

Private and Confidential

Dear

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

PLEASE READ THIS LETTER CAREFULLY – IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR PENSION BENEFITS.

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.

You are receiving this letter as you were classed as an Unprotected Member (UPM) by the PCPF Rules in relation to the McCloud judgement, which means you were born on or after 2 October 1961 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. You do not need to make any decisions now but will need to do so in the future. We are liaising with IPSA to ensure you are kept informed of developments and are given enough time to consider any decisions that may need to be taken in future.

#### 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. The PCPF Trustees have now 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. The Trustees and the Pensions Secretariat will be working with IPSA on this matter and will provide further information as soon as it is available.

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 'B. 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 an Unprotected Member (UPM) in relation to the McCloud judgement. This is because you were born on or after 2 October 1961 and you were a serving MP, and member of the PCPF, on both 7 May 2015 and have also served since 8 May 2015.

As a UPM you were moved immediately to the CARE section from 8 May 2015 due to your age. IPSA have accepted that it was unfair to treat members differently on the basis of their age and in order to remedy this unfairness, they are planning to offer all UPMS the choice of returning to the Final Salary section or remaining in the CARE section for a 'remedy period', which is expected to be between 8 May 2015 and 31 March 2023.

At some point in the future, you will be offered this choice. At this time, you will also be provided with a statement, illustrating what impact this choice would have on your benefits, contributions payable, and other potential areas of consideration.

Please note that it is not expected that statements or illustrations showing your position will be available until you are required to make this choice. However, you will be given plenty of time to review this documentation ahead of being required to make a decision, in order to allow you time to take independent financial advice if needed.

- 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 have 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 the 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.

- Are members who have already left Parliament 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.

- If I opt to return to the Final Salary section, will I have to pay additional contributions?

As the contribution rates in the Final Salary and CARE sections are different (please see table below), it is expected that any members moving between the schemes would need to pay a 'balancing payment' for any contributions owed. Similarly, a 'balancing refund' would also be expected for any members who had overpaid contributions.

It is expected that members opting to move back to the Final Salary section for the remedy period would return to the accrual rate they were on immediately prior to being moved into the CARE section. A Member previously on a 40<sup>th</sup> accrual rate would be required to pay an additional 2.66% of total earnings over the remedy period, while Member's on 50<sup>th</sup>s or 60<sup>th</sup>s would receive 1.34% or 3.34% of earnings back respectively.

## Contribution and accrual rates

Section	Accrual rate	Contribution rate
CARE	1.96% (1/51 <sup>st</sup> )	11.09%
Final Salary	1/40th	13.75%
Final Salary	1/50th	9.75%
Final Salary	1/60th	7.75%

IPSA will also decide how deal with any Effective Pension Age (EPA) or Added Pension purchases made by members in the CARE section, who are returned to the Final Salary section. It might be that these members would also receive a refund of the contributions they paid, after allowing for the impact of any tax relief granted. It is expected that these issues will be given further consideration in a second McCloud consultation that IPSA are expecting to release in Autumn 2021.

- Will consideration be given to members' tax implications?

The Government have set out in their consultation key aspects of the potential impacts on individuals.

If changes are implemented for the MPs' Pension Scheme under which Members have the possibility to change between the CARE and Final Salary sections for the duration of a defined period, Members may find that they have different tax liabilities as a result of changes to contributions for those years.

For some members, changing scheme could also have implications for their tax position in respect of the annual and lifetime allowances.

IPSA is aware of these potential impacts.

- 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 advice and support will be available to members and will this advice be funded by IPSA or the PCPF?

The Trustees will work with IPSA to explore the possibility for tools to assist with decision-making but would not be able to advise on individual circumstances.

This is in line with the Government's approach to changes within the public service pensions schemes.

- What if it's not in my best interests to return to the former Final Salary section?

IPSA are proposing a remedy, in line with the one the Government has consulted on for public sector pension schemes. This means that relevant members will be offered a choice between membership of the Final Salary and CARE sections for the remedy period. If it is not in your interests to return to the Final Salary section, you don't have to, you can opt to remain in the CARE section.

As mentioned above, it is anticipated that the Trustees would work with IPSA to explore the possibility for tools to assist members work out which section would be most beneficial for their individual circumstances. In addition to these tools, statements showing the pension benefits accrued and contributions owed/due in each scheme for the remedy period would also be provided to members ahead of their being required to make a choice.

Please note that the Trustees are not able 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?

Yes, there is expected to be a deadline. However, it is expected that this will build in plenty of time for you to review the information given to you and take financial advice if needed. As a default option is expected to be in place for any members who do not elect to make a decision it is really important that you consider your choices carefully and elect to make a decision at the appointed time to ensure the best outcome for you personally.

- 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, you will be expected to make a choice in the future, so please remember to keep your correspondence address details with Buck up to date, to aid future communication.