

Private and Confidential

Dear

Parliamentary Contributory Pension Fund (PCPF): The MPs' Pension Scheme  
Impact of the McCloud Judgement – Fully Protected Members

Many of you will have heard of the 'McCloud' judgement relating to public service pension schemes. Both the Pensions Secretariat and Trustees have received queries from members on the impact of this case on the PCPF.

As this case relates to the transition of scheme members that took place from Final Salary to CARE arrangements, we are writing to all members who may potentially be affected by possible changes to the scheme following the McCloud judgement. This includes some members who have now left service.

You are receiving this letter as you were classed as a Fully Protected Member (FPM) by the PCPF Rules in relation to the McCloud judgement, which means you were born on or before 1 April 1958 and you were an MP on 7 May 2015 and have also served as an MP since 8 May 2015. If you do not believe that you fall into this category, please contact Buck, their contact details are shown at the bottom of the letter.

The purpose of this letter is to explain the background to the McCloud case and how it relates to the MPs' pension scheme. As an FPM it is not expected that you will need to make any decisions. The proposed changes would only affect you if you were elected as an MP again in the future. We will make sure you are informed if the situation changes.

#### Background

As I am sure you will be aware, IPSA are the body responsible for setting the benefit structure and Rules of the MPs' Pension Scheme, which forms part of the PCPF. In 2015, IPSA reformed the rules of the PCPF.

In line with changes made elsewhere in the public sector, a 'Career Average Revalued Earnings' (CARE) section was introduced, and all members entering the PCPF from 8 May 2015 joined that section rather than the Final Salary section of the PCPF. Arrangements were also made for some of those who were active members before that date to transition to the new CARE section. Members with more than 13.5 years to retirement moved across to the CARE section straight away (unprotected members). Members with between 10 and 13.5 years 'partial protection' moved across to the CARE section in phases (partially protected members). Those within 10 years of normal pension age received 'full protection', enabling those members to stay in the Final Salary section (fully protected members).

Similar transitional arrangements were made in other public sector schemes and these were challenged by members of the firefighters' and judges' schemes (which became known as the McCloud case) who complained of unlawful discrimination on the basis of age. In December 2018, the Court of Appeal ruled that the 'transitional

protection' offered to some members of the judges' and firefighters' schemes as part of the reforms amounted to unlawful discrimination.

In July 2020, the Government issued a range of consultations on the implications of remedying the discrimination highlighted by the McCloud judgement for various public sector schemes. Their proposal to remedy the unlawful discrimination experienced by some members involves allowing all affected members the option to choose between their old (mostly Final Salary) and new (CARE) pension scheme benefits for the whole of a defined 'remedy period', after which all scheme members, including those who were previously 'fully protected' from the transition and are still active members, would move to the new CARE section for future pension accrual. This would become known as the McCloud remedy. The consultations have now closed, and the Government have confirmed the remedies they will use to rectify the position within the majority of public service schemes.

#### Implications for the MPs' Pension Scheme

The MPs' Pension Scheme has distinct legal arrangements, which mean it is for IPSA to determine whether changes are needed in relation to the MPs' Scheme in the light of the McCloud judgement on legal or policy grounds and, if so, what the change should be. IPSA committed publicly to doing so in October 2020 and indicated that it would take account of the Government's recent consultations and of its guiding principle that the overall remuneration MPs receive should be fair to them as well as to taxpayers.

IPSA have considered the matter and believe that as a result of the changes made in 2015, some MPs were treated unfairly. IPSA consulted on proposals to remedy the situation. The consultation was launched on 11 March and closed on 13 May 2021. You can view the consultation document on the IPSA website:

<https://www.theipsa.org.uk/publications/consultations>

IPSA are required to consult, among others, the PCPF Trustees and representatives of those likely to be affected and the Trustees have issued their response to the consultation.

Although there are still several unknowns at this stage, we have included a Q&A document within this letter, to try to answer some of the questions that you might have.

Please note, we do not plan to write to you again regarding the McCloud issue, as IPSA have proposed that FPMs will not be given a choice of which section to be in for the remedy period. If this changes, then of course, we would contact you again.

If you have any further questions, please do get in touch with the PCPF Secretariat ([pensionsmp@parliament.uk](mailto:pensionsmp@parliament.uk); 020 7219 2743) and they will try to help if they can. Please do not contact the PCPF Secretariat by post, as all members of staff are currently working from home.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Brian H. Donohoe', written over a horizontal line.

Sir Brian H. Donohoe  
Chairman to the PCPF Trustees

## Questions and Answers

Why have I been sent this letter?

