

Clwyd Pension Fund Response to Consultation

Please find set out below the Flintshire County Council response to the MHCLG Consultation entitled “Amendments to the statutory underpin” issued on 16 July 2020. Flintshire County Council is the Administering Authority of the Clwyd Pension Fund (“the Fund”), and this response is submitted from this perspective.

The Fund has completed preliminary investigations on the membership (albeit prior to the release of the consultation). At that stage, we concluded that approximately 12,200 members were likely to be in scope for this exercise requiring data to be updated to meet the new provisions, and this represents around 25% of the entire Clwyd Pension Fund membership. Of these, an estimated 5,800 are retirements or leavers who will need to be recalculated. Some of the technical proposals put forward in the consultation will only serve to increase the breadth of the project. We are providing these numbers in order to give a sense of the scale of the project and the resources needed to address them (see our response to Q24).

In finalising this response, Fund Officers have consulted with various parties connected with the Clwyd Pension Fund, including employee and employer representatives via the Local Pension Board and the Clwyd Pension Fund Committee. This response has been approved by the Clwyd Pension Fund Committee on 7th October 2020. We have also consulted with the Fund’s professional advisors (i.e. Actuary and Benefits Consultant, and its Independent Governance Consultant).

There are some questions posed within the Consultation on which the Fund does not believe it is qualified to comment. However, the Clwyd Pension Fund does recognise and welcome the significant amount of work performed by MHCLG and its advisors in forming the detailed proposals contained within the Consultation document.

In summary, the key points in this consultation response are:

- concerns around the 12-month window that is being proposed for aggregation cases; we have suggested an alternative shorter window at the underpin crystallisation date
- concerns that members who joined the scheme after 1 April 2012 and before 31 March 2014 will not be covered by the proposals
- suggestions around how to more fairly deal with partial flexible retirement
- the significant funding and administrative costs these proposals are putting on both fund and employers, and the significant period of time it will take to implement these proposals
- the need for clear and regularly updated national guidance, template communications and working groups.

Question	Clwyd Pension Fund Response
1 - Do you agree with our proposal to remove the discrimination found in the McCloud and Sargeant cases by extending the underpin to younger scheme members?	<p>Yes</p> <p>In order to address the discrimination found within the McCloud and Sargeant cases, the age criteria within the LGPS Regulations for the Statutory Underpin needs to be removed, and so the provisions will then extend its application to younger scheme members (where they meet all other membership criteria).</p>
2 - Do you agree that the underpin period should end in March 2022?	<p>Yes, we agree that period of protection should end in March 2022.</p> <p>We understand the reasons for the proposal to limit the underpin protection period (as regards members' benefit accruals). By limiting this period, it will also ensure that future costs of the scheme are managed in accordance with the original policy intention from when the CARE scheme was introduced.</p>
3 - Do you agree that the revised regulations should apply retrospectively to 1st April 2014?	<p>Yes, in order to be fair to all members of the scheme, the revised regulations do need to be applied retrospectively to 1 April 2014.</p>
4 - Do the draft regulations implement the revised underpin which we describe in this paper?	<p>The Fund is not qualified to give legal comment on the accuracy or completeness of the draft Regulations.</p>

