Tayside Pension Fund

This factsheet explains the McCloud judgment and changes to the Local Government Pension Scheme (LGPS) in Scotland.

The changes may affect you if:

- you were paying into the LGPS or another public service pension scheme before 1 April 2012
- you were paying into the LGPS between 1 April 2015 and 31 March 2022
- you have been a member of a public service pension scheme (see end of factsheet for definition) without a continuous break of more than 5 years.

What is the McCloud judgment?

When the Government reformed public service pension schemes in 2015, they introduced protections for older members. In December 2018, the Court of Appeal 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 Judicial Pension Scheme involved in the case. Because of the ruling, all public service pension schemes that provided protection, including the LGPS, have been changed.

The changes are called the McCloud remedy. They remove the age discrimination found in the McCloud court case.

For more information or to find out if you are affected visit the McCloud section of the LGPS Scotland member website [www.scotlgpsmember.org/McCloud-remedy](http://www.scotlgpsmember.org/McCloud-remedy)
**Will it change anything?**

In 2015, the LGPS changed from a final salary scheme (a pension based on your pay when you leave) to a career average scheme (a pension which builds up based on what you earn each year). Older members who were closer to retirement were protected from the changes. When a protected member took their pension, the pension from the career average scheme was compared with the pension that would have built up in the final salary scheme. The member received the higher amount. This protection is called the underpin.

To remove the McCloud age discrimination, qualifying younger members will now receive underpin protection too. Underpin protection only applies to pensions built up in the remedy period, between 1 April 2015 and 31 March 2022. Underpin protection stopped earlier if you left the Scheme or reached your final salary normal retirement age (usually 65) before 31 March 2022.

From 1 April 2022, there is no underpin protection. Pensions built up after this date are based on the career average scheme only.

**Am I protected?**

You are protected by the underpin if you were:

- a member of the LGPS or another public service pension scheme before 1 April 2012 and
- a member of the LGPS at any time between 1 April 2015 and 31 March 2022 as long as you did not have a disqualifying gap.

A disqualifying gap is a continuous period of more than five years when you were not a member of a public service pension scheme.

For more information or to find out if you are affected visit the McCloud section of the LGPS Scotland member website [www.scotlgpsmember.org/McCloud-remedy](http://www.scotlgpsmember.org/McCloud-remedy)
Am I affected?

Were you paying into the LGPS or another public service pension scheme before 1 April 2012?

YES

Were you paying into the LGPS in the remedy period (1 April 2015 to 31 March 2022)?

NO

YOU ARE NOT AFFECTED

YES

Were you under 65 in some or all of the remedy period (1 April 2015 to 31 March 2022)?

NO

YES

Have you had a disqualifying gap? (5+ years when you were not paying into the LGPS or any other Public service pension scheme)

NO

You are protected by the underpin. Have you already taken your LGPS pension?

YES

The pension you built up after the gap won’t be protected. Pension you built up between 1 April 2015 and 31 March 2022 before the gap will be protected if it is kept separate.

NO

Your pension fund will work out if the pension you built up in the remedy period would have been higher in the final salary scheme. If it would have been, your pension will increase.

When you take your pension, your pension fund will work out if the pension you built up in the remedy period would have been higher in the final salary scheme. If it would have been, your pension will increase.

For more information or to find out if you are affected visit the McCloud section of the LGPS Scotland member website www.scotlgpsmember.org/McCloud-remedy
Key dates

2025
31 August
2025 annual benefit statements will include information on the McCloud remedy for affected members

2023
1 October
The LGPS rules changed for the McCloud remedy

2022
31 March
End of remedy period. Benefits protected between 2015-2022

2015
1 April
LGPS changed from a final salary scheme to a career average scheme

2012
1 April
If you were a member of the LGPS or another public service pension scheme before this date, you may quality for underpin protection

What do I need to do?

You do not need to do anything.

If you qualify for underpin protection, we will work out if your pension is due to increase when you take it.

If you are an active or deferred member, we will give you an estimate of how the underpin may affect your pension in your 2025 benefit statement.

If we are already paying your pension, we will review it. If you are due an increase, we will pay you arrears of pension payments with interest. We will do this as soon as we can after 1 October 2023 but reviewing all pensions in payment will take some time.

For more information or to find out if you are affected visit the McCloud section of the LGPS Scotland member website [www.scotlgpsmember.org/McCloud-remedy](http://www.scotlgpsmember.org/McCloud-remedy)
Will my pension increase?
Most members won’t see an increase because the pension they build up in the career average scheme is higher than the pension they would have built up in the final salary scheme. If there is an increase, it is likely to be small.

Do the changes affect me if I qualified for original underpin protection?
If you qualified for underpin protection when you took your pension before 1 October 2023, you may still be affected. We will work out if you are due an addition to your existing pension under the new rules. We will do this as soon as we can, but reviewing all pensions in payment will take some time.

A public service pension scheme is a pension scheme covering:
- civil servants
- the judiciary
- the armed forces
- local government workers in England, Wales or Scotland
- teachers in England, Wales or Scotland
- health service workers in England, Wales or Scotland
- fire and rescue workers in England, Wales or Scotland
- members of the police forces in England, Wales or Scotland, or
- members of a new public body pension scheme

For more information or to find out if you are affected visit the McCloud section of the LGPS Scotland member website www.scotlgpsmember.org/McCloud-remedy
How can I find out more?

This factsheet doesn’t cover all circumstances or provide a detailed explanation of the McCloud remedy, which is set out in legislation.

For more information about the McCloud remedy, visit the McCloud section of the LGPS Scotland website www.scotlgpsmember.org/McCloud-remedy and https://www.taysidepensionfund.org/about-the-scheme/mccloud-remedy/