

LGPS (NI) Consultation
Department for Communities, Local Government & Housing Regulation Division
Level 4
Causeway Exchange
1-7 Bedford Street
Town Parks
Belfast
BT2 7EG

29 January 2021

Re: The PLSA's response to the proposed changes to address discrimination identified by the Courts in the 2015 Local Government Pension Scheme in Northern Ireland

Dear Sir/ Madam,

We welcome the opportunity to respond to the Department for Communities' (DfC's) proposals to amend the Statutory underpin to address discrimination.

About us

We are the Pensions and Lifetime Savings Association (PLSA); we bring together the pensions industry and other parties to raise standards, share best practice, and support our members. We represent over 1,300 pension schemes with 20 million members and £1 trillion in assets, across master trusts and defined benefit, defined contribution, and local government schemes. Our members also include some 400 businesses which provide essential services and advice to UK pensions providers. Our mission is to help everyone to achieve a better income in retirement. We work to get more people and money into retirement savings, to get more value out of those savings, and to build the confidence and understanding of savers.

Overall

The PLSA supports the principle to address the discrimination found in the Local Government Pension Scheme (LGPS). We submitted responses to the consultations for England and Wales, and Scotland, and fully supported the suggestions to extend the underpin to younger members to address discrimination. However, in the period since they closed, and the NI consultation has been running we have had further conversations with members, which have given rise to additional ideas about how to mitigate the impact on Funds which we would recommend are given some consideration. These are set out below, and we believe may aid with mitigating the

particular circumstances of Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC).

We believe that the situation for Northern Ireland requires a different approach, as there are unique circumstances that mean we do have concerns about the impact these proposals may have, particularly regarding the issue of fairness for the majority of the fund's members and around the large administrative burden on NILGOSC. These suggestions are specific to Northern Ireland, and we would like to provide specific evidence received from our membership to make recommendations on an alternative suggestion to address discrimination within Northern Ireland as it relates to the McCloud Judgement.

Addressing the discrimination through the underpin

While the PLSA agrees that in order to remove the discrimination found in the ruling, it is possible to do this by extending the underpin to all active members who were in the scheme on 1st April 2012, we support examining alternative suggestions to ensure fairness laid out by NILGOSC.¹

NILGOSC has identified a clear recommendation that one of the simplest way to remove the discrimination is to remove the underpin altogether.

The evidence for this is as follows:

- ▶ It is fairer for the majority of scheme members because it limits the period when final salary is utilised for the underpin period to 2022, rather than at the time of retirement.
- ▶ The Department's proposals for using Age 65 as a criterion for assessing the underpin is age-related and could give rise to members in exactly the same circumstances, but of different ages, being treated differently. This could open up additional claims of age discrimination.

NILGOSC's alternative suggestion would limit the need to collect and process final salary data, saving on administration costs and improving member communications. It will be clearer for members, as well as employers, to understand and will provide certainty to members of their underpin amount (if any).

¹ <https://www.nilgosc.org.uk/DataEditorUploads/Response%20to%20statutory%20underpin%20consultation.pdf>

Costs

The Government has made it clear that the cost of the underpin will be met by the members of the Scheme and initial estimates provided by the Government Actuaries Department to the Department for Communities indicated costs in the region of £75m upfront with an extra £12m per annum. Forecasts² provided by NILGOSC illustrate that the majority of members will not see any uplift to benefits under the current proposals.

Administrative burden

Introducing the DfC's proposed changes will be a significant exercise for administrators and employers, given the considerable amount of resource and data that will be needed to implement a remedy. The Department's proposal will increase the administration of the Scheme going forward for a period of up to 50 years that will require a retrospective data collection and processing exercise for members and employers going back to 2015. Employers, some of whom may no longer be in the scheme, will need to provide final salary and contractual hours information for employees back to that date. It is uncertain whether this information will be fully available.

In order to facilitate the production of the annual underpin calculation and an up to date final salary, this will mean accurate records of contractual hours which can change multiple times during a year, and will be needed for each member. This will be a massive administrative task, diverting resources away from the day to day running of the fund towards a project that will likely provide minimal financial benefit for the majority of members.

Guidance and software requirements

Standardised guidance will be vital in ensuring consistency in how the changes are implemented across the LGPS. We urge the Department for Communities to develop instructions for administrators, including how they should approach case prioritisation, how to treat member queries, for standard communications to members, and what should be done in the event that they cannot collect all of the data needed to do the calculations. This will be particularly important to ensure fair outcomes for members and their survivors.

² <https://www.nilgosc.org.uk/DataEditorUploads/Response%20to%20statutory%20underpin%20consultation.pdf>

We recommend a period of at least 12 months before the regulations become operational to allow for employers to prepare not only the vital software needed but to design systems to calculate the changes. This is to give time for scheme administrators to absorb the necessary changes and work in collaboration to develop systems to implement the changes. It is also important that administering authorities across the UK are given enough time to implement the proposals to ensure that their other tasks, such as benefit payments, do not suffer as a result. Our members in England, Wales and Scotland indicated to us that it might take over 24 months in some instances to operationalise any proposal; as such we also recommend that NILGOSC should be given discretion to extend this 12 month period if it deemed it necessary.

Yearly benefit statements

We support examining the benefits of NILGOSC's recommendation that a calculation of the underpin should be given at the time of retirement, rather than annually, which we believe would add a layer of complexity to members, and potentially confuse recipients, as the amount will be seen to fluctuate each year.

Summary

We support investigating the merits in NILGOSC's proposal to the Department to replace the age criterion in the underpin calculation with the date of 31 March 2022, so that any difference in underpin values between members is not age related, and therefore fairer. This would also facilitate a calculation, for those protected, of the final underpin value. We support NILGOSC in their concerns around the administrative burden from extending the underpin, as suggested by DfC, would have on administrators, and the impact this would have on taking away from the day to day running of the fund.

We suggest amending the proposal for including additional information for annual benefit statements and instead issuing a statement at the time of retirement regarding uplifts. We also recommend there being at least a 12 month period before the regulations come into force to allow administrators to put contingency plans in place; they should also be given the discretion to extend this 12 month period if necessary.

Please contact us at any point if you would like to discuss any part of this letter.

Yours sincerely,

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