Question	Clwyd Pension Fund Response
<p>5 - Do the draft regulations provide for a framework of protection which would work effectively for members, employers and administrators?</p>	<p><u>Members</u></p> <p>Please can clarity be provided as to what extent is the “no worse off” policy intention. Paragraph 51 refers to the policy intention of no member being worse off under the new proposals, but this appears to be in the context of aggregations. Therefore, we do have some concerns about the impact of the retrospective actions needed for some pensioner groups i.e. who have retired with an underpin enhancement under the existing provisions.</p> <p>For example, how would the application of ERFs/LRFs work when performing retrospective actions? We have a concern that if an original underpin member (who is now a current pensioner in receipt of benefits) retired late, the new underpin (including LRFs) may be smaller or nil, compared to the original underpin awarded.</p> <p>The follow up is: would these pensioner members be protected – i.e. consistent with the policy intent in paragraph 51 of not being any worse off under the proposals, or would a reduction to the benefits in payment apply? Should such protection apply for any benefits that have already crystallised (e.g. transfers outs, death, trivial commutation, deferred pensioners)?</p> <p>In which case, please can clear guidance be provided here to ensure consistent interpretation and treatment including details such as:</p> <ul style="list-style-type: none"> - which factors to use for retrospective cases (e.g. those in force at the original underpin date or current), and - on how any recovery of overpayments already made should be processed (if it is decided that the updated provisions could result in a reduction to benefits)? <p>If the intention is that the no worse off policy intent applies across the board, the Regulations need to explicitly say that if the underpin is revisited then no member will be made worse off under the new proposals.</p> <p><u>Administrators</u></p> <p>We would highlight that introducing these changes will be a significant exercise for administrators, and the impact and cost of this should not be undervalued by Government and administering authorities. Although some bulk processing may be possible, updating approximately 12,200 Clwyd Pension Fund pension records (for example with part-time hours and service breaks back to 2014), and separately reviewing approximately 5,800 of our benefit calculations in relation to leavers since 2014, will be a massive exercise given the number of members impacted. We expect all funds will have</p>

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	<p>similar proportions of records to review. Given that, it is difficult to say that this framework works effectively for administrators.</p> <p><u>Employers</u></p> <p>We suspect that a similar view may be held by employers, given their need to provide retrospective part-time hours and services breaks back to 2014.</p>
<p>6 - Do you have other comments on technical matters related to the draft regulations?</p>	<p>We would request that it be made clear that the final underpin benefit granted (final guarantee amount) could be accessed in the same way as “normal” scheme benefits. For example, we assume that it is intended that the underpin pension benefit can be commuted to tax-free cash should the member elect to do so.</p> <p>Assuming this is the case, under “Schedule 1 – Interpretation” of the Local Government Pension Scheme Regulations 2013, can the “retirement pension” definition be amended such that it <i>“includes earned pension, additional pension and any final guarantee amount awarded”</i>.</p> <p>This should also clarify the treatment for members who have already retired and are in receipt of pension, and where, due to the retrospective calculation of the revised underpin, there is a balance of benefits due. There should be clarification on how or if this should impact on lump sum commutation.</p>
<p>7 - Do you agree that members should not need to have an immediate entitlement to a pension at the date they leave the scheme for underpin protection to apply?</p>	<p>Yes, we agree this in order to allow for consistent and equitable treatment to all membership groups.</p>

Question	Clwyd Pension Fund Response
8 - Are there any other comments regarding the proposed underpin qualifying criteria you would like to make?	<p>The Fund does have some concerns about the criteria being put forward and ultimately believes the scheme could be subject to further challenge. We suggest Government considers whether they should extend the underpin criteria to include those members who joined the scheme on or after 1 April 2012, even though they may not have been in the scheme on 31 March 2012 in order to avoid any challenges. Clearly extending this would result in additional administration and funding costs.</p> <p>We recognise that the argument included in the consultation is that it was well publicised that the LGPS benefits were reforming, but it is our concern that this could be open to further challenge.</p>
9 - Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?	<p>Yes, the Fund is supportive that ultimately, members should meet the criteria in a single scheme membership for the underpin to apply. However, the Fund does have some concerns about the detail of the proposals. See our response to Q10.</p>

