# McCloud remedy: template letters for administrators

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## Introduction

The LGA and the Communications Working Group have produced these templates to help administering authorities adapt their communications to reflect the McCloud remedy. The LGPS rules changed from 1 October 2023 to remove the discrimination identified in the court case known as McCloud after a member of the Judges’ Pension Scheme involved in the case.

From 1 October 2023, eligible younger members are protected by the underpin that already protected older members from 1 April 2014 (2015 in Scotland). But the 1 October 2023 rules changes did not just extend the protection to younger members. The ‘old’ underpin rules did not include enough detail to ensure that protected members received a career average pension that was at least as good as they would have received under the final salary scheme. The October 2023 changes introduce more detail about how the underpin works in different circumstances. This means that the underpin works fairly and consistently for all protected members.

The new rules will mean a significant amount of extra work in different areas for administering authorities. We have split this document into three sections:

* **Part 1: new calculations**. Certain calculations run for a protected member from 1 October 2023 onwards should reflect their underpin protection. Part 1 includes template paragraphs to add to existing letters to inform the member that their protection has been taken into account.
* **Part 2: Disclosure**. The October 2023 changes constitute a ‘material change to basic scheme information’ under The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013. As such, administering authorities must give information about the changes to all people whose rights or prospective rights under the scheme may be affected by them. This must be done within three months of 1 October 2023. Part 2 includes a template of a newsletter article that could be used to satisfy the disclosure requirements.
* **Part 3: Retrospective changes**. Administering authorities will need to contact members who received payments from the LGPS before 1 October 2023 that are now changing retrospectively because of the ‘new’ underpin rules. We will populate Part 3 with template letters for administering authorities to use for members who have received different types of payments.

We would like to extend our sincere thanks to the Communications Working Group for their ongoing hard work to produce these templates.

## Using these templates

We hope that these templates are useful to all administering authorities. The templates will have to be amended locally to reflect:

* **Local practices** – for example whether the member is sent a copy of the calculation sheet from the administration system or whether the relevant information is included in a letter.
* **Local processes** – whether the administering authority sends the information by post or electronically and whether the member must respond through a portal.
* **Software suppler** – if we have the information, the templates include the wording that will be shown on outputs from the main software suppliers. Administering authorities will need to adapt the wording to match the wording of any letters, statements or calculation summaries they are sending.
* **Local decisions** – where are you going to direct members who are looking for more information about the McCloud remedy and the underpin? You will need to decide whether to direct people to your own website or newsletter, or to the McCloud remedy area of the national LGPS member websites.

We have included text in [square brackets] where administering authorities may need to make local changes. Changes may also be needed in other areas.

## Other information and considerations

### New guidance needed

Administering authorities do not have all the information they need to process every type of case affected by the McCloud remedy from 1 October 2023. For example, GAD guidance on transfer calculations is needed before Cash Equivalent Transfer Values or Cash Equivalent Values for transfer out or divorce purposes can be calculated.

The Department for Levelling Up, Housing and Communities (DLUHC) will also be producing guidance on other areas.

Certain calculations will not be possible until GAD or statutory guidance has been published. We will update this document with the new templates as more information becomes available and other calculation can proceed.

### Unprotected members

The templates that we have produced so far are to be used for members who are protected by the underpin.

Administering authorities will have to think about how they will communicate with members who appear not to be protected by the underpin, but should be given an opportunity to declare pension scheme membership that may mean that they are protected. This is most likely to be the case where the individual was a member of:

* a different public service pension scheme before 1 April 2012, or
* the LGPS with in a different pension fund before 1 April 2012

and that earlier membership is separate from the later membership held by the more recent administering authority.

### Calculations through online portals

Most administering authorities allow members or employers to run their own calculations through a secure online portal. Administering authorities will need to consider how to communicate the necessary information about underpin protection when a member or employer runs a calculation of this sort.

## Part 1: new calculations

The template paragraphs in this section can be added to existing letters to confirm that a member’s underpin protection has been taken into account in the calculation the administering authority is providing.

### ‘Compulsory’ retirements

This paragraph is for retirement quote letters if the retirement date is compulsory and the member cannot elect to defer payment to a later date. In these cases, the final assumed benefits, final underpin amount and any final guarantee amount are fixed and will not change.

This paragraph should be used for retirement quote letters if the protected member is:

* retiring on ill health grounds from active status
* retiring on redundancy or efficiency grounds, or
* retiring from active or deferred status at the Scheme’s upper age limit – age 75.

