within your own Fund's timeline. Our team of project managers would be happy to assist with this if required, while our Governance and Administration Consultants are on hand to help with any other aspects of this critical project. Please do get in touch to discuss any concerns or ways in which we can help.

Prepared by:-

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For and on behalf of Hymans Robertson LLP

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