Question	Clwyd Pension Fund Response
<p>10 - Do you agree with our proposal that certain active and deferred members should have an additional 12 month period to decide to aggregate previous LGPS benefits as a consequence of the proposed changes?</p>	<p>The Fund does have some concerns about the “one-time-only” aggregation decision within a 12-month period including the point at which it is being undertaken. These concerns include but are not limited to:</p> <ul style="list-style-type: none"> - difficult for member understanding insofar as to why they are being asked to make the decision now (so clear, scheme-wide & consistent communications are needed) - difficult for members to make decisions on aggregation as the full position of the new underpin will not be properly known for all members within the 12 month decision period (as it would vary at a future date after the 12 month period) - this will lead to a material administrative burden as all potentially eligible members will need to be communicated with, in a meaningful way, in the same 12 month period. This is likely to lead to substantial queries from members, with no clear answers being able to be provided (see previous point), and hence a risk of complaints - difficulty in identifying the members that are covered by this 12 month window. Many records will be held as deferred records, with no easily identifiable flag to show they have since been re-employed, and so there is a danger they are dealt with in bulk as part of the review of all deferred cases (and therefore potentially given a provisional underpin when they should not be permitted one) - there are additional risks where members may have benefits spread across a number of LGPS funds and so the full extent of an underpin driven aggregation decision might be unknown or incomplete. <p>Asking members to make a financial decision in respect of a situation that is likely to be unknown at the time of the decision may be open to further challenge/appeals from members, especially as this decision is not needed under the current provisions.</p> <p>The Fund, therefore, would be supportive of allowing all eligible members a final chance to decide at the underpin crystallisation date, within a one month window (for the purpose of the underpin calculation only). This would coincide with the point at which members access their benefits (i.e. at either their early, normal or late retirement, or at an earlier transfer date). This final aggregation option should be instead of the 12 month window that the consultation is proposing.</p> <p>We are mindful that employments might be held separate for people who are already retired and who have previously opted not to aggregate (without understanding the full underpin impact of not doing so). Some of these will relate to pension benefits that are paid from different pension funds. There will need to be provision and clear guidance on how</p>

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	<p>LGPS fund administrators should address the retrospective actions needed where pensions are already in payment in one or more employments (and in one or multiple LGPS funds), allowing for a small window where they can choose to aggregate.</p> <p>Adopting this approach of a one month aggregation window at the underpin crystallisation date would:</p> <ul style="list-style-type: none"> • make it easier for members to understand as decisions would be made on actual calculations • reducing the risk of the regulatory intention not being delivered correctly (for example, due to not being able to identify all potential aggregation records) • providing a more administratively efficient solution by not having a major aggregation exercise as part of implementing all the other proposals.
<p>11 - Do you consider that the proposals outlined in paragraphs 50 to 52 would have 'significant adverse effects' in relation to the pension payable to or in respect of affected members, as described in section 23 of the Public Service Pensions Act 2013?</p>	<p>We do have some concerns about the proposals for the reasons described in our response to Q10.</p> <p>Our concerns centre around the need for member decisions at a point when the full impact is unknown, especially when compared to the current provisions, where there is no risk of being worse off due to a non-decision. A detrimental position could therefore emerge as a result.</p> <p>Our proposal, put forward in our response to Q10, allowing a chance to decide at the underpin crystallisation date would remove these concerns as there would then be no risk of being worse off. Member choice would continue to apply, but members would have the ability to truly replicate the position as would have applied using the existing provisions.</p>

Question	Clwyd Pension Fund Response
<p>12 - Do you have any comments on the proposed amendments described in paragraphs 56 to 59 (breaks in service, early/late retirement factors, DIS, survivor benefits)?</p>	<p>The proposals put forward for breaks in service, early/late retirement factors, DIS, survivor benefits are consistent with the general protections being sought going forward. Clear and consistent guidance of application is needed for all LGPS funds to adopt.</p> <p>As referred to in our response to Q5, clarity is required on the retrospective actions regarding the application of ERFs/LRFs and how that may impact on underpins already in payment.</p> <p>Regulations and/or guidance will also need to be provided on how to deal with the following situations:</p> <ul style="list-style-type: none"> - retrospective changes where a transfer out has already been paid and the new scheme is not willing to accept a balancing payment - any trivial commutation cases, where any balance might result in a tax charge.
<p>13 - Do you agree with the two-stage underpin process proposed?</p>	<p>Yes, we are supportive of the two-stage process on the grounds of fairness and ensures the delivery of the policy intention.</p>

