Department for Communities
An Roinn Pobal
Männystrie o Communities
www.communities-ni.gov.uk

The Local Government Pension Scheme (Northern Ireland)

Addressing discrimination – amendments to the statutory underpin

Consultation Document

Scope of the consultation

TOPIC OF THIS CONSULTATION

This consultation seeks views on changes to the Local Government Pension Scheme in Northern Ireland (LGPS (NI)). It outlines proposed changes to the LGPS (NI) statutory underpin protection to remove unlawful discrimination found by the Courts in relation to public service pension scheme 'transitional protection' arrangements. Specifically, we propose to remove the condition that required a member to have been within ten years of their normal pension age on 1 April 2012 to be eligible for underpin protection. In removing the discrimination, we are proposing a number of supplementary changes to ensure the revised underpin works effectively and consistently for all qualifying members.

SCOPE OF THIS CONSULTATION

The Department for Communities (DfC) is consulting on changes to the regulations governing the LGPS (NI).

GEOGRAPHICAL SCOPE

These proposals relate to the LGPS in Northern Ireland only. Separate consultation exercises have been undertaken in England & Wales and Scotland in relation to the issues addressed in this consultation as they affect those regions.

Basic Information

This consultation outlines details of proposed changes to the benefits of the LGPS (NI) and is particularly aimed at the LGPS (NI) administering authority, scheme members, scheme employers and their representatives.

Any change to the LGPS (NI) is likely to be of interest to other stakeholders as well, such as professional advisers and local taxpayers. We welcome views on the proposals from all interested parties.

BODY/BODIES RESPONSIBLE FOR CONSULTATION

This consultation is being undertaken by the Local Government & Housing Regulation Division in the Department for Communities.

DURATION

This consultation will be open for 12 weeks from **11 November 2020** to **31 January 2021**

ENQUIRIES

For any enquiries about this consultation, please email the Department at:

lgpdconsultations@communities-ni.gov.uk

or write to:

LGPS (NI) Consultation,
Department for Communities
Local Government & Housing Regulation Division,
Level 4,
Causeway Exchange,
1-7 Bedford Street,
Town Parks,
Belfast,
BT2 7EG

Due to the Covid 19 situation please use email if possible as mail will only be monitored periodically.

HOW TO RESPOND

Online: You can respond online by accessing the consultation documents on the ‘Citizen Space’ web service.

The online version can be accessed at the following link:

https://www.communities-ni.gov.uk/consultations/consultation-proposed-changes-transitional-arrangements-2015-local-government-pension-scheme

EMAIL

You can also add your comments directly onto this document and email your responses to:
lgpdconsultations@communities-ni.gov.uk

or download and post to:
LGPS (NI) Consultation,
Department for Communities
Local Government & Housing Regulation Division,
Level 4,
Causeway Exchange,
1-7 Bedford Street,
Town Parks,
Belfast,
BT2 7EG

When you reply it would be very useful if you could confirm whether you are replying as an individual or submitting an official response on behalf of an organisation.

If you are replying on behalf of an organisation please include:

- your name,
- your position (if applicable),
- the name of your organisation,
- an address (including postcode),
- an email address.

CONSULTATION RESPONSE:

We will consider the responses received and publish an outcome report on the Departmental website.

In line with good practice and sustainable development, this document has been published electronically.

ACCESSIBILITY:

A range of alternative formats are available upon request from this Department.

Please email the Department at:
lgpdconsultations@communities-ni.gov.uk

Or write to:

LGPS (NI) Consultation,
Department for Communities
Local Government & Housing Regulation Division,
Level 4,
Causeway Exchange,
1-7 Bedford Street,
Town Parks,
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How we consult

CONSULTATION PRINCIPLES

The consultation is being conducted in line with the Fresh Start Agreement (Appendix F6 – Eight Steps to Good Practice in Public Consultation - Engagement). These eight steps give clear guidance to Northern Ireland departments on conducting consultations.

FEEDBACK ON THE CONSULTATION PROCESS

We value your feedback on how well we consult. If you have any comments about the consultation process (as opposed to comments about the issues which are the subject of the consultation), including if you consider that the consultation does not adhere to the values expressed in the Eight Steps to Good Practice in Public Consultation - Engagement or that the process could be improved, please address them to:

LGPS (NI) Feedback on the Consultation Process,
Department for Communities
Local Government & Housing Regulation Division,
Level 4,
Causeway Exchange,
1-7 Bedford Street,
Town Parks,
Belfast,
BT2 7EG

Email: **lgpdconsultations@communities-ni.gov.uk**

Please title your correspondence as “Feedback on the Consultation Process”.

Privacy, Confidentiality and Access to Consultation Responses

For this consultation, we may publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity may be published. We will remove names, email addresses and telephone numbers from these responses; but apart from this we will publish them in full. For more information about what we do with personal data please see our consultation privacy notice.

Your response, and all other responses to this consultation, may be disclosed on request in accordance with the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR); however all disclosures will be in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulations (EU) 2016/679.

If you want the information that you provide to be treated as confidential it would be helpful if you could explain to us why you regard the information you have provided as confidential, so that this may be considered should the Department receive a request for the information under the FOIA or EIR.

DfC is the data controller in respect of any personal data that you provide and DfC's privacy notice, which gives details of your rights in respect of the handling of your personal data, can be found at: https://www.communities-ni.gov.uk/dfc-privacy-notice**.**

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Purpose of the consultation

1. Scope and timeframe

1.1 This consultation covers proposals by the Department for Communities to amend the legislation governing the Local Government Pension Scheme (Northern Ireland) (“LGPS (NI)”).

1.2. It outlines proposed changes to the LGPS (NI) statutory underpin protection to remove unlawful discrimination found by the Courts in relation to public service pension scheme ‘transitional protection’ arrangements. Specifically, we propose to remove the condition that required a member to have been within ten years of their normal pension age (NPA) on 1 April 2012 to be eligible for underpin protection. In removing the discrimination, we are proposing a number of supplementary changes to ensure the revised underpin works effectively and consistently for all qualifying members.

1.3. Section 21(1) of the Public Service Pensions Act (NI) 2014 requires the Department to consult such persons (or representatives of such persons) as appear to the Department likely to be affected.

1.4. The closing date for submitting responses is (12 weeks from date of issue) 31 January 2021.

1.5. The Department will consider and respond to comments it receives during this consultation.

1.6. Responses are invited to this consultation about any aspect set out in this paper.

Introduction

2.1 This consultation contains proposals to amend the rules governing ‘transitional protection’ in the LGPS (NI), following a successful legal challenge to transitional protection arrangements in the firefighters’ and judicial pension schemes in Great Britain.

2.2. In April 2015, a series of changes were made to the LGPS (NI) to reform the scheme’s benefits structure. These changes were implemented as part of a wider project across the United Kingdom to reform public service pensions and put them on a more sustainable, affordable and fairer footing for the longer term. In the LGPS (NI), these changes included:

- moving benefit accrual from a final salary to a career average basis; and
- linking members’ normal pension age with their State Pension age (but at a minimum of 65).

2.3. Transitional protection for members nearing retirement was implemented as part of the overall reform package and was designed to ensure that older workers had certainty and would not be any worse off as a result of the reforms made to the scheme. Transitional protection arrangements applied across public service pension schemes and in the LGPS (NI) were implemented through ‘a statutory underpin’.

2.4. Whilst all LGPS (NI) members joined the career average scheme in April 2015, members who met certain qualifying criteria (including that they had been in service on 31 March 2012 and were within ten years of their final salary scheme normal pension age on 1 April 2012) gained statutory underpin protection. Underpin protection means additional checks are undertaken for protected members with the intent of ensuring that the career average pension payable under the reformed LGPS (NI) is at least at high as the member would have been due under the final salary scheme. Where it is not as high, scheme regulations provide that an addition must be applied to the member’s career average pension to make up the shortfall.

2.5. In the ‘McCloud’ and ‘Sargeant’ court cases (which related to the judicial and firefighters’ pension schemes in Great Britain respectively), the Court of Appeal found that the transitional protection arrangements in those schemes directly discriminated against younger members in those schemes and this could not be objectively justified.

2.6. Rulings of the Court of Appeal in England and Wales are not directly binding here. However the devolved public service schemes in Northern Ireland incorporate the same transitional protection arrangements as the schemes in Great Britain. Legal advice confirms the implications of the Appeal Court decision are such that all schemes must be treated as affected by the “McCloud/Sargeant” decisions and so require to be remedied.

2.7. This consultation sets out how the Department for Communities (DfC) proposes to amend the statutory underpin to reflect the Courts’ findings in these cases. Primarily, we propose to remove the age requirements from the underpin qualification criteria. However, we are also proposing additional changes to ensure that the underpin works effectively and consistently for all qualifying members following the extension of the underpin to younger members. From April 2022, it is proposed that the period of underpin protection will cease and all active LGPS (NI) members will accrue benefits in the career average scheme, without a continuing statutory underpin.

Views from respondents are sought on questions 1 to 28 as well as on the Draft Regulations attached as Annex A.

Background

3. Public service pension reform and transitional protection

3.1. The LGPS (NI) is a defined benefits scheme under the Public Service Pensions Act (Northern Ireland) 2014 ("the 2014 Act"). It is also a funded scheme. The 2014 Act introduced pension reforms across public sector pension schemes to address the impact of long term scheme costs for taxpayers and employers.

3.2. In April 2015 public service pension scheme reforms were introduced. The changes followed a fundamental structural review by the Independent Public Service Pension Commission (IPSPC), chaired by Lord Hutton of Furness.

3.3. In its final report[1], the IPSPC set out a framework for comprehensive reform of public service pensions that sought to balance concerns about the cost of the schemes to taxpayers and the need to ensure decent levels of retirement income for those who have devoted their working lives to the service of the public.

3.4. As part of the consultation on the reforms it was proposed to protect those public service workers who, as of 1 April 2012, had ten years or less to their normal pension age (NPA)[2], as they had least time to prepare.

3.5. The reforms were implemented in the LGPS (NI) from 1 April 2015, along with the other main public service pension schemes. The main features of the reformed schemes include later retirement ages to reflect the fact people have been living longer, higher employee contributions to rebalance the costs of the schemes between the members and taxpayers, and pensions based on average earnings rather than on pay at the point members retire or otherwise leave the schemes.

3.6. The reformed schemes introduced from April 2015 remain among the most generous available in the UK. The reformed schemes should provide many low and middle earners working a full career with pension benefits at least as good as, if not better than, the benefits they would have received under the previous arrangements.

1 https://www.gov.uk/government/publications/independent-public-service-pensions-commission-final-report-by-lord-hutton

2 In the 2009 Scheme, a member's normal pension age was known as their normal retirement age. However, for consistency, in this consultation document we refer to it as their normal pension age or their NPA.

4. Reform in the LGPS (NI)

4.1. In the LGPS (NI), the final salary scheme that existed prior to these reforms was known as ‘**the 2009 Scheme**’. The reform package implemented from April 2015 (‘**the 2015 Scheme**’) through the Local Government Pension Scheme Regulations (Northern Ireland) 2014[3] (‘**the 2014 Regulations**’) consisted of the following main elements:

- consistent with the approach taken across the public sector, a move to future benefit accrual based on a member’s pay over their career (a ‘career average’ structure), from a structure where member’s benefits were based on a member’s pay at leaving the scheme (a ‘final salary’ structure). Importantly, where active members had membership of the LGPS (NI) prior to April 2015 and did not have a disqualifying break in service[4], but had aggregated their membership, they retained a ‘final salary link’ that meant their pay at point of leaving the scheme would still be used in calculating their 2009 Scheme benefits, even where this is after April 2015;
- a move from an NPA of 65 to an NPA linked to a member’s State Pension age, subject to a minimum of 65 (currently ranging from 65 to 68), but with members still able to retire as early as 55 or as late as 75, with actuarial reductions or increases applied, respectively;
- a move from a 1/60th accrual rate to a 1/49th accrual rate. A pension scheme’s accrual rate is the proportion of a member’s pay that they receive for each year of membership. The change in the LGPS (NI) accrual rate in the 2015 Scheme was a 22% improvement from that which applied in the 2009 Scheme;
- revisions to employee contribution bandings. From April 2015, employees’ contributions to the LGPS (NI) were banded from 5.5% of earnings (for members earning less than £14,000 per year) up to 10.5% of earnings (for members earning over £85,000 per year). Contribution rates had also been banded in the 2009 Scheme, but the range had been narrower, from 5.5% to 7.5% of earnings; and
- the introduction of a 50/50 section, giving scheme members the flexibility to pay half the contributions for half the pension accrual for a period

3 https://www.legislation.gov.uk/nisr/2014/188/contents, as amended

4 Where referred to in this document, a ‘disqualifying break in service’ is a continuous break of more than five years in active membership of a public service pension scheme.

of time, whilst retaining life and ill-health cover.

