

**REPORT OF SERVICE DIRECTOR – CUSTOMERS, GOVERNANCE, AND
EMPLOYEES****TEMPORARY STAFFING RESOURCES FOR THE MCCLOUD PROJECT****Purpose of the Report**

1. The purpose of the report is to seek approval from Personnel Committee to the establishment of additional temporary resources required within the Pension Administration Team in order to comply with the Court of Appeal McCloud judgement.

Information**Background**

2. Nottinghamshire County Council is the administering authority for the Nottinghamshire Local Government Pension Fund. There are currently 494 Scheme Employers and a total membership of 142,832. Membership is comprised of active members, deferred members and pensioners. The Pension Administration Team delivers a full range of pension administration activities to all its membership including the processing of estimates, retirements into payment, death of scheme members and divorce sharing orders. This team also provides support and guidance to all Scheme Employers.
3. The Local Government Pension Scheme (LGPS) is a statutory scheme with regulations made under the Superannuation Act 1972 and the Public Service Pensions Act 2013. The LGPS is a defined benefits scheme based, since 1 April 2014, on 'Career Average Revaluated Earnings' (CARE). Prior to the move to CARE in 2014 the LGPS was a final salary scheme.

Background to the Court of Appeal McCloud Judgement

4. The case came about when R Sargeant, a firefighter employed by the London Fire Brigade, was 44 years old or more on 1 April 2015, she would have been entitled to remain in the Firefighters' Pension Scheme – a final salary pension fund that has a normal pension age between 50 and 55, a deferred pension age of 60 and an accrual rate of 1/60.
5. Because she was younger, Ms Sargeant was moved to the new Firefighters' Pension Scheme 2015, which is a career average revalued earnings scheme.

6. After a legal battle that saw firefighters and judges joining forces to claim discrimination on the grounds of age, Ms Sargeant and her peers were granted their claim by the Court of Appeal in 2018. And in June 2019, the Supreme Court refused the government's application to appeal the court case, by then known as McCloud, which marked the end of the legal process.
7. The case through the Courts identified unjustified age discrimination in transitional protection arrangements in the Judicial and Firefighters' Pension Schemes. However, in relation to the LGPS, this difference in treatment exists between two groups of LGPS members:
 - those who were in service on 31st March 2012 and were within ten years of NPA on 1st April 2012, therefore benefiting from underpin protection and 'better off' than the second group; and,
 - those who were in service on 31st March 2012 and were more than ten years from NPA, were not eligible for underpin protection and therefore 'worse off' than the protected members (as they were not guaranteed a pension of at least the level they would have received in the final salary scheme).

Impact of the Proposals

8. The previous report presented to Personnel Committee on 10 September 2020, detailed the impact of McCloud on members benefits, employers within the LGPS and the administration of the Fund.
9. The McCloud proposal will have a major impact on the Pension Administration Team for various reasons:
 - a. Pension processes will require to be reviewed and updated in line with the McCloud underpin protections.
 - b. The Fund will be required to collect data regarding hours changes and service breaks to enable the calculations for qualifying members since the 1 April 2014 to be undertaken. Scheme employers will have a statutory obligation to provide this data to the Fund back to 2014. This will include not only additional members covered by the underpin, but those who were previously covered as well. Retired members may also be affected, and arrears may be payable, which may also bring several pension tax complications to consider and communicate.
 - c. Retrospective calculations performed on all eligible pensioners which may result in backdated pension adjustments being determined and require putting into payment.
 - d. McCloud underpin protections being determined and applied to eligible members.
10. Initially it had been estimated that 24,000 members records within the Nottinghamshire Pension Fund would be affected. Further work has been completed that indicate that this figure is higher at 29,000 records across all members who have a current underpin.
11. Communication to employers and members will be essential. The key focus for members will be for them to know that the underpin will be applied to them without the need for any action on their behalf, but also understand when their benefits will be reviewed. Employers will also

need to understand the requirement to provide historic and ongoing data to enable the Scheme benefits to be calculated. The Scheme Advisory Board have an implementation group to help provide documents to pension funds.

Review of Resource Requirements

12. The resourcing requirements of the McCloud project have been considered against the wider work of the Pension Office, both currently underway and planned. Alongside the statutory requirements of McCloud, the Pension Office is supporting the delivery of -
 - a. **Guaranteed Minimum Pensions (GMP) reconciliation project** - HMRC have identified errors in their systems and through no fault of its own the Fund is required to undertake work to reconcile and rectify the issues. The details of this ongoing project have been the subject of separate reports to Pensions Committee. At a high level the Fund has been required to undertake a financial reconciliation as well as to reconcile individual members details of the GMP held against a member's pension record with that held by HMRC.
 - b. **Transforming Pension Administration through digital development and new ways of working programme** - the Nottinghamshire Pension Funds programme which is underway will deliver a range of digital services which include increased automation, significantly reduced manual inputting and amending of member data ensuring that employers fulfilling their responsibilities as a scheme employer within the Fund and for scheme members to be able to access their pension record 24/7.
 - c. **National Pensions Dashboard** - the Nottinghamshire Fund will be required to input to the national pensions dashboard. The aim of which is to provide clear and simple information about an individual's multiple pension savings, including their state pension. This national initiative will also help individuals to reconnect with any lost pension.
 - d. **Pensions Scheme Act 2021** - the implementation of the Act will come via regulation changes which are due in the Autumn and will have implications on pension administration in a number of ways such as stronger Pension Regulator powers, pensions dashboards, transfer scam prevention and more.
13. At Pension Committee on 10 September 2020, Members approved the funding for a temporary McCloud Project Manager. Establishment of this post was approved by Personnel Committee on 16 September 2020. The Project Manager was recruited and commenced in post on 4 May 2021.
14. As stated in the Pension Committee report of 10 September 2020 and Personnel Committee Report of 16 September 2020, further work has been undertaken to determine the additional resources required to enable the Fund to meet its obligations as part of the McCloud judgement.
15. The funding of additional temporary resources, as detailed in the table below, was approved by Pension Committee on 29 July 2021. The additional resources are initially required for a period of 2 years from appointment and this will be kept under review –