Question	Clwyd Pension Fund Response
14 - Do you have any comments regarding the proposed approaches outlined above?	<p>In addition to the points raised in our response to Q10, paragraph 99 describes the proposed treatment for “partial” flexible retirement. Our interpretation of the proposals is that the underpin check takes place at the initial partial retirement date, and is then prorated to reflect the proportion of benefits received. By not performing a further check on eventual retirement, there is a risk that a member would not gain the full underpin benefits on subsequent tranches that they would have otherwise received had they not partially retired. Alternative options that could be considered are as follows (albeit we have a slight preference for the second option):</p> <p>OPTION1 – multiple underpin checks: There could be a further and separate underpin check (i.e. a further underpin crystallisation date) on the next tranche of benefits to ensure that the policy intention is consistent and delivered in these scenarios, rather than simply the balance of the original underpin amount coming into payment.</p> <p>OPTION2 – one check at the last retirement date: There could be a single underpin check for all partial flexible retirements performed at the final retirement date when all benefits are being brought into payment. It is only at this point will the full extent of an underpin be known and so ensures that no underpin amounts are “lost” during a members’ continued active service. This would mean that the policy intention is consistent and delivered in these scenarios, rather than simply a payment of the balance of earlier (and potentially understated) underpin amounts.</p>
15 - Do you consider there to be any notable omissions in our proposals on the changes to the underpin?	<p>Additional complications arise where a scheme member is using a previous year's final pay, either best of last 3 years or from a period in the last 13 years. In the first scenario, the higher pay must be used and in the second scenario, there is open choice which means that the impact of pensions increase can be taken into consideration. Clear guidance will be needed on what the correct order should be on whether pensions increases should be added before the underpin test is applied or, for the purposes of the test, if it should be excluded. The guidance should also cover explicitly where, within the test, the early/late retirement reduction factors should be applied.</p>

Question	Clwyd Pension Fund Response
16 - Do you agree that annual benefit statements should include information about a qualifying member's underpin protection?	<p>We do agree that the underpin protection should be referred to on the annual benefit statement, but we are not in favour of quoting the underpin guarantee amount for all members.</p> <p>It is reasonable for deferred members to have an indicative amount quoted, which should be the provisional guarantee amount that will have been calculated previously at their underpin date (i.e. date of leaving active service etc).</p> <p>However, for active members we are not in favour of quoting a provisional underpin amount at all. This would inevitably vary from one year to the next and will be confusing for the members. For active members, we would be in favour of a scheme-wide standard statement along the lines of: <i>"In addition to the benefits quoted, you may also get an uplift, under the protections within the scheme. This will not be fully known until you access your retirement benefits."</i></p> <p>It should be noted that there are a number of other elements that are not included on the active annual benefit statement (for example, use of a higher previous year's final pay) which could have a much bigger impact than the underpin uplift on the amount of benefits being quoted on the statement.</p> <p>Taking an approach to include the underpin on active member benefit statements could also have an impact on the effective implementation of the National Pensions Dashboard.</p>
17 - Do you have any comments regarding how the underpin should be presented on annual benefit statements?	<p>See our response to Q16 including suggested wording. If any wording is used, it should be standard wording that is nationally adopted minimum standard/best practice, and it should be consistent across all LGPS funds. As many people are members of multiple LGPS funds, consistent communications will reduce the risk of confusion for members.</p>
18 - Do you have any comments on the potential issue identified in paragraph 110?	<p>We recognise the potential issues identified, but are supportive that the final guarantee amount gets credited to a member's benefits at the underpin crystallisation date and so contributes to the Annual Allowance check for that year only, and the member's overall LTA value.</p>
19 - Do the proposals contained in this consultation adequately address the discrimination found in the 'McCloud' and 'Sargeant' cases?	<p>Whilst the mechanics of the proposals do appear to address the McCloud and Sargeant cases, we do have some concerns about the criteria being open to further challenge.</p> <p>As per our response to Q8, Government should consider whether there could be potential challenge by excluding application of these proposals to members who joined the scheme on or after 1 April 2012 (i.e. they were not in the scheme on 31 March 2012).</p>
20 - Do you agree with our equalities impact assessment?	<p>We appreciate that MHCLG and its advisors have carried out a lot of work on the equalities impact, likelihoods of outcomes and other related aspects. The Fund is not in a position to comment any further in this area.</p>

Question	Clwyd Pension Fund Response
21 - Are you aware of additional data sets that would help assess the potential impacts of the proposed changes on the LGPS membership, in particular for the protected characteristics not covered by the GAD analysis (age and sex)?	The Fund is not in a position to comment on this.
22 - Are there other comments or observations on equalities impacts you would wish to make?	As noted in our responses to earlier questions, we do have some concerns about the criteria being put forward and ultimately believe the scheme could be subject to further challenge. We suggest that Government reconsider whether they could be challenged by those members who joined the scheme on or after 1 April 2012 i.e. they were not in the scheme on 31 March 2012. We are concerned that some members could challenge this remedy insofar as those members who joined the scheme a few days later will not benefit from the protection.