5. The Statutory Underpin

5.1. The LGPS (NI) provided transitional protection to its older workers via a statutory underpin ('the underpin'). All members moved into the 2015 Scheme on 1 April 2015, but 'protected members' (being the older group of members who met certain qualifying criteria and originally had underpin protection) were given an underpin that provides their retirement pension cannot be less than it would have been in the 2009 Scheme.

5.2. The existing underpin only has application in relation to the value of a protected member's pension at their 'underpin date' (see next paragraph for further details). All LGPS (NI) members have participated in the reformed career average scheme from April 2015.

5.3. Underpin protection in the LGPS (NI) was implemented through regulation 4 of the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014[5] ('**the Transitional Regulations**'). At a high level, underpin protection under regulation 4 works in the following way:

- Underpin protection is granted to those who were active members in the LGPS (NI) on 31 March 2012 and who on 1 April 2012 were 10 years or less from the NPA under the 2009 Scheme (age 65)[6] (regulation 4(1)(a)).
- Those who meet the basic criteria for underpin protection retain this so long as they are:
  - in active membership in the 2015 Scheme the day before their 'underpin date' (see below),
  - do not have a disqualifying break in service after 31 March 2012,
  - have not drawn benefits from the 2015 Scheme before their underpin date (regulation 4(1)(b) to (d) and (3)), and
  - are not a councillor member.
- The underpin test is carried out on an individual's 'underpin date' which is the earlier of:
  - the date the protected member reaches their NPA under the 2009 Scheme or

5 https://www.legislation.gov.uk/nisr/2014/189/contents, as amended.

6 By virtue of regulation 9(1) of the Transitional Regulations, members who were not active in the LGPS on 31st March 2012, but who were active in another public service pension scheme on that date and who meet certain qualifying criteria may also have underpin protection.

- the date the protected member ceased to be an active member of the scheme with an immediate entitlement to a benefit or dies (regulation 4(2)).

· The underpin test is carried out by comparing the ‘assumed benefits’ (i.e. the career average benefits the protected member has accrued) against the ‘underpin amount’ (i.e. the final salary benefits the protected member would have accrued if the scheme had not been reformed) (regulations 4(5) and (6)). These paragraphs contain detailed provisions which enable the administrator to take into account a variety of factors in the comparison of benefits. For example, where the protected member is due to receive an enhancement to their 2015 Scheme benefits as a result of retiring on ill-health grounds, the difference between that enhancement and the enhancement they would have received under the 2009 Scheme would be considered.

· If the underpin amount is calculated to be higher than the assumed benefits on the underpin date, the protected member’s pension account will be increased by the difference at the underpin date (regulation 4(4)).

6. The McCloud and Sargeant cases

6.1. Soon after the reformed scheme benefit structures were introduced in April 2015, legal challenges were brought against the transitional protection arrangements in the judicial and firefighters’ pension schemes in Great Britain (‘McCloud’ and ‘Sargeant’, respectively) on various grounds including that the transitional protections offered to older workers constituted unjustified direct age discrimination. In those cases, younger firefighters and judges argued that younger workers were treated less favourably than older workers who were given transitional protection. The Court of Appeal for England and Wales ruled in December 2018[7] that transitional protection in the judicial and firefighters’ pension schemes gave rise to unlawful age discrimination.

6.2. The Westminster government sought permission to appeal to the Supreme Court. This application was refused on 27 June 2019. In a written ministerial statement on 15 July 2019[8], the government explained that it accepted that the Court of Appeal’s judgment had implications for other public service pension schemes which had provided transitional protection

[7] https://www.judiciary.uk/wp-content/uploads/2018/12/lord-chancellor-v-mcloud-and-ors-judgment.pdf

[8] https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-15/HCWS1725/

arrangements for older members. The matter has been remitted to the Employment Tribunals to determine a remedy for claimants. Cases involving some of the other public service schemes have also now been lodged[9].

6.3 Responsibility for pension arrangements for public service employees in Northern Ireland is devolved. However, the main provisions of the devolved schemes including the LGPS (NI) Scheme are practically identical to the equivalent schemes in Great Britain. Lord Hutton's report also recommended the key design features of the reformed schemes should be applicable in the Devolved Administrations, including Northern Ireland. Legal advice confirms the implications of the Appeal Court decision on transitional protections is such that all schemes must be treated as affected by the McCloud decisions and so must be remedied.

[9] The LGPS in Northern Ireland, does not have any ongoing court cases relating to its underpin protection.

Addressing the discrimination

Our approach

7.1. In the McCloud and Sargeant cases, the Courts identified unjustified age discrimination in transitional protection arrangements in the Judicial and Firefighters' Pension Schemes. In relation to the LGPS (NI), this difference in treatment exists between two groups of LGPS (NI) members:

- those who were in service on 31 March 2012 and were within ten years of NPA on 1 April 2012, therefore benefiting from underpin protection and 'better off' than the second group; and
- those who were in service on 31 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).

7.2. At a high-level, our proposal for removing the difference in treatment from the LGPS (NI), is to extend the underpin protection to the second group of members listed above – i.e. those who were not old enough to receive underpin protection when it was originally introduced. This should ensure that the two groups listed are treated equally for benefits accrued from April 2015 onwards. This proposal is described in more detail in Section 8. The updated underpin is referred to here as 'the revised underpin'. The members who would be in scope of the revised underpin, both the group originally protected and those who would newly gain underpin protection under our proposals, are collectively referred to as 'qualifying members' in this document.

7.3. Consultees may be aware that the Department of Finance (DoF) has separately recently launched a consultation[10] seeking views on proposed changes to the transitional protection in most of the other main unfunded public service pension schemes in Northern Ireland[11]. Transitional protection arrangements are different in other public service pension schemes and therefore different issues arise in considering

[10] https://www.finance-ni.gov.uk/consultations/consultation-proposed-changes-transitional-arrangements-2015-schemes

[11] The LGPS (NI) is out of scope for the DoF consultation (as is the scheme for the devolved judiciary in NI).

an appropriate remedy for the discrimination found in McCloud and Sargeant. The DoF consultation seeks views on two options for addressing the discrimination in those schemes, both involving an element of member choice between the reformed career average schemes and the legacy final salary schemes for service during the period April 2015 to March 2022 (the remedy period).

7.4. Member choice is being considered in relation to other public service pension schemes because, in those schemes, the two groups of members have participated in different pension schemes since April 2015 with different benefits between reformed and legacy schemes and, in some cases, different employee contribution rates. This is not the case in the LGPS (NI) because underpin protection is designed to ensure that a qualifying member is better off without needing to make a choice.

7.5. As set out in section 5, the underpin is principally an administrative test undertaken at the earlier of the date a qualifying member leaves active membership with an immediate entitlement to benefits and the date they reach their 2009 Scheme normal pension age or die. It is designed to guarantee that a qualifying member's pension calculation gives them the better of:

a) the pension they have built up in the career average 2015 Scheme, and

b) the pension they would have built up in the final salary 2009 Scheme, over the same time period.

Question 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?

7.6. To achieve the full benefits of the career average reforms made in April 2015, it is considered that the remedy period should end for all qualifying members of public sector schemes at a specified point in time.

7.7. Under the rules governing the existing underpin, no further underpin dates will arise beyond 31 March 2022, as this is the last date a protected member can reach their 2009 Scheme NPA. In considering how to equalise treatment between the unprotected and protected groups, we propose that both groups will be given underpin protection from 1 April 2015 to 31 March 2022 (or to the members' underpin date, where this is earlier).

We consider that this approach will mean there is a consistent period of protection for all qualifying members – i.e. those who were members of the scheme on 31 March 2012 and who went on to have 2015 Scheme membership without a disqualifying break in service (and who aggregated their membership), regardless of their age.

7.8. From 1 April 2022 it is our intention that all service in the LGPS (NI) will be on a career average basis, with no underpin. As set out in Section 3, we believe that the move from a final salary to a career average pension scheme design in April 2015 created a fairer structure for LGPS (NI) members. Under the 2015 Scheme, those public servants who see considerable increases in earnings over their career – and particularly towards the end of their career – are no longer likely to be relatively favoured compared with their colleagues who did not. Phasing out underpin protection is an important step to achieving the full benefits of a career average scheme design.

Question 2 – Do you agree that the underpin period should end on 31 March 2022?

7.9. We are keen to ensure that the group of younger members who, under our proposals, would gain underpin protection have an equivalent level of protection to their older colleagues. It is therefore proposed that the underpin comparison would not, for most qualifying members, take place upon the underpin period ending in March 2022. Instead, the comparison of 2009 Scheme and 2015 Scheme benefits would take place at a qualifying member's underpin date (generally, the earlier of the member's date of leaving and age 65), even if this is after March 2022 – i.e. qualifying members will retain an ongoing 'final salary link', consistent with their pre-2015 pension accrual. For those who are currently at an earlier stage of their career, and who may have promotions and other salary increases later in their career, this ensures a fairer comparison of the two schemes' benefits. The final pay calculation would be based on the member's pay over their final year of service, or one of the two previous years' pay if better, and would take into account the existing 'lookback' provisions where members have had a reduction in pay[12].

7.10. As part of this project we have considered how the existing underpin regulations work and the following

[12] Under the 2009 Scheme, members with pay reductions or restrictions in their last ten years of continuous employment may have the option to have their final pay calculated as the average of any 3 consecutive years' pay in their last 10 years.

section contains details of changes we are proposing. Collectively, the changes mean that the revised underpin regulations will differ in a number of respects from the existing underpin provisions contained in regulation 4 of the Transitional Regulations. We consider that these amendments are essential to ensure that the underpin regulations are clear and consistent and provide a framework of protection that works more effectively for all stakeholders and which, at the same time, provides in essence the same level of protection to scheme members.

7.11. Nonetheless, to avoid creating new differences in treatment in the LGPS (NI), we propose that the amended regulations will apply retrospectively from 1 April 2015, ensuring that all qualifying members are subject to the same detailed provisions. We believe this is the best approach and one which will allow us to be confident we are addressing the findings of the Courts, and removing differences in treatment between older and younger workers. We do not plan that members' accrued rights would be detrimentally affected as a result of this approach, but we welcome comments from stakeholders if there are specific concerns about potential accrued rights issues.

7.12. In proposing these changes, we have considered the legal principle of 'minimum interference'. The courts have found this principle generally applies to pensions changes following an equal pay issue. Whilst it has not been recognised outside the context of equal pay, it could be considered in other contexts too. 'Minimum interference' means that the scheme is obliged to make the minimum necessary interference to ensure the scheme operates lawfully. Whilst some of the changes outlined in this consultation paper are not a direct consequence of the Courts' findings in the McCloud and Sargeant cases, we believe that they are necessary for the effective and consistent application of underpin protection to members of the LGPS (NI).

7.13. Retrospective application of the proposed regulations means that certain cases will need to be revisited by the scheme administrator. Below are examples of such cases:

- Cases where a member had underpin protection originally and the revised underpin may have applied differently to them. In practice, this may be all cases where a member already has underpin protection and has since had their underpin date.