#### McCloud Judgment

Following the age discrimination case commonly known as McCloud, your pension has been tested to see if you are affected by the judgment. If you are entitled to extra pension, this is shown as [an 'Underpin Final Guarantee Amount’ / a ‘McCloud Final Underpin Pension Payable’] on your [calculation sheet/letter] and is included in the annual pension figure[s] shown. **Please note that very few members are affected.**

You can find out more about the judgment by reading the [McCloud member factsheet / McCloud pages of our website / the McCloud pages of the national LGPS member website (England and Wales: [www.lgpsmember.org/mccloud-remedy/](http://www.lgpsmember.org/mccloud-remedy/) , Scotland: [www.scotlgpsmember.org/mccloud-remedy/](http://www.scotlgpsmember.org/mccloud-remedy/))].

‘Optional’ Retirements

This template is for retirement quote letters if the protected member can choose to defer payment to a later date. It can be used for voluntary retirements from deferred or active status, as long as the member is below the upper age limit for Scheme membership – age 75.

The final assumed benefits and final underpin amount are not yet fixed for this type of member. If a final guarantee amount would be paid based on the quotation that you are providing, it is very unlikely that the same final guarantee amount would be paid if the member chooses to take their pension on a different date. It could be higher or lower, or it may not be payable at all.

#### McCloud Judgment

Following the age discrimination case commonly known as McCloud, your pension has been tested to see if you are affected by the judgment. If you are entitled to extra pension, this is shown as [an ‘Underpin Final Guarantee Amount’ / a ‘McCloud Final Underpin Pension Payable’] on your [calculation sheet / letter] and is included in the annual pension figure[s] shown. **Please note that very few members are affected.**

Please be aware that any [‘Underpin Final Guarantee Amount’ / ‘McCloud Final Underpin Pension Payable’] shown will be paid if you take your pension straight away. If you take your pension later, the [‘Underpin Final Guarantee Amount’ / ’McCloud Final Underpin Pension Payable’] may be higher, lower or may not apply. The final amount depends on a number of factors including your age when you retire.

You can find out more about the judgment by reading the [McCloud member factsheet / McCloud pages of our website / the McCloud pages of the national LGPS member website(England and Wales: [www.lgpsmember.org/mccloud-remedy/](http://www.lgpsmember.org/mccloud-remedy/) , Scotland: [www.scotlgpsmember.org/mccloud-remedy/](http://www.scotlgpsmember.org/mccloud-remedy/))].

### Retirement Estimate

This template is to add to a letter you send with a retirement estimate you have produced for a member at their request.

**McCloud Judgment**

Following the age discrimination case commonly known as McCloud, your estimated pension has been tested to see if you are affected by the judgment. If the results show that you would be entitled to extra pension if you retired on the date of the estimate, this is shown as [an ‘Underpin Final Guarantee Amount’ / a ‘McCloud Final Underpin Pension Payable’] on your [calculation sheet / letter] and is included in the annual pension figure[s] shown. **Please note that very few members are affected.**

You can find out more about the judgment by reading the [McCloud member factsheet / McCloud pages of our website / the McCloud pages of the national LGPS member website(England and Wales: [www.lgpsmember.org/mccloud-remedy/](http://www.lgpsmember.org/mccloud-remedy/) , Scotland: [www.scotlgpsmember.org/mccloud-remedy/](http://www.scotlgpsmember.org/mccloud-remedy/))].

### Deferred calculation

This template can be added to the letter sent to a newly deferred protected member who leaves the LGPS before their 2008 Scheme normal pension age. On leaving, the administering authority will be able to calculate the provisional underpin amount and provisional assumed benefits. These give an indication of whether the member’s pension will increase when they take it. But the final figures and any final guarantee amount can only be calculated when the member takes their pension.

If the member remained active beyond their 2008 Scheme normal pension age (usually age 65), that was their underpin date. Their provisional underpin amount and provisional assumed benefits were calculated on that date. The paragraph below may be adapted for a protected member who became deferred after age 65 based on how their underpin protection is reflected in the information you send them.

#### McCloud Judgment

Following the age discrimination case commonly known as McCloud, your deferred benefits have been tested to see if you are affected by the judgment. If the results show that you may be entitled to extra pension, this is shown as [‘Current Provisional Guarantee Amount’ / ’McCloud Current Provisional Underpin Pension Payable’] on your [calculation sheet / letter] and is included in your annual pension figure[s].