Question	Clwyd Pension Fund Response
23 - What principles should be adopted to help members and employers understand the implications of the proposals outlined in this paper?	<p>We think that standardised and consistent treatment/communications across all LGPS funds will help employers and members understand the proposals (recognising some minor fund specific changes may be necessary as well as branding/personalisation).</p> <p>Our suggestion would be for consistent communications to be led by the Scheme Advisory Board that should be used by LGPS funds. These should be kept up to date across various media and can be personalised and adapted at Fund level. It would be very helpful if an ongoing communications development plan was issued so it is known what is being worked on and when so funds focus their resources in the areas not being looked at centrally.</p> <p>Our view is that the following approaches are most appropriate for the two groups:</p> <p>Members – we suggest that central example communications, as a minimum has all the scenarios that LGPS funds <u>should</u> be communicating with members. These should be straightforward and understandable.</p> <p>Employers – the proposals will have a major impact on employers so it would be helpful if greater focus is placed on how to make employers’ lives easier. We recognise that there are limited resources, so the most valuable impact will be to help LGPS funds support and work with employers through this exercise/project.</p> <p>In providing support to funds, this should include up to date FAQs, sample responses to employers, a means where LGPS funds can continually ask questions and benefit from updated information, guidance and examples. It is critical that this information is kept up to date and evolves as new issues arise. The obvious solution is for a continuation of one of the SAB’s McCloud implementation groups in order to deal with challenges/issues as they emerge to ensure all LGPS Fund’s then benefit, whilst ensuring that group has strong and wide representation from various funds as well as other stakeholders. Our strong view is that many questions and areas of practice points will arise as implementation is progressed.</p>

Question	Clwyd Pension Fund Response
24 - Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?	<p data-bbox="622 252 1554 284">See our response to our earlier questions regarding the administrative impacts.</p> <p data-bbox="622 331 2056 504">In that context, we strongly urge that MHCLG / SAB formally encourage all LGPS pension funds to be properly resourced for this major Scheme-wide project. The full breadth of this project is arguably larger than the scheme changes witnessed in 2014, and more recently GMP rectification. The tasks arising in terms of forward looking changes and retrospective changes make this far reaching and with shortened timescales. Pension funds must be equipped with the resources necessary. This extends to employers and their systems and pension fund liaison teams.</p> <p data-bbox="622 552 1995 619">In that respect, it would be helpful for MHCLG to provide direction in relation to reasonable timescales for the various stages of the project including:</p> <ul data-bbox="674 632 2065 842" style="list-style-type: none"> - encouraging employers to provide data as soon as is reasonably practical and no later be a defined date. It should be noted that a deadline of or around 31st March is not helpful due to year end pressures for both employers and pension funds - provision of updated software from the software suppliers - expected final dates for all funds to have reviewed and rectified benefits back to 2014 (deferred, pensioners, transfers out, deaths etc). <p data-bbox="622 855 1989 879">By having clear direction, this will ensure funds, employers and software providers can ensure appropriate resource.</p>