- Cases where a member does not currently have underpin protection, but would have such protection under the revised underpin, and has since retired or left the LGPS (NI) with a deferred benefit.
- Cases where a member does not currently have underpin protection, but would have such protection under the revised underpin, and has since transferred out of the LGPS (NI) or trivially commuted (see para 14.5) their benefits.

7.14. There will also be more difficult cases, for example, where members who may have benefitted from the proposals outlined in this consultation have died. In such cases, it is our view that the scheme administrator should take all steps to ensure that any retrospective increase in a member's pension arising from the underpin is taken into account in respect of relevant survivor benefits that became payable at the time of the member's death.

7.15. We are aware that retrospective application of the proposed draft regulations will lead to significant administrative complexity. We do not anticipate any recalculations would result in members' benefits being detrimentally affected. Further consideration of the complexities arising from retrospection are considered in the later section on Implementation and Impacts.

Question 3 – Do you agree that the revised regulations should apply retrospectively to 1st April 2015?

7.16. This consultation sets out proposals which are principally about removing unlawful discrimination from the LGPS (NI). Achieving this key aim, and minimising the risk of further issues arising, has therefore been our primary concern in coming forward with these proposals. However, in doing so, we have been conscious of the additional administrative burden these changes would create and have sought to minimise the impacts wherever possible. We consider that the proposed approach is the simplest way we can effectively ensure that the revised underpin works effectively and fairly for all. Further consideration of the potential administrative impacts of the proposals is outlined in Section 18.

Detailed proposals

Regulations

8.1. This section contains our detailed proposals on the proposed amendments to the underpin. Draft regulations have been prepared (Annex A) and we would welcome general comments on those draft regulations, as well as specific comments on the questions below.

Question 4 – Do the draft regulations implement the revised underpin which we describe in this paper?

Question 5 – Do the draft regulations provide for a framework of protection which would work effectively for members, employers and the scheme administrator?

Question 6 – Do you have other comments on technical matters related to the draft regulations?

9. The revised underpin – basic elements

9.1. The approach we have taken to the revised underpin consists of a number of basic elements, as described here.

Qualification criteria

9.2. Fundamentally, under the revised underpin, members would no longer need to have been within ten years of their 2009 Scheme NPA (normal pension age) to qualify for underpin protection. Members who were active in the 2009 Scheme on 31 March 2012 and who have accrued benefits under the 2015 Scheme without a disqualifying break in service (five or more years) would have underpin protection, subject to aggregation requirements.

9.3. An aspect of the existing underpin regulations that we are seeking to change is the requirement that a member must leave active service with an immediate entitlement to a pension for underpin protection to apply to them (regulation 4(1)(b) of the Transitional Regulations). We anticipate that when underpin protection is extended to younger workers, it is much more likely that members will leave the scheme before having an immediate entitlement to benefits, meaning they would not, as things stand, benefit from underpin protection. Under the revised underpin, we propose that underpin protection would apply where a member leaves with either a deferred or an immediate entitlement to a pension. This approach is also more likely to ensure that LGPS (NI) regulations are compliant with preservation requirements under the Pension Schemes (NI) Act 1993, which broadly require[13] that schemes do not contain rules which mean that leavers prior to NPA are treated less favourably than leavers at NPA. The retrospective application of this change would also aim to ensure that any members protected under the existing underpin who have suffered detriment due to the current wording would regain their underpin protection.

9.4. As per existing requirements, members who leave the LGPS (NI) without an immediate or deferred entitled to a pension[14] would not have underpin protection as they would only be eligible for a refund of their contributions, aggregation with another LGPS (NI) record or a transfer to another scheme.

Question 7 – Do you agree that members should not need to have an immediate entitlement to a pension at the date theyleave the scheme for underpin protection to apply?

Question 8 – Are there any other comments regarding the proposed revisions to the underpin qualifying criteria you would like to make?

Aggregation

9.5. In reviewing the operation of the existing underpin, it has become clear that the current regulations do not implement our policy intent as clearly as we would like in one important respect and the existing regulations could cause substantial new issues to arise.

9.6. LGPS (NI) has aggregation provisions which mean that separate pension records can be joined together. This means that, in most cases, members can choose whether to have LGPS (NI) records aggregated (or 'joined up') or kept separate from one another. Since 1 April 2015, aggregation may

[13] Section 68 of the Pension Schemes (NI) Act 1993 (1993 c.49).

[14] This applies where members do not have a qualifying service for a period of two years (regulation 3(5) of the 2014 Regulations). Special provisions apply where members joined before 1 April 2015.

be automatic[15] but usually, where a member leaves an employment with a deferred benefit and then rejoins the LGPS (NI) in another employment, they have 12 months (or a longer period at the discretion of the employing authority) to elect for aggregation to apply[16].

9.7. Where a member takes a decision which means their LGPS (NI) benefits are unaggregated, these are generally administered as separate entitlements. Where a member takes a decision which means their LGPS (NI) benefits are aggregated, their combined record is generally administered as one period of membership. For example, where a member with 2009 Scheme membership has not had a disqualifying break in service and aggregates that record with another LGPS (NI) membership, they would retain their final salary link on the combined record. By contrast, if the same member decides not to aggregate their membership, they would lose their final salary link[17] on the unaggregated record. These rules preserve the approach described above, through which NILGOSC, the scheme administrator, is generally able to calculate separate benefits independently.

9.8. However, regulation 4 of the Transitional Regulations does not appear to include an aggregation requirement for underpin protection to apply. A strict interpretation of regulation 4(1) therefore appears to suggest that where, for example, a member was:

a) active in the LGPS (NI) on 31 March 2012,

b) subsequently active in the 2015 Scheme in a separate employment without a disqualifying break in service, and

c) the two records were not aggregated, underpin protection would still apply. In our view, this would be extremely difficult for the scheme administrator to effectively administer in the coming decades. It is also inconsistent with the general approach NILGOSC has adopted in relation to the administration of the LGPS (NI), as described in paragraph 9.6, and as has been applied in relation to the final salary link.

[15] Where a member only has a deferred refund entitlement (i.e. has left with a refund entitlement which has not yet been paid) from a ceased period of LGPS (NI) membership, this must be aggregated with their subsequent LGPS (NI) membership and there is no choice (regulation 24(5) and (6) of the 2014 Regulations.

[16] By virtue of regulation 24(8) of the 2014 Regulations.

[17] By virtue of regulation 3(8) of the Transitional Regulations

9.9. Where there is no requirement to aggregate benefits, administrative difficulties would not only arise in determining who has underpin protection but also in actually undertaking the underpin comparison. In this situation, it may also need to be considered whether any underpin addition arising should be split between the two funds and the two employers, so as to ensure liabilities are appropriately attributed.

9.10. This would clearly be extremely administratively complex and potentially lead to an increased likelihood of errors being made. It is likely that the administrative complexities would continue for many years (as some members' underpin date may not take place for 30 or 40 years).

9.11. In light of this, we are proposing that regulation 4 of the Transitional Regulations is amended to make clear that members must meet the qualifying criteria in a single membership (a 'relevant Scheme membership' as defined in the proposed regulations) for underpin protection to apply. So, where a member has had a break in service, or a period of concurrent employment, their benefits must be aggregated for underpin protection to apply. The introduction of the concept of 'relevant scheme membership' has allowed us to define more clearly in the regulations the benefits the scheme administrator should be assessing when undertaking underpin calculations.

9.12. As our intention is for the revised underpin regulations to apply retrospectively, it is possible these changes will mean that some members of the LGPS (NI) who have underpin protection at the moment (across separate LGPS (NI) memberships) would lose this. To ensure that no member is worse off as a result of our proposed amendments, we are proposing that active and deferred members are given an additional 12 months to elect to aggregate previous periods of LGPS (NI) membership, where such a decision would mean they have 'relevant Scheme membership' and therefore would have underpin protection. It is not proposed that this decision would be required for pensioner members, whose existing pensions would be unaffected by the aggregation changes outlined here. Circumstances where current pensioner members have underpin protection which is based on unaggregated membership and they have received an addition to their pension as a result of their underpin protection are expected to be rare[18].

9.13. The additional 12 months would apply from the date the regulations come into operation. This additional election period would not apply in respect of other periods of membership members may wish to aggregate, only to periods where a failure to aggregate would mean the member would not obtain underpin protection[19]. Good communications with members in this situation will be crucial so that they understand whether this election period applies to them and the implications of the decision they are being asked to consider.

9.14. The Public Service Pensions Act (Northern Ireland) 2014 applies certain requirements where a responsible authority[20] proposes to make scheme regulations containing retrospective provisions which appear to the authority to have 'significant adverse effects in relation to the pension payable to or in respect of members of the scheme' (section 23(1))[21]. Specifically, where this is the case, the following applies:

- the authority must obtain the consent of persons (or representatives of the persons) who appear to the responsible authority to be likely to be affected by the provisions (sections 23(1) and (3));
- the authority must lay a report before the Assembly (section 23(4));
- the regulations become subject to the affirmative procedure, meaning they have to be approved by a resolution of the Assembly (sections 24(1)(b) and 35).

9.15. We welcome stakeholders' views on whether the changes we describe in paragraphs 9.12-9.14 would have 'significant adverse effects' in relation to the pension payable to, or in respect

18 Such situations are expected to be rare due to a combination of factors. Generally, we expect that most protected LGPS (NI) members currently retiring are better off under the career average scheme, due in part to its substantially better accrual rate. Moreover, the LGPS (NI) scheme administrator is unlikely to be aware that a member has underpin protection if a member has not aggregated their previous LGPS membership. We expect that situations where a member has been awarded an underpin on unaggregated membership by their administrator and that subsequent underpin calculation has shown the final salary pension to be better than the member's career average pension would be rare.

19 However, it should be noted that LGPS (NI) employers generally have the ability to allow aggregation beyond the statutory limits set out in scheme regulations.

20 Under section 2 and schedule 2 of the Public Service Pensions Act (Northern Ireland) 2014, the Department for Communities is the responsible authority for the LGPS in Northern Ireland.

21 Certain requirements also apply under section 23(2) of the Public Service Pensions Act (Northern Ireland 2014 where the responsible authority proposes to make scheme regulations that are retrospective in nature, but which have significant adverse effects in other ways (for example, in relation to injury or compensation benefits). We are content that these provisions would not apply in respect of these proposed changes.

of, affected members. Whilst the changes would have retrospective application, the additional 12 month election period we are proposing would ensure that members have the opportunity to aggregate their pension records and obtain underpin protection if they wish.

9.16. Members who wish to keep their records separate (perhaps as they have re-joined the LGPS (NI) in a lower paid post and do not want a final salary link) would also be able to retain this position by doing nothing.

Question 9 – Do you agree that members should meet the underpin qualifying criteria in a single scheme membership for underpin protection to apply?

Question 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 (NI) benefits as a consequence of the proposed changes?

Question 11 – Do you consider that the proposals outlined in paragraphs 9.12-9.14 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 (Northern Ireland) 2014?

10. Achieving a fair and consistent underpin

10.1 Alongside the changes necessary to remedy the discrimination found by the Courts, and the aggregation proposal above, we are also proposing some changes to underpin provisions to ensure that the underpin works effectively and consistently for all members.

Breaks in service of less than five years

10.2 The Transitional Regulations do not currently make clear whether it is permitted for the underpin to be re-calculated if a protected member leaves active service and returns without a disqualifying break in service (i.e. within five years). We propose that, where a qualifying member leaves active service, rejoins within five years and aggregates their benefits, a further underpin comparison would be undertaken when they next reach their underpin date (i.e. leave active service or reach their 2009 Scheme NPA), using their final salary at the most recent date of leaving (and the results of the previous comparison disregarded). Taking this approach means that promotional pay increases that may apply where a qualifying member progresses in their career are taken into account in their underpin calculations. It also ensures younger members of the scheme have equivalent protection to their older colleagues (whose final salary benefit is based on their pay at the end of their career, after relevant promotions and pay rises). It may also benefit those qualifying members who are more likely to have a break in employment, such as women[22] or those who have a disability. However, it is proposed that qualifying members who re-join the LGPS (NI) after their 2009 Scheme NPA would not have a further underpin date, even if they aggregate their previous pension rights. This is consistent with our general approach that underpin protection only provides protection until a member's 2009 Scheme NPA.

