

Item: 4

Pension Fund Sub-committee: 28 August 2025.

Pension Administration:

McCloud Discretion on 2025 Annual Benefit Statements.

Report by Director of Enterprise and Resources.

1. Overview

- 1.1. The McCloud remedy is a set of changes to the Local Government Pension Scheme, designed to correct age discrimination identified in a court case. Specifically, it addresses the issue where younger members were not given the same transitional protections as older members when public service schemes were reformed.
- 1.2. The Pensions Regulator has stated that a clear and realistic action plan be implemented to ensure that complete and accurate remediable service information, on McCloud, is included in the 2025/26 Annual Benefit Statements (ABS) issued to members affected by the application of the discretion.
- 1.3. Due to the timing of Pension Sub-committee meetings, and the time constraint for completing and issuing the Annual Benefit Statements, email confirmation for the discretion on remedial service information for the Annual Benefit Statements was obtained from Sub-committee members to ensure the discretion was in place before the 31 August 2025 deadline required by the Pensions Regulator.
- 1.4. A meeting due to be held on 26 August 2025 of Scottish Local Government Pension Schemes, will provide more information on how the McCloud subject is going to be dealt with by the Pensions Regulator and other Scottish Pension schemes.

2. Recommendations

- 2.1. It is recommended that members of the Sub-committee:
 - i. Note the Discretion in place with the Pensions Regulator for the 2024/25 Annual Benefit Statements.
 - ii. Note that work is ongoing to ensure the Orkney Local Government Pension Scheme satisfies the Pensions Regulator in respect of McCloud, including a clear operational plan, to be developed following the outcome of a meeting

of Scottish Local Government Pension Scheme administering authorities scheduled for 26 August 2025.

3. Background

3.1. The default deadline for all the McCloud rectification work is 31 August 2025. However, there is also the ability to extend the implementation phase to 31 August 2026. Administering authorities can do this by making a ‘determination’ for individual members or groups of members. The determination must only be used where an authority considers it ‘reasonable in all the circumstances’ which will require the balancing of a variety of different factors. Using the determination also means accepting that it will be longer until the McCloud discrimination is legally resolved in the pension fund.

3.2. The Pensions Regulator issued a statement on the use of this determination power by Local Government Pension Scheme administering authorities on 23 June 2025 stating:

“If administering authorities are considering exercising the discretion, the following conditions must be satisfied, as set out under Regulation 2(6) of The Local Government Pension Scheme (Information) Regulations 2024 (SI 2024/880):

- The discretion can only be exercised if the administering authority considers it is reasonable in all the circumstances in the case of a particular member or class of members.
- The discretion must be exercised before 31 August 2025.
- Affected members must be notified that the discretion has been exercised in relation to them in their 2024/25 ABS.”

3.3. The Pensions Regulator also expected the following steps to be taken by the administering authorities if they decide that the discretion will be exercised:

- The views of the relevant pension board have been sought and considered before making the determination.
- A written record of any decision to exercise the discretion is kept regarding a particular member or class of members, which includes a full description of the reasons for the decision.
- A clear and realistic action plan is implemented to ensure that complete and accurate remediable service information is included in the 2025/26 ABS issued to members affected by the application of the discretion.

- Before the 2024/25 ABS is issued, affected members should be told that it won't include their remediable service information, and they should be given a clear explanation as to why that is the case.
- 3.4. A briefing note was circulated to members on 3 July 2025 which explained there were ongoing issues with the development of the Altair pension administration system which means that manual calculations would be required for certain members until system updates were released.
- 3.5. This is not just an issue for the Council but affects all public service Pension schemes. The system development from Altair is not expected to be complete until 2027. The feedback from Heywood, the system provider, is that this is proving to be more complicated than they thought to develop a solution for certain areas of McCloud.
- 3.6. The ongoing issues with the Altair pension administration system is a reasonable reason to make the determination, and exercise the discretion.
- 3.7. On discussion with other Scottish Pension Schemes, it is understood that five Scottish Pension Schemes have also taken advantage of the discretion. It should also be noted that other Pension Schemes have taken on additional staff to exclusively deal with McCloud, and the extra workload McCloud creates. The Council has so far sought to combine the McCloud work within the existing team.
- 3.8. All scheme members retiring or leaving will have their pension benefits calculated correctly, by a manual calculation if necessary, so the use of the discretion does not affect any new retirements.
- 3.9. In addition, all Deferred, Admitted Bodies and Pensioner members have been dealt with in respect of McCloud for 2025.
- 3.10. The Pensions Team will have a clear plan in place to comply with the Pensions Regulator moving forward, including McCloud. Following the meeting mentioned in section 1.4 above, the Team will have more information on the McCloud subject to act on.

For Further Information please contact:

Robert Adamson, Service Manager (Payroll and Pensions), extension 2108, Email robert.adamson@orkney.gov.uk.

Implications of Report

1. **Financial:** There are no direct financial implications relating to the recommendations of this report, however, the final cost to the OIC Pension Fund in respect of McCloud is currently not known.
2. **Legal:** The Local Government Pension Scheme (Scotland) Regulations 2018 apply to the operation of the Pension Fund.
3. **Corporate Governance:** The Pension Fund Sub-committee has responsibility to discharge all functions and responsibilities relating to the Council's role as administering authority for the Orkney Islands Council Pension Fund, as defined in the Scheme of Administration.
4. **Human Resources:** N/A
5. **Equalities:** An Equality Impact Assessment is not required; discretion would impact all members equally.
6. **Island Communities Impact:** An Island Communities Impact Assessment is not required; discretion would impact all members equally.
7. **Links to Council Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Council Plan strategic priorities:
 - ☐ Growing our economy.
 - ☐ Strengthening our communities.
 - ☐ Developing our Infrastructure.
 - ☐ Transforming our Council.
8. **Links to Local Outcomes Improvement Plan:** The proposals in this report support and contribute to improved outcomes for communities as outlined in the following Local Outcomes Improvement Plan priorities:
 - ☐ Cost of Living.
 - ☐ Sustainable Development.
 - ☐ Local Equality.
 - ☐ Improving Population Health.
9. **Environmental and Climate Risk:** N/A
10. **Risk:** The risk is to the Orkney Islands Local Government Pension Scheme and if we do not follow instruction we may be in breach with our Pension Regulator.
11. **Procurement:** N/A
12. **Health and Safety:** N/A
13. **Property and Assets:** N/A
14. **Information Technology:** N/A
15. **Cost of Living:** N/A

List of Background Papers

Briefing Note on McCloud Remedy Calculations distributed on 3 July 2025.