

Important notice to members of the Local Government Pension Scheme who may be affected by the McCloud/Sargeant judgements:

If you're affected by the McCloud/Sargeant judgement, please be assured you don't need to make an employment tribunal claim. You will automatically receive any uplift to your pension benefits to remove the inequality that's been identified.

Some claims companies are actively encouraging Local Government Pension Scheme (LGPS) members to lodge an employment tribunal claim. These claims could be costly and are unnecessary because, if you've been affected by the McCloud/Sargeant judgements, you automatically benefit from any protection that's provided; you don't need to make an employment tribunal claim to secure your entitlement.

I've never heard of the McCloud/Sargeant judgement, what does it mean?

In 2014 the Local Government Pension Scheme had been reformed to provide pension benefits on a career average basis, referred to as a Career Average Revalued Earnings (CARE) Scheme. This effectively replaced the old Final Salary scheme.

When the CARE Scheme was introduced into the LGPS in 2014, those members who were closest to their 'Normal Pension Age', which is the date when they could choose to retire voluntarily and receive an unreduced pension, were given 'full' transitional protection. This meant if they were within 10 years of their Normal pension age, as at April 2012, they would be protected by what is called the 'statutory underpin', meaning they would receive the better of their CARE pension or one calculated under the old final salary scheme rules.

However, in 2018 two claims were brought, one against the judges' pension scheme (the McCloud case), the other against the firefighters' pension scheme (the Sargeant case) claiming that transitional arrangements were discriminatory on the basis of age. The claims were heard together.

The Court of Appeal determined, that transitional protection gave rise to unlawful age discrimination in the judges' and firefighters' pension schemes. On 15 July 2019 the Government made a ministerial statement confirming that, as 'transitional protection' was offered to members of all the main public service pension schemes, the government believes that the difference in treatment will need to be applied to all those schemes, including the LGPS.

I should point out that this ruling only impacts on members who have retired since 1 April 2014 and, even then, the vast majority of those people are not likely to be affected because they would already have been better off in the CARE scheme. However, those members who potentially have been discriminated against will need to be offered appropriate remedies to ensure they are placed in an equivalent position to the protected members.

It is important to assure you that if you do qualify for protection, it will be applied automatically. You will not need to make an employment tribunal claim. We are aware that companies are actively encouraging LGPS members to lodge costly claims but please be assured this is not necessary.

Please be aware that the majority of non-protected members are likely to be better off in the CARE scheme and therefore no further action will be required. Once we have confirmation from Government on the final position for LGPS members, we will contact those who are affected individually.

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