Early/late retirement factors

10.3 When a protected member leaves the scheme, the current underpin calculation does not take into account the impact of early/late retirement factors, which may mean the calculation does not correctly identify the scheme in which the member would receive the higher benefits. This situation arises because of differences in NPAs in the 2009 and 2015 Schemes, which may mean early and late retirement factors apply at different rates. We therefore propose that the revised underpin should include a 'check' to ensure that, at the point a qualifying member takes their benefits from the scheme, they are still due to receive at least the pension they would have received under the 2009 Scheme, after the application of any early/late retirement factors. Further detail on how this will work is outlined in the next section regarding the two-stage process we intend to adopt

Death in service

10.4 The existing definition of the underpin date set out in regulation 4(2) of the Transitional Regulations does not make clear what should happen where a member who has underpin protection dies in active service. On a strict interpretation, the Transitional Regulations would therefore appear to mean that there is no underpin comparison for such a member (which could reduce any survivor benefit that may be payable). We do not believe that was or should be the policy intent. In relation to the revised underpin, we therefore propose that there would be a clear requirement for an underpin comparison to be undertaken where a qualifying member dies in service.

22 https://commonslibrary.parliament.uk/research-briefings/sn06838/

Survivor benefits

10.5 It is not always clear how the survivor benefits provisions in the 2014 Regulations apply in relation to the underpin, and whether increases in benefits arising from the underpin should be included in the calculation of survivor benefits following the death of a protected member (from any status). We intend that the amended regulations will make clearer how the underpin applies in relation to survivor benefits. In general terms, it is our policy that where a qualifying member has an addition to their pension arising from the underpin, this should be taken into account in determining the value of relevant survivor benefits, where such benefits are based on the value of the qualifying member's pension. The next section of this paper outlines our policy on the underpin and survivor benefits in more detail.

10.6 Together and individually, the changes we describe in paragraphs 10.2-10.5 are intended to be beneficial for scheme members, and are intended to ensure that the revised underpin works for all members with underpin protection in a consistent and effective way. As outlined in paragraph 7.12, we have considered the principle of minimum interference but believe that these changes are both appropriate and necessary.

Question 12 – Do you have any comments on the proposed amendments described in paragraphs 10.2-10.5?

11. A two-stage process

11.1 Under current provisions, the underpin calculation takes place at a single point in time – a member's underpin date, being the earlier of the date a member leaves active service with an immediate entitlement to a pension, and the date they reach their 2009 Scheme NPA or die. This has its advantages, such as in respect of administration. However, in the round, we now consider a two-stage underpin process would provide a more robust form of protection and the draft regulations attached propose such an approach. Under this, all qualifying members would have an 'underpin date' and an 'underpin crystallisation date':

- The purpose of the underpin date would be to provide for a provisional assessment of the underpin, broadly comparing the qualifying member's 2015 Scheme benefits in a relevant scheme membership against the 2009 Scheme benefits they would have accrued over the same period, in respect of the same membership. The underpin date would take place at the earliest of the date the qualifying member:

a) leaves active service in a relevant scheme membership,

b) reaches their 2009 Scheme NPA, or

c) dies.

Regardless of the outcome of this provisional comparison, there would be no adjustment to a member's pension at their underpin date. The purpose of the comparison at a member's underpin date would primarily be so that the member has early information on how the underpin may apply to them. This recognises that there may be many years between a qualifying member's underpin date and their underpin crystallisation date, when the final comparison is due to take place.

· The purpose of the underpin crystallisation date would be to provide for a final check at the point the qualifying member's benefits from the scheme are 'crystallised' (where the member takes their pension from the scheme). The check would be designed to ensure that qualifying members always receive at least the higher of the pension they would have been due from the 2015 Scheme and the 2009 Scheme, taking into account the impact of factors like early/ late retirement adjustments.

11.2 We consider that the use of a two-stage process will achieve the following:

· Fundamentally, it should give qualifying members greater confidence that the underpin process has given them the benefit that is better for their own personal situation, even if they take their benefits many years after they leave the scheme.

· By undertaking an initial comparison at a member's underpin date, it would give qualifying members information about how the underpin may apply to them at the earliest possible date, even if such calculations would only be provisional.

· It is more compatible with the revised underpin where members can re-join, aggregate their membership and have a further underpin date at a subsequent point in time. Until the final underpin check at a member's underpin crystallisation date, there will be no change to a member's active or deferred pension arising from the underpin.

· It reflects the fact that for most members retiring on age grounds, early and/or late retirement factors will apply in calculating their 2009 and/ or 2015 Scheme benefits. As these will not apply in the same way to a member's 2009 and 2015 Scheme entitlements (unless their 2009 Scheme NPA is the same as their State Pension age), a final check at the point benefits are paid is necessary to ensure the member is getting the higher benefit.

11.3 Further detail on the proposed two-stage process is contained in Annex B and illustrative examples of a variety of scenarios are included in Annex C.

Question 13 – Do you agree with the two-stage underpin process proposed?

12. Underpin period and final salary link

12.1 As discussed earlier in the consultation (paragraphs 7.6-7.8), we propose that:

- the revised underpin be extended to provide underpin protection to all qualifying members for service from 1 April 2015 up to and including 31 March 2022, except where a member's underpin date is sooner;
- from 1 April 2022, all LGPS (NI) membership accrues on a career average basis, with no underpin;
- but to ensure that there is an equivalent level of protection between older and younger members, the comparison of 2009 Scheme and 2015 Scheme benefits would take place at a qualifying member's underpin date, even if the underpin period ends sooner.

13. The revised underpin – application

13.1 This section describes how the revised underpin is intended to apply to qualifying members at different stages of their membership of the scheme, and at different life events.

Active membership

13.2 Whilst a qualifying member is in active service below their 2009 Scheme NPA, they will remain a member of the 2015 Scheme. For the period up to 31 March 2022, active qualifying members will accrue underpin protection. From 1 April 2022, accrual will be on a career average basis alone, but active qualifying members will retain a final salary link in relation to their underpin protection. Each year, a qualifying member's annual benefit statement will include an estimate of how the underpin would have applied to them if they had left the scheme at the end of the scheme year (i.e. as if their underpin date had been 31 March in that year). In these estimates, no account would be taken of actuarial adjustments relating to a member's age.

13.3 If a qualifying member remains in active service at their 2009 Scheme NPA of 65, their underpin date will be triggered in relation to their relevant scheme membership, meaning a comparison of their 2009 Scheme and 2015 Scheme pension (relating to the period from 1st April 2015 up to 31st March 2022, or their 2009 Scheme NPA, if earlier) would be undertaken. This calculation would be based on the member's final pay as at their 2009 Scheme NPA (taking into account appropriate lookback provisions where appropriate). The member would be informed of the results of this comparison, but also informed that a check at their underpin crystallisation date would be undertaken at the point they take their benefits to ensure they are getting the higher benefit. Final salary increases or reductions beyond the member's 2009 Scheme NPA would not impact on the member's underpin protection.

Concurrent employments

13.4 Underpin protection may apply to qualifying members who hold two or more active memberships of the scheme at the same time ('concurrent employments'). Under our proposals, underpin protection would be linked to specific scheme memberships, with members who have 'relevant scheme membership' having underpin protection on that membership. Relevant scheme membership applies where:

- a member was an active member on 31 March 2012;
- a member has been an active member of the 2015 Scheme; and
- they did not have a disqualifying break in service.

13.5 Relevant scheme membership would apply in the normal way where a qualifying member has concurrent employments – for example, if a member has two posts and meets the criteria in one but not the other, they would have underpin protection in the former post, but not the latter. Where a qualifying member leaves a concurrent post in which they had relevant scheme membership before reaching their 2009 Scheme NPA, their underpin date would apply in relation to that employment. If they were to then aggregate that membership with their ongoing post, the member would have a further underpin date at the earlier of the date they leave that post or the date they reach their 2009 Scheme NPA.[23]

[23] Under regulations 24(6) or (7) of the 2014 Regulations.

At date of leaving (without taking scheme benefits)

13.6 Where an active qualifying member leaves the LGPS (NI) before their 2009 Scheme NPA with a deferred entitlement to benefits, their underpin date would apply at their date of leaving. A provisional underpin comparison would be undertaken for the period up to 31 March 2022, or to the member's date of leaving, if earlier. The member would be informed of the results of this comparison, but also informed that a check at their underpin crystallisation date would be undertaken at the point they take their benefits to ensure they are getting the higher benefit.

Deferred membership

13.7 For qualifying members who have had an underpin date after leaving active membership of the scheme with a deferred benefit, annual benefit statements sent to the member would include details of the provisional calculations undertaken at their underpin date. The results of these calculations would be adjusted to reflect cost of living changes between the member's underpin date and the date of their annual benefit statement.

Re-joiners

13.8 Where a qualifying member who has had an underpin date in respect of a relevant scheme membership re-joins the scheme without a disqualifying break in service and aggregates their previous scheme membership with their active member's pension account[24], they will retain continuing underpin protection for any service up to 31 March 2022. For service from April 2022 onwards, the member will retain a continuing final salary link in relation to their underpin protection (as well as in respect of their pre-2015 final salary membership). A further underpin date will occur at the date the member leaves active service or the date they reach their 2009 Scheme NPA.

Age of retirement

13.9 When a qualifying member takes voluntary payment[25] of their benefits in a relevant scheme membership at any age between 55 and 75, their underpin crystallisation date will apply. This means that the final comparison of their benefits will be undertaken to determine whether the 2015 Scheme or 2009 Scheme benefits would be better. For qualifying members who retire from active status and do so

[24] Under regulation 24 of the 2014 Regulations, all scheme members must have a pension account. Unless aggregated, members have multiple pension accounts for multiple periods of scheme membership.

[25] Non-voluntary payment of benefits following redundancy and business efficiency are covered in paragraph 14.3.

before their 2009 Scheme NPA, the member's underpin date will take place as at their date of leaving[26]. The underpin crystallisation date will take place upon their pension coming into payment.

13.10 In the underpin crystallisation date calculation, the scheme administrator will take the provisional calculations from a qualifying member's underpin date and update these to take into account the effects of cost of living changes since the member's underpin date, as well as the impact of early/late retirement factors. Where the final values show that the member would have been better off under the 2009 Scheme, an addition will be made to the member's 2015 pension account. The member's total pension in that relevant scheme membership for the period from 1 April 2015 to 31 March 2022 would also be payable without any further actuarial adjustment relating to the member's age.

Ill-health retirement

13.11 For most qualifying members retiring on ill-health grounds, their date of leaving will be their underpin date[27]. As applies under the existing underpin provisions, the underpin calculation at a qualifying member's underpin date will take into account any enhancements that they may be due where they are receiving 'tier 1'[28] or 'tier 2'[29] benefits under regulation 39 of the 2014 Regulations, and compare these against the relevant enhancements that would have applied under the 2009 Scheme. This comparison of enhancements would apply up to the earlier of a qualifying member's 2009 Scheme NPA and 31 March 2022.

13.12 A qualifying member's ill-health retirement date will be their underpin crystallisation date, in all cases. This calculation will take into account cost of living adjustments between the member's underpin date and their underpin crystallisation date for members retiring from deferred status. No account will be taken of

[26] As described in paragraph 13.3, where a qualifying member is in active service at their 2009 Scheme NPA, this would be their underpin date.

[27] With the exception of deferred members taking ill-health retirement under regulation 37 of the 2014 Regulations, and members who have previously reached their 2009 Scheme normal retirement age.

[28] Subject to other criteria that apply, tier 1 benefits apply to members retiring on ill-health grounds who are unlikely to be able to undertake gainful employment before their NPA (regulation 36(4)). Members receiving tier 1 benefits receive an adjustment to their pension equalling the full benefits they would have accrued between date of leaving and their 2015 Scheme NPA.