Question	Clwyd Pension Fund Response
25 - What principles should be adopted in determining how to prioritise cases?	<p data-bbox="622 252 2067 352">Whilst the Fund welcomes general guidance on priorities, individual LGPS funds must be able to determine their own priorities based on the expertise, skills and capacity of each LGPS fund administration team, as progress is made throughout the project.</p> <p data-bbox="622 403 2067 467">Our initial view of priority groups for the rectification of benefits are as below, but this should be kept under review by all administration teams, whilst business as usual is maintained.</p> <ol data-bbox="667 518 1160 671" style="list-style-type: none"> <li data-bbox="667 518 992 550">1. Pensioners in payment <li data-bbox="667 558 1032 590">2. Deaths and survivor cases <li data-bbox="667 598 1160 630">3. Transfers, in age order (from highest) <li data-bbox="667 638 931 670">4. Age 55s and over <p data-bbox="622 721 2067 783">Clearly a key initial part of the project will be the collation of data from 2014 for all in scope members (including active members).</p>
26 - Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrators?	<p data-bbox="622 802 2067 866">Please refer to our responses to 9 & 10 where permitting members to make their final aggregation decision at their underpin crystallisation date will alleviate short term administration burdens.</p> <p data-bbox="622 917 2067 981">Clear guidance (perhaps statutory) clarifying how cases should be dealt with where data is not available from employers and how this can be reasonably ascertained, would provide simplification.</p> <p data-bbox="622 1032 2067 1128">Furthermore nationally agreed tolerances that identify minimum thresholds before retrospective changes/updates are made (again balancing cost and benefit of updates) could simplify the proposals, introducing efficiencies for funds and employers.</p>

Question	Clwyd Pension Fund Response
<p>27 - What issues should be covered in administrative guidance issued by the Scheme Advisory Board, in particular regarding the potential additional data requirements that would apply to employers?</p>	<p>We recommend that clear guidance is provided to identify at what point the administrative costs outweigh the benefits of having perfect data records.</p> <p>The Clwyd Pension Fund is supportive of a nationally agreed approach with clear guidance on what steps must be taken and exhausted before an agreed simplified approach can be adopted.</p> <p>In our view, the guidance should contain:</p> <ul style="list-style-type: none"> - what steps must be taken by Fund administrators to ascertain that the data required is not available (i.e. mandatory criteria/investigations). This should include approaches where employers are unwilling to fulfil their obligations and/or respond to queries, or indeed if the employer no longer exists. This should be clear as to whether there are requirements to contact scheme members for information where it is not or cannot be provided by an employer (and for the avoidance of doubt, we would not support this as being something that should be done). - details of what a nationally agreed simplified approach should be for cases where all the relevant steps have been taken (as referred to in point above). This simplified approach should be adopted by all Funds in order to balance the costs of the remedy with the benefit of having complete data. - nationally agreed tolerances that identifies minimum thresholds before retrospective changes/updates are made (again balancing cost and benefit of updates). - how any backpayments should be made to various groups of members e.g. in situations where a member and their surviving partner having both previously died, including clarification over interest payments/calculations.

Question	Clwyd Pension Fund Response
28 - On what matters should there be a consistent approach to implementation of the changes proposed?	<p data-bbox="622 252 936 284">Administrative guidance</p> <p data-bbox="622 292 2065 467">Please see our responses to earlier questions where we are strongly of the view that consistent approaches and guidance should be provided, including via the continuation of the SAB working groups. This guidance and support would include communication templates, actions to take in certain circumstances (e.g. no replies, data absences, retrospective actions for pensioners, aggregation decisions), an ability to raise questions and have regular dialogue with other practitioners. We recognise that there should be the ability for Funds to personalise the communications.</p> <p data-bbox="622 515 846 547">Auditor guidance</p> <p data-bbox="622 555 2065 724">It would be helpful for clear guidance to be available for auditors insofar as relates to pension fund accounting. This would be in order to pre-empt many queries and dialogue with auditors across the many thousands of employers within the scheme. This guidance should be created in partnership with CIPFA/SAB and any other interested parties and may need to be ongoing at the various stages of this process (e.g. response to consultation, potential further draft regulations, final regulations).</p>