Please be aware that this is not a guaranteed figure. We will work out your [‘Final Guarantee Amount’ / ’McCloud Final Underpin Pension Payable’] when you take your pension. The final amount depends on a number of factors, including your age when you retire. The [‘Final Guarantee Amount’ / ’McCloud Final Underpin Pension Payable’] may be higher, lower or may not apply when you retire. **Please note that very few of our members are affected.**

You can find out more about the judgment by reading the [McCloud member factsheet / McCloud pages of our website / the McCloud pages of the national LGPS member website(England and Wales: [www.lgpsmember.org/mccloud-remedy/](http://www.lgpsmember.org/mccloud-remedy/) , Scotland: [www.scotlgpsmember.org/mccloud-remedy/](http://www.scotlgpsmember.org/mccloud-remedy/))].

### Survivor pension

This paragraph can be added to the letter about a survivor pension payable when a protected member dies.

#### McCloud Judgment

Following the age discrimination case commonly known as McCloud, your pension includes any [‘Dependant’s Guarantee Amount’] that you are entitled to. **Please note that very few members are affected.**

You can find out more about the judgment by reading the [McCloud member factsheet / McCloud pages of our website / the McCloud pages of the national LGPS member website(England and Wales: [www.lgpsmember.org/mccloud-remedy/](http://www.lgpsmember.org/mccloud-remedy/) , Scotland: [www.scotlgpsmember.org/mccloud-remedy/](http://www.scotlgpsmember.org/mccloud-remedy/))].

## Part 2: Disclosure

The new rules from 1 October 2023 constitute a ‘material change to basic scheme information’. To satisfy the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013, administering authorities must tell all members who might be affected by the changes about the changes. They must do this within three months of the changes taking effect.

Administering authorities can use the following article to inform members about the changes. It will need to be adapted depending on whether the administering authority uses a single article for all members or whether they produce different versions for different groups.

**LGPS rule change – the McCloud judgment**

**What is McCloud?**

When the Government reformed public service pension schemes in 2014 and 2015, older members were protected from the changes. In December 2018, the Courts ruled that younger members of the judges’ and firefighters’ pension schemes had been discriminated against because the protections did not apply to them.

This ruling is called the McCloud judgment after a member of the judge’ pension scheme involved in the case.

The rules of all public service pension schemes, including the LGPS, changed from 1 October 2023 because of the ruling. The changes are known as the McCloud remedy and they remove the age discrimination found in the McCloud judgment.

In the LGPS, older members were protected by the underpin. When a protected member retired, their pension in the career average scheme was compared with the pension they would have built up in the final salary scheme. If the final salary pension would have been higher, their pension increased.

From 1 October 2023, eligible younger members are also protected by the underpin. Not all LGPS members are eligible for protection. The underpin will protect the pensions of eligible members that they built up in the remedy period. The remedy period is from 1 April [2014 / 2015] to 31 March 2022. Underpin protection stopped earlier if you left the LGPS or reached your final salary normal pension age before 31 March 2022.

**What do you need to do?**

You do not need to take any action. We will work out if you are protected. If you are, when you take your pension, we will work out if it will increase because of the underpin. Any increase is known as a [‘final guarantee amount’].

Not many members will get a [final guarantee amount] because, for most members, the pension they built up in the career average scheme is higher than they would have built up in the final salary scheme.

**Active members**

If you are a protected active member, we will include information about how the underpin might affect your pension in your 2025 annual benefit statement. We must issue this by 31 August 2025.

If you leave the LGPS, we will work out provisional underpin figures for you. We can only work out the final figures and any increase to your pension ([a final guarantee amount]) when you take your pension.

**Deferred members**

If you are a protected deferred member, we will include information about how the underpin might affect your pension in your 2025 annual benefit statement. We must issue this by 31 August 2025.

We will work out final figures and any increase to your pension ([a final guarantee amount]) when you take your pension.

**Pensioner members**

If you are protected and your LGPS pension is already being paid to you, we will work out if your pension will increase. We will do this as soon as we can, but reviewing all pensions in payment will take some time.

**You do not need to contact us. Please be assured that we will contact anyone whose pension in payment will increase because of the McCloud remedy. We will only write to you if the new rules mean that your pension will increase.**

**Find out more**

You can find out more about the judgment by reading the [McCloud member factsheet / McCloud pages of our website / the McCloud pages of the national LGPS member website(England and Wales: [www.lgpsmember.org/mccloud-remedy/](http://www.lgpsmember.org/mccloud-remedy/) , Scotland: [www.scotlgpsmember.org/mccloud-remedy/](http://www.scotlgpsmember.org/mccloud-remedy/))].

## Part 3: Retrospective calculations

To be added later

## Disclaimer

This document has been prepared based on the LGPC Secretariat’s understanding of the information currently available including the relevant Statutory Instruments governing the Local Government Pension Scheme, associated overriding legislation and relevant draft legislation. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the Local Government Association for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information in this guide.