[29] Subject to other criteria that apply, tier 2 benefits apply to members retiring on ill-health grounds, but who are likely to be able to undertake gainful employment before reaching their NPA (regulation 35(6)). Members receiving tier 2 benefits receive an adjustment to their pension equalling 25% of the benefits they would have accrued between date of leaving and their 2015 Scheme NPA.

actuarial reductions relating to their age as these do not apply in relation to ill-health retirements, but where the qualifying member is over their 2009 Scheme or 2015 Scheme NPA, the impact of actuarial increases will be considered.

Death benefits

13.13 As noted earlier, under existing scheme regulations, it is sometimes unclear how scheme death benefits interact with the underpin. Our policy intent is set out in this section, and we have aimed to make these points clearer in the draft regulations. These clarifications are essential to ensuring that the underpin works effectively and consistently.

Deaths in service

13.14 For a qualifying member in active service, their date of death will be both their underpin date and their underpin crystallisation date. It is proposed that the underpin comparison would take into account the enhancements that apply under the 2009 and 2015 Scheme regulations in relation to deaths in service. This comparison of enhancements would apply up to the earlier of the qualifying member's 2009 Scheme NPA and 31 March 2022. This would be a new addition to the underpin regulations, and would be consistent with the approach taken in relation to ill-health retirements (outlined above in paragraph 13.11).

13.15 No adjustment relating to the underpin would apply to a qualifying member's death grant, as death grants for active members are based on a member's pay, not their pension.

13.16 Where survivor benefits are payable following a death in service of a qualifying member, the underpin comparison would be based on the provisional calculations and would not take into account the impact of early or late retirement factors which do not apply in relation to survivor benefits. Where there is an addition (i.e. the 2009 Scheme benefit is higher, based on the unadjusted values), this addition would apply in the calculation of the survivor's benefit, at the appropriate accrual rate for each type of survivor.

Deaths - deferred status

13.17 Where a qualifying member dies as a deferred member, their underpin date will have already taken place (on the date the member left active service, or on their 2009 Scheme NPA, if earlier). The day of the member's death would be their underpin crystallisation date.

13.18 Where survivor benefits are payable following a death from deferred status, the underpin comparison would be based on the provisional calculations and would not take into account the impact of early or late retirement factors which do not apply in relation to survivor benefits. Where there is an addition (i.e. the 2009 Scheme benefit is higher, based on the unadjusted values), this addition would apply in the calculation of the survivor's benefit, at the appropriate accrual rate for each type of survivor.

13.19 Any addition arising from the provisional calculations undertaken at a member's underpin date will also apply in the calculation of the death grant. For deferred members, a death grant applies at 5 times the annual rate of pension, without actuarial adjustment relating to the age of the member.

Deaths - pensioner status

13.20 Where a qualifying member dies in receipt of their pension, the underpin date and the underpin crystallisation date will already have taken place.

13.21 Where survivor benefits are payable following the death of a pensioner, the underpin comparison will be based on the provisional calculations undertaken at a qualifying member's underpin date and will not take into account the impact of early or late retirement factors which do not apply in relation to survivor benefits. Where there is an addition (i.e. the 2009 Scheme benefit is higher, based on the unadjusted values), this addition will apply in the calculation of the survivor's benefit, at the appropriate accrual rate for each type of survivor.

13.22 Any addition arising from the provisional underpin calculation will also apply in the calculation of the death grant, where applicable. For pensioner members, a death grant applies at 10 times the annual rate of pension, reduced by the actual amount of pension the member received prior to their death and by any lump sum commutation.

Public Sector Transfer Club transfers

13.23 LGPS (NI) is a member of the Public Sector Transfer Club[30]. The Club is an arrangement that facilitates the mobility of employment within the public sector by, for example, enabling employees to avoid the reduction in the value of their accrued pension that could otherwise occur as a result of changing employment. Final salary pension transferees are awarded a service credit that maintains the

[30] https://www.civilservicepensionscheme.org.uk/members/public-sector-transfer-club/

member's final salary link for the pension accrued in their previous scheme. CARE transferees are awarded a pension credit that continues the rate of in-service revaluation that was provided in the member's previous scheme. The intention of the Club is that a member should not lose out as a result of changing employment within the public sector. Equally, the member should not receive benefits that are higher in value than if they had not changed employment.

13.24 The DoF consultation regarding the unfunded schemes includes a section seeking views on how transfers under the Public Sector Transfer Club may work in relation to the remedy proposals outlined in that consultation. It sets out that one option would be for a member to make a choice between career average and final salary benefits at the date of transfer, so that only one set of scheme benefits for the remedy period needs to be considered for the transferred service.

13.25 The consultation also notes that considerations in LGPS (NI) may be different, given the different nature of transitional protection in LGPS (NI) and that we would consult on more detailed proposals in relation to Club transfers between LGPS (NI) and the other public service pension schemes

13.26 One approach, which would be consistent with the option outlined in the wider (DoF) consultation, would be for the same principle to apply. This would mean the following:

a) For Club transfers of protected service (accrued between April 2015 and March 2022) into LGPS (NI) - the local fund would give the member the option of deciding whether they wanted to use the transfer to buy final salary membership or career average pension in relation to the transferred service. Quotations would be provided to help members make an informed choice.

b) For Club transfers of protected service (accrued between April 2015 and March 2022) out of LGPS (NI) – the receiving scheme administrator would give the member the option of deciding whether they wanted to use the transfer to buy final salary membership or career average pension in relation to the transferred service (which in the LGPS would have provided them with underpin protection). Quotations would be provided to help members make an informed choice.

13.27 It should be noted that, in certain situations, a transferring member might be at an advantage if the transitional protection could continue in their new scheme (for example, if members transferring into LGPS (NI) were to obtain underpin protection for protected service they transfer in, or LGPS (NI) members transferring out were to obtain a choice in their new schemes). However, such an approach would likely lead to significant administrative complexity across the public sector.

13.28 We propose that, consistent with existing LGPS (NI) regulations[31], where a member with final salary membership in another public service pension scheme transfers that membership into the LGPS (NI), and they would have met the qualifying criteria for underpin protection in the LGPS (NI) had they been a member of the scheme, they would be granted underpin protection for their LGPS (NI) membership up to 31 March 2022. This would apply even if the initial transfer into LGPS (NI) was not a Club transfer.

13.29 We welcome views from respondents on the options set out here. The final approach in relation to transfers within the Public Sector Transfer Club will be considered across Government, taking into account the responses to this consultation along with those to the wider consultation.

Non-Club transfers

13.30 Where a qualifying member transfers relevant scheme membership and the transfer is not a 'Club' transfer[32], a different approach is proposed. The date of transfer would be their underpin crystallisation date. In the draft regulations we propose that the detailed requirements in relation to such cases will be contained in actuarial guidance issued by the Department. We propose that the actuarial guidance we issue will require the following approach:

1. Calculate Cash Equivalent Transfer Values (CETVs) of the following:

a. the member's accrued rights,

b. the member's 'provisional assumed benefits' (see **Annex B**), and

c. the member's 'provisional underpin amount' (see **Annex B**).

2. Where (c) is greater than (b) add the difference between the two amounts to (a) and that is the total CETV.

3. Where (c) is not greater than (b), just pay the CETV based on the member's accrued rights (i.e. the CETV calculated at (a)).

[31] Regulation 9(1), (1A) and (2) of the Transitional Regulations.

[32] Either because it is not a transfer to a pension scheme in the Public Sector Transfer Club, or because it does not qualify as a Club transfer.

13.31 This approach would be consistent with the general approach taken to calculating pension benefits under the underpin, and should achieve a similar outcome.

13.32 Where a member with underpin protection has transferred in pension rights from another scheme that is not a public service pension scheme, the value of the transfer would not be taken into account for the purposes of the member's underpin calculations. This is the same as applies in relation to transfers under the existing underpin regulations

14. Other ways of taking benefits

Flexible retirement

14.1 Where a qualifying member makes an election to reduce their working hours or grade in an employment, with their employer's consent, that would be their underpin date, even though they remain in active employment after this date. As applies under the existing underpin provisions, no further underpin protection would apply after a qualifying member's date of flexible retirement. The underpin crystallisation date calculation, also undertaken at the point of a member's flexible retirement, would take into account the impacts of early and late retirement factors to determine which scheme benefit is better for the individual.

14.2 Where a qualifying member takes 'partial' flexible retirement, i.e. they do not take all the benefits they accrued prior to their flexible retirement date straight away, there is a question about the appropriate treatment of the underpin. We propose that, in partial flexible retirement situations, where there is an addition to the member's pension arising from the underpin (i.e. because the 2009 Scheme benefit is higher), the amount of the addition given to the member at that point in time should be proportionate to the amount of the 2015 Scheme pension they are choosing to receive. For example, if a member is only receiving 20% of their 2015 Scheme pension upon flexibly retiring, they would only receive 20% of the underpin addition. The remainder would be payable at the point the member takes the rest of their benefits.

Redundancy[33]

14.3 Redundancy below a qualifying member's 2009 Scheme NPA would trigger their underpin date. For members aged 55 or over, who have an immediate entitlement to their

[33] This paragraph also covers members leaving active membership of the LGPS (NI) on grounds of business efficiency.

pension at point of redundancy, the date their redundancy pension commences would also be their underpin crystallisation date.

14.4 As actuarial reductions do not apply in this situation, no account should be taken of these in the final underpin comparison. However, actuarial increases, where the member is made redundant after their 2009 Scheme or 2015 Scheme NPA, should be considered in the usual way.

Trivial commutation[34]

14.5 Under regulation 35 of the 2014 Regulations, members with small total pension rights can extinguish their future right to a pension from the scheme and receive a lump sum instead ('trivial commutation'). Under our proposals, qualifying members trivially commuting their pension will already have had their underpin date, as at their date of leaving the LGPS (NI) or reaching their 2009 Scheme NPA. If a qualifying member has not yet taken their pension, the date they trivially commute their benefits would be their underpin crystallisation date and the draft regulations propose the detailed requirements in relation to such cases will be contained in actuarial guidance issued by the Department. This is consistent with the general approach set out in the 2014 Regulations[35]. We propose that the actuarial guidance we issue will require the following approach:

1. Calculate the trivial commutation sum due of the following:

a. the member's total accrued rights,

b. the member's 'provisional assumed benefits' (see **Annex B**), and

c. the member's 'provisional underpin amount' (see **Annex B**).

2. Where (c) is greater than (b), add the difference between the two amounts to (a) and that is the total sum due.

3. Where (c) is not greater than (b), just pay the trivial commutation sum based on the member's accrued rights (i.e. the sum calculated at (a)).

14.6 This approach would be consistent with the general approach taken to calculating pension benefits under the underpin and should achieve a similar outcome. Where a qualifying member who trivially commutes their benefits has already taken their pension from

34 This paragraph also covers members taking benefits via any of the other means referred to in regulation 35 of the 2014 Regulations. These payments are made at the discretion of the Scheme administrator.

35 Regulation 35(2) of the 2014 Regulations requires that payments of the description contained in regulation 35(1) are to be calculated in accordance with actuarial guidance issued by the Department.

the LGPS (NI) (and had an underpin crystallisation date in doing so), there would be no further underpin calculations due at the point of the trivial commutation.

Question 14 – Do you have any comments regarding the proposed approaches outlined above?

Question 15 – Do you consider there to be any notable omissions in our proposals on the changes to the underpin?

15. Supplementary matters

Annual benefit statements

15.1 Pension schemes are vitally important workplace benefits. For many people contributing to a pension scheme, the annual benefit statement (ABS) is the main way that they receive updates on the value of their pension and when they will be able to receive it. Whilst it is true that information presented on an ABS about the underpin cannot provide certainty to a qualifying member on their underpin protection (in most cases, there will not be certainty until a member's underpin crystallisation date), we believe it is important that estimates are provided on member ABSs if scheme regulations are amended in the manner outlined in this paper. Appropriate wording would need to be considered so that members have the information needed to understand how the underpin works and that the figures included in their statement are provisional, and may change. We will work on agreeing standardised wording that LGPS (NI) can include in ABSs regarding underpin protection.