Post Title	Number of posts required and grade	Cost per annum (shown at the top of grade) including oncosts	Total cost per annum
Practitioner Pension Administration	1 x Grade 5	£36,169	£36,169
Pension Administration Level 1	3 x Grade 4	£30,465	£91,395
Pension Administration Level 2	3 x Grade 3	£26,521	£79,563
Employer Support and Compliance Officer	1 x Grade 5	£36,169	£36,169
Pension System Team Functional Support Officer	1 x Grade 5	£36,169	£36,169
Data Officer	1 x up to Grade 5 – job to be evaluated	£36,169	£36,169
Total Cost including oncosts per annum			£315,634

16. The resourcing requirements are broken down as follows –

- a. **Pension Administration** (including Practitioner Pension Administration and Pension Administration Level 1 and 2) – This team will lead the work on recalculating benefits for 29,000 members including putting revised benefits into payment and ensuring the correct underpin protection is applied to all other eligible members.
- b. **Employer Support and Compliance Officer** – this key role will lead communications and provide support to all Scheme Employers and will work closely with the Data Officer.
- c. **Data Officer** – following discussions with other LGPS Funds the project has determined that a Data Officer post is required, and work is underway to design the job description which will then be submitted for evaluation. This role will monitor, chase, and reconcile all data returns from Scheme Employers which will be critical to enabling the Fund to meet its statutory obligations as part of the McCloud project. This post will also link into the Data Audit and improvement workstream of the Transformation Programme and work to support the Fund to meet the Pension Regulator requirement to improve the quality of data held by the Fund.
- d. **Pension System Officer** – this post will be responsible for loading all McCloud data returns and ensuring that member records are updated accordingly, as well as ensuring that the

McCloud software modules are loaded, tested and operational with the Civica Universal Pension Administration system.

17. Following funding approval from Pension Committee, approval is now sought from Personnel Committee to the establishment of the temporary additional resources.
18. Recruitment to the temporary McCloud project team will be in line with the County Council's recruitment and selection process and would commence as soon as possible to ensure that resources complete their induction and extensive training program prior to the requirement to commence McCloud activities.
19. Experienced staff from the Pension Administration Team will be eligible to apply for secondments to the project with appropriate back fill arrangements implemented ensuring that business as usual activities are not impacted.

Other Options Considered

20. The Pension Fund has a legal requirement to ensure that the McCloud judgment is correctly applied to all eligible pensioners and members of the Nottinghamshire Pension Fund.
21. Absorb the McCloud project work into the existing work of the administration team. However, this is not considered to be a feasible option as this would have very significant implications and disruption for the delivery of the current business as usual, as well as the legal obligation to deliver the McCloud project.
22. Engage external resources to undertake the McCloud project on behalf of the Fund. However, the preferred option to setup a temporary project team is in line with the approach taken by other LGPS Funds.

Reasons for Recommendations

23. This will be a significant project for the Pension Fund which requires additional temporary resources to ensure that the Fund fulfils the statutory requirements of the McCloud judgement.
24. Advice and support from the Scheme Actuary and their extensive knowledge and understanding of the LGPS regulations and the McCloud judgement will provide the Nottinghamshire Pension Fund McCloud project with a quality assurance role.

Statutory and Policy Implications

25. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

26. The project, by its very nature, involves reconciliation, sharing and processing of personal and sensitive data. This is covered by existing arrangements and agreements with scheme employers and scheme members.

Financial Implications

27. It is estimated that the costs of the temporary additional resources as detailed in paragraph 15 for an initial period of two years will be approximately £315,634 per annum including oncosts. Pension Committee approved the funding for these post from the Pension Fund at the meeting on 29 July 2021.

Human Recourse Implications

28. Appointment to the additional temporary McCloud project resources will be through the Council's agreed recruitment and selection procedures.

RECOMMENDATION

It is recommended that :

- 1) Members approve the establishment of the additional temporary project resources as detailed within the report for an initial period of two years following approval by Pension Committee at its meeting on 29 July 2021, the costs of which will be funded by the Pension Fund.

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Constitutional Comments (KK 25/08/21)

29. The proposal in this report is within the remit of the Personnel Committee.

Financial Comments (SES 24/08/21)

30. The financial implications are set out in paragraph 27 of the report.

31. It is estimated that the costs of the temporary additional resources as detailed in paragraph 15 for an initial period of two years will be approximately £315,634 per annum including oncosts. Pension Committee approved the funding for these posts from the Pension Fund at the meeting on 29 July 2021.

HR Comments (JP 31/08/21)

32. The temporary posts will be recruited to as set out at paragraph 18.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- McCloud Update Resource Report Personnel Committee 16 September 2020

Electoral Division(s) and Member(s) Affected

- All