Question	Clwyd Pension Fund Response
<p>29 - Do you have any comments regarding the potential costs of McCloud remedy, and steps that should be taken to prevent increased costs being passed to local taxpayers?</p>	<p>Funding the remedy</p> <p>For the Clwyd Pension Fund, the estimated impact of the remedy was calculated for all employers and has been explicitly included in the 2019 actuarial valuation results for the vast majority of the employers. For those employers who did not make an allowance they will now be requested to do so. The allowance closely replicated the proposed remedy in the consultation (other than for some historical cases) so the intention is this will be reviewed at the next valuation only. The impact did vary by employer from small to large (£9m past service costs across the whole fund, and whilst a small number of employers have not been impacted at all, (due to their membership profile), the average additional future service cost is 0.5% of pay, with the greatest increase being at 2.4% of pay). Taking the remedy up to 2022 means the overall cost is expected to be c£12m. Equally, our FSS termination policy ensures that an estimate of any costs associated with the remedy are included in the exit assessment for an outgoing employer.</p> <p>This means that most funding costs have been incorporated into the Funding Strategy of the Fund, but this extends beyond local taxpayers as applies to all employers including universities who receive funding from other places.</p> <p>Our view is the regulations and policies for all LGPS funds must be updated to ensure that full estimated McCloud costs are recovered through contribution requirements on both an ongoing basis for any employers who are not currently meeting the funding cost, but also in an employer exit scenario. Guidance should be clear and explicit to require fund policies and practices to be updated to ensure the final agreed remedy costs are attributed to the relevant employer and those costs are not borne by local taxpayers or any other groups in the Fund. This may mean some Funds need to revisit contribution requirements before the next valuation for certain employers. A facility to revise costs in these circumstances should be included in the Regulations and guidance issued in relation to the separate contribution flexibilities.</p> <p>Administering the remedy</p> <p>The administrative burden is a significant one and therefore the costs relating to administration could be significant. These are split into two main areas; implementation and retrospective actions, and business as usual.</p> <p>A) Implementation</p> <p>Short-term costs for the Fund will be material (we estimate £0.5m pa for 2 years until all data is collected/verified up to 2022) and this includes system upgrades and functionality, additional resources, external advisor support and communication activities. The costs for employers may also be significant in terms of their own resources and changes to and extracting data from payroll systems but we do not have an estimate at this point.</p> <p>B) Business as usual</p>

Question**Clwyd Pension Fund Response**

In the longer term, there is likely to be an additional cost although we would expect this to be de-minimis (largely arising out of additional system functionality) given the new processes will be fully embedded. We would not expect this to have a material effect on the employer rates in that case.

Mitigating the costs (for all groups, not only taxpayers)

The costs referred to above are unavoidable if the remedy is implemented based on the consultation. Attributing those costs to the appropriate employer would be one way to be fair on how they are met (i.e. any employers with the largest holes in data, or unable/unwilling to assist are allocated a greater proportion of cost). This should be linked to a Funds separate administration strategy and policy therein. However the practicalities of implementing this approach need further consideration.

Whilst we are aware that there are central templates for data collection and there will be template communication materials, as mentioned in our response to Q23, we do believe that the SAB/LGA should provide templates and guidance in as many areas as possible for areas which are common to all Funds. For example, as well as providing communication templates, guidance in the form of the following would be valuable in mitigating costs

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- Q&A type website (similar to the recent COVID-19 initiative)
- Liaison with the key software and payroll providers
- Focus groups developing guidance including practitioners.

As also noted in our response to Q27, we recommend that clear guidance be provided to identify at what point the administrative costs outweigh the benefits of having complete data records for all years and historic cases. This should cover both scenarios where data is not available e.g. the employer does not exist and where the employer does not respond to data requests. The Clwyd Pension Fund is supportive of a nationally agreed approach on what steps **must be taken** and exhausted **before** an agreed compromise is adopted which may mean making assumptions which favours the member in the final underpin test. This would only be pursued if mandatory steps have been taken/criteria have been met, but this would then put some cost control back into the implementation process and mitigate costs to taxpayers.

Scheme member representative view

Question**Clwyd Pension Fund Response**

The scheme member representative on the Clwyd Pension Fund Committee has provided the following answer for consideration in response to this question:

The vast majority of the fund's contributions are from Local Government employers. The additional cost to those employers (and some others) will be an extra burden during the ongoing corona virus crisis and post coronavirus public finance recovery period. Although in and of itself, it is unlikely to be the trigger of any Section 114 Notices, this extra burden is likely to impact the provision of Local Government services that the current crisis has shown to be underfunded.

The additional costs of the proposed remedy for other Public Sector schemes will be paid by the general taxpayer. Central Government should consider providing additional, hypothecated funding to Councils in order to provide the required protection for the local tax payers. Government may consider that any additional costs of this remedy will count to the Cost Cap exercise that was paused although this would impact on benefits for members and as a Scheme Member Rep would not be my preferred route.