15.2 Our draft regulations propose the following approach for members who meet the underpin qualifying criteria and have relevant scheme membership:

- that where a member is in active service below their 2009 Scheme NPA, their ABS should estimate the value of the underpin to the individual as if the end of the Scheme year[36] was their underpin date – including the provisional assumed benefits, the provisional underpin amount and any provisional guarantee amount;
- that where a member remains in active service beyond their 2009 Scheme NPA, their ABS should include the provisional estimates from the member's underpin date, as updated to reflect cost of living changes to the end of the Scheme year;

[36] Under Schedule 1 of the 2014 Regulations, a period of one year beginning with 1st April and ending with 31st March.

· for deferred members, their ABS should include the provisional estimates from the member's underpin date, as updated to reflect cost of living changes to the end of the Scheme year.

Question 16 – Do you agree that annual benefit statements should include information about a qualifying member's underpin protection?

Question 17 – Do you have any comments regarding how the underpin should be presented on annual benefit statements?

Annual allowance

15.3 The annual allowance is the maximum amount of tax-relieved pension savings that can be accrued by an individual in a year. The standard annual allowance is currently £40,000 but, for those on the highest incomes, it tapers down to a minimum level of £10,000 (from April 2016 to March 2020) and to £4,000 (from April 2020). For defined benefit pension schemes like LGPS (NI), liability for tax charges above the annual allowance is calculated using the value of pension accrued in a particular year. Where an individual's pension accrual in a single year exceeds the annual allowance, then a tax charge may be due on the amount accrued above the member's annual allowance[37] to claw back the excess tax relief.

15.4 Whilst we would not expect a significant number of qualifying members to experience any change to their tax liability as a result of the proposals in this consultation document, it is important that underpin protection is considered for the purposes of determining a qualifying member's annual allowance.

15.5 LGPS (NI) regulations do not contain detailed provisions regarding the application of pensions tax to scheme benefits. The scheme administrator must follow the pensions tax framework as set out in the Finance Act 2004 and secondary legislation, and as explained in HMRC's Pensions Tax Manual[38]. Consistent with our approach generally, we do not plan to include in scheme regulations specific details regarding the tax treatment of the revised underpin.

15.6 We understand that the scheme administrator has generally been taking the following approach in relation to the current underpin and

[37] However, 'carry forward' provisions allow members to carry forward unused annual allowance for the previous three years.

[38] https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual

the annual allowance (in line with guidance issued in relation to other Local Government Pension Schemes)[39]:

- Whilst a protected member is in active service and their underpin date has not yet occurred, no account has been taken of a member's underpin protection for the purposes of determining a member's pension input amount in a given pension input period. This reflects that, under existing scheme regulations, a member may only receive an addition to their pension at the point of their underpin date.
- In the year of a protected member's underpin date, any addition in the member's pension arising from the comparison undertaken at the member's underpin date would be considered for the purposes of determining a member's pension input amount in that pension input period.

15.7 Whilst interpretation and application of the requirements of the Finance Act 2004 is a matter for the scheme administrator to consider, we believe that this approach is correct and would remain so if our proposals were to be implemented in scheme regulations. However, a change will be needed to reflect that, under our proposals, the point where an addition may arise from the underpin would be different. As described in paragraphs 11.1 and 11.2, our proposal is that the underpin moves to a 'two stage process'. Under this, a member's underpin protection can only result in a change to their pension entitlement at their 'underpin crystallisation date' and under our proposals it would be in this pension input period that the underpin should first be given consideration for the purposes of the annual allowance. As there would be no change to a member's pension entitlement at the point of a member's underpin date, the underpin should not be given consideration for annual allowance purposes in that pension input period[40].

15.8 However, we recognise that there may be circumstances where this approach means that a qualifying member has a higher pension input amount in the year of their underpin crystallisation date than an approach where the potential value of the underpin is considered on a year-by-year basis whilst a qualifying member remains in active membership. This may particularly be the case for qualifying members who have a relatively low career average pension for the years from 1 April 2015 to 31 March 2022,

[39] 'The Underpin' technical guide, latest version v1.8 (dated 18/07/2018), http://lgpsregs.org/resources/guidesetc.php

[40] Except where the member's underpin crystallisation date occurs in the same pension input period.

but a relatively high final salary pension over the same period. This may occur where a qualifying member is at an early stage of their career now, but goes on to be a high-earner in the future. We would appreciate views from stakeholders on the potential likelihood of this issue arising, the scale of the issue and how any impacts might be mitigated, if appropriate.

Question 18 – Do you have any comments on the potential issue identified in paragraph 15.8?

Implementation and impacts

16.1 Following the closure of the consultation, we will consider the consultation responses received in detail to determine the best approach for removing the unlawful age discrimination from LGPS (NI) regulations.

16.2 The draft regulations at **Annex A** have been prepared based on existing powers under the Public Service Pensions Act (NI) 2014. However, as noted in the wider DoF consultation[41] on removing the unlawful age discrimination from public service pension schemes, new legislation regarding public service pensions will be required. When proposals for removing the unlawful discrimination are finalised, further consideration will be given to the appropriate powers for the changes, based on the legislation in force at the time.

16.3 We recognise that in the period between now and scheme regulations being amended, some members of the scheme who would be due to benefit from the changes outlined in this paper will crystallise scheme benefits. This will include voluntary age retirements as well as ill-health retirements, redundancies and transfers. There will also be deaths where survivor benefits are payable. In respect of all such cases, we would expect the retrospective application of our proposed amending regulations to ensure that, overall, members and their dependents would get the full benefit of the revised underpin.

17. Communications

17.1 As noted in paragraphs 15.1 and 15.2 (annual benefit statements), member communications in relation to the proposals outlined here will be vitally important to ensure members understand what underpin protection is and how it may or may not apply to them. This is particularly important due to the complexities of the underpin. The two-stage process we describe in paragraphs 11.1 and 11.2 is designed to protect members and to provide clarity, but it is important that its purpose is well explained, so that qualifying members understand that they may have an addition to their pension arising from the underpin, even if there was not an addition at

[41] https://www.finance-ni.gov.uk/consultations/consultation-proposed-changes-transitional-arrangements-2015-schemes Paragraph 1.16 on page 7 refers.

their underpin date. Equally, qualifying members should be aware that the benefits payable from the 2015 Scheme are very good and, for many, underpin protection will not result in an increase to their pension entitlement.

17.2 Achieving good member communications, and deciding on the appropriate medium for those communications, will require input from stakeholders across the LGPS in Northern Ireland, including NILGOSC, employers and trade unions.

Question 19 – What principles should be adopted to help members understand the implications of the proposals outlined in this paper?

18. Administrative impact

18.1. We are conscious that the proposals outlined in this consultation paper would require significant changes to administration practices and systems. Amongst other matters, the scheme administrator would need to consider the appropriate prioritisation of cases after amendments to regulations are made.

18.2. Prioritisation of decisions will be influenced by the fact that the revised underpin would have retrospective effect to April 2015, meaning that some members would already be in receipt of pensions that would need to be re-calculated, and retrospectively applied, in line with the new regulations.

18.3. A major challenge of implementing the changes proposed would apply in respect of obtaining additional data from employers for members who are newly benefitting from underpin protection – estimated to be around 10,500 individuals in the LGPS (NI). Under the 2015 Scheme, certain member data which was required for administering the 2009 Scheme (such as details of members' working hours and breaks in service) are not required for calculating member benefits. To administer the revised underpin, administrators would need to obtain this data for qualifying members for the period back to April 2015. This would be a highly significant exercise for the scheme and its 171 employers. Particular challenges are likely to arise where employers have changed their payroll provider, and the data isn't stored in current systems.

Question 20 – Do you have any comments to make on the administrative impacts of the proposals outlined in this paper?

Question 21 – What principles should be adopted in determining how to prioritise cases?

Question 22 – Are there material ways in which the proposals could be simplified to ease the impacts on employers, software systems and scheme administrator?

18.4. Guidance would help support a consistent approach across LGPS (NI) which would be desirable, in particular on matters like prioritisation. It would also potentially help on the complex issues connected with the fact that scheme employers would need to provide the scheme administrator with membership data going back to April 2015.

Question 23 – What issues should be covered in administrative guidance issued by the Department, in particular regarding the potential additional data requirements that would apply to employers?

Question 24 – On what matters should there be a consistent approach to implementation of the changes proposed?

19. Costs

19.1 The LGPS in Northern Ireland is a locally administered, funded scheme with three-yearly funding valuations to determine employer contribution rates. The next funding valuation is due on 31 March 2022. The contribution rates payable by each employer or groups of employers may differ because they allow for each employer's or group's membership profile, funding target and funding level, recovery period and other parameters appropriate to their circumstances. The majority of employers participate in the Main Group and have a pooled contribution rate.

19.2. As a result of this backdrop, it is not possible to say how these changes would impact employer contribution rates at future valuations. However, the proposals in this paper can only lead to improvement in scheme benefits for qualifying members and, by necessity, there will be an upward cost pressure for employers. Although, because a variety of factors influence LGPS (NI) employer contribution rates, this upward pressure does not necessarily mean any particular employer's contributions will go up as a result of these changes. Where any employer would like to understand how these proposals may affect their own position, they should speak to NILGOSC.

19.3. At a scheme level, costing estimates have been provided by the scheme actuary[42], the Government Actuary's Department, based on data provided by NILGOSC for the 2016 valuation.

[42] As appointed under regulation 123 of the 2014 Regulations.

Assuming future member experience replicates the average 2016 scheme valuation assumptions[43] the future cost to LGPS (NI) employers could be around £75m in the coming decades.

19.4. The costs are sensitive to both individual member experience and future pay. Predicting whether the underpin becomes valuable in the future depends heavily on assumptions on long-term future pay growth trends. In this estimate, we have used the 2016 valuation assumption that annual long-term pay growth is CPI + 2.2%. However, if long-term pay growth in the LGPS (NI) is lower than this, the costs may be lower (and vice versa).

19.5. The cost control mechanism[44] was paused in February 2019 given the uncertainty arising from the McCloud judgment[45].

Question 25 – Do you have any comments regarding the potential costs of the McCloud remedy?

20. Human Rights

20.1 The Department believes that the proposals set out in the draft Regulations are compatible with the Human Rights Act 1998.

21. Equality

21.1 The Department considers that the draft Regulations do not contain proposals which create a significant adverse impact on the categories of person identified in section 75 of the Northern Ireland Act 1998. The remedy is specifically designed to address current age discrimination.

21.2 In order to inform our screening process, the Government Actuaries Department (GAD) carried out an analysis of the likely effect of the proposed remedy on the current LGPS (NI) membership specifically in relation to age and gender. A synopsis is included below.

21.2 The GAD analysis is based on data on the active members of LGPS (NI) as at 31 March 2019. Under our proposals, the proposed changes to the underpin would be backdated to 1st April 2015. We would therefore expect that a

[43] As set out in directions issued by DoF.

[44] Regulation 124 of the 2014 Regulations.

[45] https://www.finance-ni.gov.uk/publications/public-service-pensions-valuations-and-employer-cost-cap-amendment-directions-northern-ireland-2019

number of additional members not included in the analysis would benefit from our proposals. However, we do not anticipate this limitation would significantly change the results of the analysis.

21.3 The analysis has principally considered those who would benefit from the proposals outlined in this consultation. Members who already have underpin protection under existing provisions have not been considered directly.

21.4 The proportion of the qualifying membership which is eventually likely to be better off as a result of underpin protection is heavily influenced by the rate of future pay growth in the LGPS (NI). Consistent with the assumption used for the 2016 valuations of public service pension schemes, the long-term annual future pay growth assumption used is CPI + 2.2%.

21.5 The analysis is based on an "average" member at each particular age. Allowing for variations in individual members' future service or salary progression could produce different figures.