You have been sent this letter as we believe you are classified as a Fully Protected Member (FPM) in relation to the McCloud judgement. This is because you were born on or before 1 April 1958 and you were a serving MP, and member of the PCPF, on both 7 May 2015 and have also served since 8 May 2015.

FPMs were not previously affected by the introduction of the CARE section, as these members were allowed to remain in the Final Salary section (FSS). However, in order to remedy the unfairness caused by the 2015 changes, IPSA are consulting on closing the FSS to all future accrual. This means that all serving FPM will move into the CARE section from a future date (currently expected to be 1 April 2023). If you are re-elected as an MP after the end of the FSS, you would build up future benefits in the CARE section, rather than returning to the FSS that you were previously in.

Is the PCPF within the scope of the McCloud remedy the Government has consulted on for public service pensions?

No, the PCPF is not covered by the Government's consultations on McCloud remedies for public service pensions. Changes to the rules of the MPs' pension scheme are made by IPSA and IPSA issued their own consultation on their proposal to remedy the unfairness caused to some members of the PCPF. The consultation closed on 13 May 2021 and IPSA's response is awaited.

Will IPSA implement the McCloud remedy proposed by the Government in their recent consultation?

IPSA will determine what changes should be made to the MPs' Pension Scheme in light of McCloud. PCPF Trustees are being formally consulted on proposed changes, along with other statutory consultees including representatives of those likely to be affected. IPSA have stated in their consultation that in determining any remedy it will take account of the Government's approach, but they are not bound to implement the same remedy as the Government.

But I have full transitional protection, would this change affect me?

IPSA's current proposal is to close the FSS and move all Members into the CARE section for any future accrual. This means that serving FPM's are affected by the changes. You would only be affected if you were re-elected to the House of Commons.

I have already ceased to serve as an MP, am I included in any changes?

In considering what remedy is needed IPSA have confirmed that consideration will be given to all relevant Scheme members. This includes those who have left Parliament and/or retired, including any dependants if applicable. However, as an FPM, you would only be affected if you became an MP again.

What is the timetable for making the required changes to the PCPF?

IPSA have not provided a precise timetable at this stage. However, they have indicated that they plan to issue a second consultation in the autumn 2021, which will cover the finer details of the changes. IPSA have confirmed that they plan to lay the new Scheme Rules, containing the McCloud remedy, in late 2021, with a view to implementing the changes in 2022 and 2023.

What is the remedy period and what would this be within the PCPF?

The 'remedy period' is the period between the date on which the differential treatment between scheme members giving rise to discrimination began, and the date on which that differential treatment ends.

IPSA have confirmed that they are considering a remedy period of 8 May 2015 to 31 March 2023. Although they are consulting on whether this is the most appropriate period, and will consider whether another period may make more sense for the PCPF, such as implementing the changes following the next General Election.

Will IPSA consider the Trustees' or members' views on what the remedy will be?

IPSA must formally consult the PCPF Trustees and other statutory consultees including representatives of those likely to be affected before making any changes and pay close attention to their responses. IPSA have also stated that they wish to work closely with the Trustees to arrive, as far as possible, at a shared understanding of the need for any remedy and the identification and assessment of potential options. However, IPSA cannot delegate decision-making to any other body and ultimately it will be for them to decide what is the most appropriate remedy to make.

What if it's not in my interests to move to the CARE section?

IPSA proposals are that from a future date, all serving members of the MPs' Pension Scheme will move to the CARE section. The FSS will close to future accrual and the only alternative choice would be to opt out of the scheme. Members who opt out of the PCPF do not build up any additional pension and are not covered for death in service benefits. Some members may actually be better off in the CARE section.

Please note that it is not possible to give tailored advice to individuals. As always, members would be required to take independent financial advice if this was needed.

Will there be a deadline if I am required to make an important decision about my pension?

FPM are not required to make a decision; if you return to active service as an MP, after the remedy period, you would build up future benefits in the CARE section.

I also have Ministerial or Office Holder benefits, are these affected by the McCloud judgement?

The Ministerial Pension Scheme rules are set by the Minister for the Civil Service (MCS). The Ministerial Pension Scheme is not affected by the McCloud judgement as the MCS did not provide for any transitional protection within this scheme. All members, regardless of age, were moved into the new CARE section from 8 May 2015.

Those who build up additional benefits within the MPs' Pension Scheme (for example Select Committee Chairs or those on the Chair's panel) will be covered by any decision IPSA take to remedy the impact of the McCloud judgement on the PCPF.

Do I need to do anything now?

No, you do not currently need to do anything in response to this letter. However, please remember to keep your correspondence address details with Buck up to date, to aid any future communication.