Age

21.6 The proposals outlined here are intended to remove age discrimination, which had been found to be unlawful in the GB firefighters' and judicial pension schemes, from the LGPS (NI) rules governing the underpin. We consider that the changes proposed will significantly reduce differential impacts in how the underpin applies based on a member's age, by removing the age-related qualifying criteria found to be unlawful by the Courts.

21.7 Based on analysis undertaken by GAD on active membership data for the LGPS (NI) as at 31 March 2019, we anticipate that some differences in how the revised underpin would apply to members of different age groups would remain.

21.8 GAD's analysis shows that older active members on 31 March 2019 would be more likely to qualify for the revised underpin than younger active members. This is principally because of our proposal that the 31 March 2012 qualifying date for underpin protection is retained. The proportion of members active in the scheme as at 31 March 2019 who had been members of the scheme on 31 March 2012 is lower for younger members, as experience shows they have a higher withdrawal rate from active scheme membership. We consider that members joining the LGPS (NI) after 31 March 2012 do not need to be provided with underpin protection. Members joining the LGPS (NI) after 31 March 2012 fall into two groups:

a) members who joined after 1 April 2015 when the LGPS (NI) had already reformed to a career average structure, and

b) members who joined between 1 April 2012 and 31 March 2015, who joined the LGPS (NI) when it was still a final salary scheme, but when a well-publicised reform process was already underway.

21.9 In relation to both groups, it was considered that providing them with underpin protection would not be appropriate. Transitional protection, as applied across public service pension schemes, was always designed to help members with the transition from the old scheme designs to the new (in the LGPS (NI), mainly in relation to the move from a final salary to a career average structure). Members who joined after 31 March 2012 will have joined the LGPS (NI) when either it had already transitioned to the career average structure, or when it was well publicised that the LGPS (NI) benefits were reforming.

Members who benefit from the underpin

21.10 The Government Actuary's Department's analysis shows that active members between the ages of 41 and 60 would be more likely to benefit from the revised underpin (i.e. where the calculated final salary benefit is higher than the calculated career average benefit) than both their younger and older colleagues. This reflects previous experience and future expectation that:

a) this group are more likely than older colleagues to experience the pay progression that would make the final salary benefit higher over the underpin period (bearing in mind that the career average accrual rate (1/49ths) is better than the final salary accrual rate (1/60ths) so above inflation pay increases are needed for the underpin to lead to an increase in pension), and

b) this group are more likely than younger colleagues to remain in active membership until they receive the pay progression necessary for the underpin to result in an addition to their pension. Younger members are estimated to have a higher voluntary withdrawal rate than older members, and so would be less likely to remain in the LGPS (NI) until such time as they have the pay increases for the final salary benefit to be higher.

21.11 These differential impacts reflect the fact that final salary schemes typically benefit members with particular career paths (for example, they usually favour high-earners with long service). It is proposed to move all local government pensions accrual to a career average basis, without underpin protection, from April 2022 to apply a fairer system to all future service.

Gender

21.12 The majority of LGPS (NI) active members are women and so the majority of those who would qualify for the remedy and would be expected to benefit from it are women. As at 31 March 2019:

a) 66% of scheme members were female, and 34% male;

b) 61% of the scheme members who were estimated to qualify for the revised underpin protection were female, and 39% male; and

c) 62% of the scheme members who were estimated to benefit from the revised underpin were female, and 38% male.

21.13 However, proportionally speaking, men have a higher expectation of qualifying for and gaining from the remedy.

21.14 About 41% of women who are active members as at 31 March 2019 are expected to have underpin eligibility extended to them, compared with 50% of men. 44% in total will become eligible.

21.15 Around 19% of women and 22% of men who are active members as at 31 March 2019 are expected to benefit from having the underpin eligibility extended to them. 20% in total will benefit.

21.16 This difference is the result of men being more likely to have joined the Scheme prior to 1 April 2012 and therefore qualifying for the remedy.

Other protected groups

21.17 Whilst limited data is available, we do not consider that the changes to underpin protection proposed in the consultation will result in any adverse differential impact to LGPS (NI) members with the following protected characteristics: religious belief, political opinion, racial group, marital status, sexual orientation or disability. As described in para 10.5 survivor benefits will benefit from the underpin under these proposals.

Next steps

21.18 We welcome suggestions from stakeholders of other data that may help us better understand the impacts on the LGPS (NI) membership.

21.19 We welcome views from stakeholders on our analysis. These views will be considered in determining how to proceed following the consultation exercise. The potential equalities impacts of our proposals will be kept under review.

Question 26 – Do the proposals contained in this consultation adequately address the discrimination found in the 'McCloud' and 'Sargeant' cases?

Question 27 - Are you aware of additional data that would help assess the potential impacts of the proposed changes on the LGPS (NI) membership, in particular for the protected characteristics other than those covered by the GAD analysis (age and sex)?

Question 28 – Are there other comments or observations on equalities impacts you would wish to make?

22. Regulatory Impact Assessment

22.1 The Department considers that the proposed amendments will not have a direct impact on businesses, charities, social economy enterprises or the voluntary sector.

23. Rural Proofing

23.1 The Department considers that the proposed amendments in the draft Regulations will not have any differential impact on people living in rural areas.

Annexes

Annex A

STATUTORY RULES OF NORTHERN IRELAND

2020 No.

LOCAL GOVERNMENT

The Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2020

Made - - - -	***
Coming into operation -	***

The Department for Communities([46]), with the consent of the Department of Finance([47]), makes these Regulations in exercise of the powers conferred by sections 1, 3 and 25 of, and Schedule 3 to, the Public Service Pensions Act (Northern Ireland) 2014([48]), and now vested in it([49]).

In accordance with section 21 of that Act, the Department has consulted with such persons or representatives of such persons as appear to the Department likely to be affected by these Regulations.

The retrospective provisions contained in these Regulations do not appear to the Department to have significant adverse effects in relation to the pension payable to or in respect of members of the scheme established by The Local Government Pension Scheme Regulations (Northern Ireland) 2014([50]), or the schemes preserved by the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014([51]), nor in any other way in relation to members of those schemes.

([46]) Formerly known as the Department for Social Development; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.).

([47]) Formerly known as the Department of Finance and Personnel; *see* the Departments Act (Northern Ireland) 2016 c.5 (N.I.).

([48]) 2014 c.2 (N.I.).

([49]) See S.R. 2016 No. 76, Article 8 of and Schedule 5 to the Departments (Transfer of Functions) Order (Northern Ireland) 2016 transferred functions to the Department for Communities which were previously exercisable by the Department of the Environment.

([50]) S.R.2014 No. 188 as amended by S.R. 2015 No. 77, S.R. 2015 No. 162, S.R. 2016 No. 128, S.R. 2019 No. 206 and S.R 2020 No. 77.

([51]) S.R.2014 No. 189 as amended by S.R. 2015 No. 162, S.R. 2016 No. 128, S.R. 2016 No. 329, S.R. 2019 No. 206 and S.R. 2020 No. 77.

Accordingly, the procedures set out in section 23 of that Act are not applicable in respect of these Regulations.

Citation, commencement and retrospection

1.—(1) These Regulations may be cited as The Local Government Pension Scheme (Amendment No. 2) Regulations (Northern Ireland) 2020 and, except as provided for in paragraph (2), shall come into operation on XX Month Year.

(2) Regulations 2, 4, 5 and 6 shall come into effect from 1st April 2015.

Amendment of The Local Government Pension Scheme Regulations (Northern Ireland) 2014

2. The Local Government Pension Scheme Regulations (Northern Ireland) 2014 are amended in accordance with regulations 3 and 4.

3. In regulation 99 (annual benefit statements) after paragraph (4) insert—

> "(5) Where regulation 4 (statutory underpin) of the Transitional Regulations applies, the statement in respect of a relevant scheme membership must include the following additional information for active members who had not reached their 2009 Scheme normal retirement age at the end of the scheme year to which it relates—
>
> (a) the provisional guarantee amount;
>
> (b) the provisional assumed benefits; and
>
> (c) the provisional underpin amount;
>
> which would apply if the member's underpin date was the closing date of the Scheme year to which the statement relates.
>
> (6) Where regulation 4 of the Transitional Regulations applies, the statement in respect of a relevant scheme membership must include the following additional information for deferred members—
>
> (a) the provisional guarantee amount;
>
> (b) the provisional assumed benefits; and
>
> (c) the provisional underpin amount;
>
> calculated as at their underpin date and adjusted by the appropriate index rate adjustment to the end of the Scheme year to which the statement relates.
>
> (7) Where regulation 4 of the Transitional Regulations applies, the statement in respect of a relevant scheme membership must include the following additional information for active members who had reached their 2009 Scheme normal retirement age at the end of the relevant Scheme year—
>
> (a) the provisional guarantee amount;
>
> (b) the provisional assumed benefits; and
>
> (c) the provisional underpin amount;
>
> calculated as at their underpin date revalued to the end of the Scheme year to which the statement relates.
>
> (8) The provisional guarantee amount is calculated in accordance with regulation 4(10) of the Transitional Regulations.
>
> (9) The provisional assumed benefits are calculated in accordance with regulation 4(12) of the Transitional Regulations.
>
> (10) The provisional underpin amount is calculated in accordance with regulation 4(15) of the Transitional Regulations.".

4.—(1) In Schedule 1 (interpretation)—

(a) after the definition of "the 2009 Regulations" insert—

> ""the 2009 Scheme" means the occupational pension scheme constituted by the 2009 Regulations "; and

(b) after the definition of "registered pension scheme" insert—

""relevant scheme membership" has the meaning given by regulation 4(2) of the Transitional Regulations;".

Amendment of The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014

5. The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 are amended in accordance with regulation 6.

6. For regulation 4 (statutory underpin), substitute—

"**4.**—(1) This regulation applies to a person who—

(a) was an active member of the 2009 Scheme on the 31st March 2012;

(b) is or has been an active member of the Scheme;

(c) does not have a disqualifying break in service; and

(d) is not a councillor member.

(2) A member's relevant scheme membership is a single Scheme membership which meets the requirements of paragraph (1).

(3) Where a member has had periods of concurrent employment, or a break in service that is not a disqualifying break in service, a member only has a relevant scheme membership if the member's scheme membership including the period referred to in paragraph (1)(a) has been aggregated with that member's active member's pension account, where—

(a) the member—

(i) joins the Scheme by virtue of regulation 5(1) (membership of the scheme); and

(ii) chooses to aggregate under regulations 12 (re-employed and rejoining deferred members) or 13 (concurrent employments) of the Administration Regulations;

(b) regulation 9A(5) (aggregation adjustments etc.) applies or the member elects to receive a transfer value payment in relation to deferred benefits under regulation 9A(6); or

(c) regulation 24(5), 24(6) or 24(7) (pension accounts) of the 2014 Regulations applies or the member elects to aggregate under regulation 24(8) of the 2014 Regulations.

(4) Paragraph (5) applies where;

(a) an active or deferred member would otherwise have relevant Scheme membership;

(b) but prior to [XXXXXXXX] previous Scheme membership, including the period referred to in paragraph (1)(a), had not been aggregated with the member's Scheme pension account under paragraph (3).

(5) Where this paragraph applies, an active or deferred member has a twelve month period commencing from [XXXXXXXXX] to elect to aggregate the previous Scheme membership that would give the member relevant Scheme membership.

(6) Subject to paragraphs (7) and (8), a member's underpin date in a relevant Scheme membership is the earliest of—

(a) the date the member attained the normal retirement age applicable to that member under the 2009 Scheme;

(b) the date the member ceased to be an active member of the Scheme in an employment with a deferred or immediate entitlement to a pension; or

(c) where a member elects with the relevant employing authority's consent, to receive immediate payment under regulation 31(6) (retirement benefits) of the 2014 Regulations, the date from which the benefits are payable.

(7) A member's date of death shall be their underpin date in a relevant scheme membership where that date is earlier than the date provided for by paragraphs (6)(a) or (6)(b).

(8) A member to whom paragraph (6)(b) has applied may have further underpin dates under paragraphs (6) or (7) where they have either—

(a) become an active member of the Scheme again before reaching their 2009 Scheme normal retirement age without a disqualifying break in service and aggregated their previous relevant scheme membership with their active member's pension account under regulation 24(8) of the 2014 Regulations; or

(b) continued in active membership of the Scheme in an employment which had been concurrent with the employment through which they had an underpin date under paragraph (2)(b) and aggregated their previous relevant scheme membership with their active member's pension account under regulation 24(7) of the 2014 Regulations.

(9) A disqualifying break in service for the purposes of paragraph (1)(c) is a continuous break, after 31st March 2012 of more than 5 years in active membership of a public service pension scheme.

(10) A member's provisional guarantee amount in a relevant scheme membership is the amount by which a member's provisional underpin amount exceeds the provisional assumed benefits on their underpin date.

(11) Where paragraph (8) applies, the value of the member's provisional assumed benefits, provisional underpin amount and provisional guarantee amount as calculated at their latest underpin date must be used for the purpose of this regulation.

(12) The provisional assumed benefits are calculated by assessing the benefits the member would have been entitled to under the Scheme in a relevant Scheme membership if—

(a) the member had paid contributions under regulation 11 (contributions) of the 2014 Regulations from 1st April 2015 to 31st March 2022 or the member's underpin date, whichever date is the earlier, but excluding—

(i) any period when the member was not an active member;

(ii) any period of absence from work with no pensionable pay in consequence of a trade dispute which the member has not covered by additional pension under regulation 18 (additional pension contributions) of the 2014 Regulations; and

(iii) any period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave which the member has not covered by additional pension under regulation 18 (additional pension contributions) of the 2014 Regulations;

(b) the member had in the period between 1st April 2015 and the 31st March 2022 or the member's underpin date, whichever date is the earlier, paid no additional contributions under—

(i) regulation 18 (additional pension contributions) of the 2014 Regulations, other than additional contributions paid under that regulation to cover a period of absence from work with no pensionable pay in consequence of a trade dispute or to cover a period of absence from work with permission with no pensionable pay otherwise than because of illness or injury, child-related leave or reserve forces service leave; or

(ii) regulation 19 (additional voluntary contributions) of the 2014 Regulations;

(c) the member has not been awarded additional annual pension under regulation 32 (award of additional pension) of the 2014 Regulations during that period;

(d) the Scheme had received no transfer value payment in respect of the member relating to rights accrued under a registered pension scheme or European Pensions Institution;

(e) the revaluation adjustment made to the active member's account had been made up to and including the beginning of the Scheme year in which the member's underpin date fell; and

(f) the balance in the active member's pension at the member's underpin date had been adjusted on account of any pension debit or Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Department.

(13) Where the member's pension has come into payment under regulation 36 (early payment of retirement pension on ill-health grounds: active members) of the 2014 Regulations, the provisional

assumed benefits calculated in accordance with paragraph (12) must include any adjustment under regulation 39 (payment of ill-health pension amounts) of the 2014 Regulations for the period up to the earlier of the member's 2009 Scheme normal retirement age and 31st March 2022.

(14) Where a member's underpin date has arisen under paragraph (7), the provisional assumed benefits calculated in accordance with paragraph (12) must include the amount calculated under regulation 41(4)(b) (survivor benefits: partners of active members) of the 2014 Regulations for the period up to the earlier of the member's 2009 Scheme normal retirement age and 31st March 2022.

(15) The provisional underpin amount is calculated by assessing the benefits the member would have had an immediate entitlement to payment of under the 2009 Scheme in a relevant Scheme membership if—

(a) the member had continued to accrue membership under the 2009 Scheme rather than benefits in the Scheme from 1st April 2015 to 31st March 2022 or the member's underpin date, whichever date is the earlier;

(b) the period of membership taken into account for the purposes of sub-paragraph (a) were—

(i) the period during which the member has paid, or is treated as having paid contributions under regulation 11 (contributions) and 12 (temporary reduction in contributions) of the 2014 Regulations;

(ii) any period of unpaid absence due to industrial action, or absence from work with permission otherwise than because of illness or injury, child-related leave or reserve forces service leave, if that period was covered by additional pension purchased under regulation 18 (additional pension contributions) of the 2014 Regulations; and

(iii) where the member's provisional assumed benefits include an adjustment under regulation 39 (calculation of ill-health pension amounts) of the 2014 Regulations any additional period of membership under regulation 20 (early leavers: ill-health) of the Benefits Regulations had that regulation applied at the underpin date but limited to the earlier of the member's 2009 Scheme normal retirement age and 31st March 2022;

(c) the final pay was calculated in accordance with regulations 8 to 11 (calculation of final pay) of the Benefits Regulations, as if those Regulations were still in force at the underpin date; and

(d) the member's benefits at the member's underpin date had been adjusted on account of any pension debit or a Scheme pays election applicable to the member, with the adjustment being calculated in accordance with actuarial guidance issued by the Department.

(16) Where a member's underpin date has arisen under paragraph (7), the provisional underpin amount calculated in accordance with paragraph (15) must include an amount equivalent to the enhancement that would apply under regulation 24(2) (survivor benefits: active members) of the Benefits Regulations, for the period up to the earlier of the member's 2009 Scheme normal retirement age and 31st March 2022.

(17) A member's underpin crystallisation date in a relevant Scheme membership is the earliest of the following dates—

(a) the date from which the member elects to receive payment of a retirement pension under regulations 31(1), 31(5) or 31(6) (retirement benefits) of the 2014 Regulations;

(b) the date from which the member becomes entitled to receive payment of a retirement pension under regulation 31(7) (retirement benefits) of the 2014 Regulations;

(c) the date from which the member becomes entitled to receive payment of an ill-health retirement pension under regulation 36(1) (early payment of retirement pension on ill-health grounds: active members) or regulation 37(1) (early payment of retirement pension on ill-health grounds: deferred members) of the 2014 Regulations;

(d) the date the member receives payment under regulation 35 (commutation and small pensions) of the 2014 Regulations;

(e) the date the member transfers their benefits out of the 2014 Regulations following;

(i) an application made under regulation 108 (rights to payment out of pension fund) of the 2014 Regulations; or

(ii) by virtue of regulation 110 (bulk transfer (transfers of undertakings, etc.)) of the 2014 Regulations;

(f) the date a member dies.

(18) Where paragraphs (17)(a), (b) or (c) apply to a member, the member's pension account must be increased by the final guarantee amount at the underpin crystallisation date.

(19) The final guarantee amount is the amount by which the final underpin amount exceeds the final assumed benefits on the underpin crystallisation date.

(20) Where a member who elects to receive payment of a retirement pension under regulation 31(6) (retirement benefits) of the 2014 Regulations has a final guarantee amount at their underpin crystallisation date, a proportion of that final guarantee amount equal to the proportion of the member's Scheme benefits that the member has elected to take under regulation 31(6) must be transferred to the member's flexible retirement pension account.

(21) A final guarantee amount payable to a member pursuant to paragraph (17)(a) and the remainder of the member's final underpin amount are payable to the member without further actuarial adjustment relating to the age at which the benefits are taken.

(22) When paragraph (17)(a) applies to a member, the final assumed benefits for the member are the value of provisional assumed benefits calculated in accordance with paragraph (12) with the following adjustments—

(a) any revaluation adjustment or index rate adjustment that would have applied to the member's pension under the 2014 Regulations between the member's underpin date and their underpin crystallisation date; and

(b) any actuarial adjustment which would have applied under the 2014 Regulations, relating to the age at which the pension was taken.

(23) When paragraph (17)(a) applies to a member, the final underpin amount is the value of the provisional underpin amount calculated in accordance with paragraph (15) but—

(a) updated to the underpin crystallisation date to include increases which would have applied under the Benefits Regulations by virtue of the Pension (Increase) Act (Northern Ireland) 1971([52]) between a member's underpin date and their underpin crystallisation date; and

(b) taking into account any actuarial adjustment which would have applied under the Benefits Regulations relating to the age at which the pension was taken.

(24) When paragraph (17)(b) or (c) applies to a member, the final assumed benefits for the member are the value of provisional assumed benefits calculated in accordance with paragraph (12) with the following adjustment—

(a) any revaluation adjustment or index rate adjustment that would have applied to the member's pension under the 2014 Regulations between the member's underpin date and their underpin crystallisation date; and

(b) any actuarial increase which would have applied under the 2014 Regulations, relating to the age at which the pension was taken.

(25) When paragraph (17)(b) or (c) applies to a member, the final underpin amount is the value of the provisional underpin amount calculated in accordance with paragraph (15) but—

(a) updated to the underpin crystallisation date to include increases which would have applied under the Benefits Regulations by virtue of the Pension (Increase) Act 1971 between a member's underpin date and their underpin crystallisation date; or

(b) including any actuarial increase which would have applied under the Benefits Regulations relating to the age at which the pension was taken.

(26) When paragraphs (17)(d), (17)(e)(i) or (17)(e)(ii) apply to a member, the value of the payment due at a member's underpin crystallisation date must be calculated in accordance with actuarial guidance issued by the Department.

([52]) 1971 c. 35.

(27) A request for a cash equivalent value of a member's pension rights under Regulation 4 of the Pension Sharing (Valuation) Regulation 2000([53]) is not to be treated as a member's underpin date or underpin crystallisation date.

(28) A request made pursuant to paragraph (27) is to be calculated in accordance with actuarial guidance issued by the Department.

(29) Following the death of a person to whom this regulation applies, any provisional guarantee amount applicable at the member's underpin date must be updated to include any revaluation adjustment or index rate adjustment that would have applied to the member's pension under the 2014 Regulations between the member's underpin date and their date of death, and shall be known as the member's adjusted provisional guarantee amount.

(30) Where, pursuant to paragraph (29), a provisional guarantee amount applied at a deceased member's underpin date, the rate listed in column two of the below table must be applied to the adjusted provisional guarantee amount, to determine the addition to the relevant survivor benefit.

2014 Regulations	*Rate*
41(4) (except 41(4)(a)(vi) (councillors' pensions)([54])	49/160
44(3)	49/320
44(4)	49/160
45(3)	49/240
45(4)	49/120
47(4)	49/160
49(3)	49/320
49(4)	49/160
50(3)	49/240
50(4)	49/120
52(4)	49/160
54(3)	49/320
54(4)	49/160
55(3)	49/240
55(4)	49/120

(31) Where, pursuant to paragraph (29), a provisional guarantee amount applied at a deceased member's underpin date, the adjusted provisional guarantee amount must be used in determining the annual amount of pension the member would have been entitled to under regulations 46(3) (death grants: deferred members and pension credit members) and 51(3) (death grants: pensioner members) of the 2014 Regulations.".

Sealed with the Official Seal of the *** on ***

Name
A senior officer of the
Department

([53]) S.I. 2000/1052.

([54]) The statutory underpin does not apply to a councillor's membership.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Government Pension Scheme Regulations (Northern Ireland) 2014 (“the principal Regulations”) and the Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2014 (“the Transitional Regulations”). Both sets of regulations came substantively into operation on 1st April 2015 and certain provisions listed in regulation 1 take effect from that date.

Regulations 2 to 4 amend the Local Government Pension Scheme Regulations (Northern Ireland) 2014.

Regulation 3 amends regulation 99 (annual benefit statements) to ensure the revised statutory underpin calculations are clearly set out in each member’s annual benefit statement.

Regulation 4 inserts two definitions to Schedule 1 (interpretation) of the principal Regulations. These are “the 2009 Scheme” and “relevant scheme membership”.

Regulations 5 and 6 amend the Transitional Regulations with regards to the operation of the underpin.

Regulation 6 substitutes regulation 4 (statutory underpin) to ensure the revised statutory underpin applies to all qualifying members.

These

Annex B

THE TWO-STAGE PROCESS

As outlined in paragraphs 11.1 and 11.2, we are proposing the introduction of a two-stage process for calculating a qualifying member's entitlement from the underpin. Under this, calculations would take place at a qualifying member's underpin date and their underpin crystallisation date. This Annex contains further details on the proposals we set out in our draft regulations.

The underpin date – proposed approach

- A qualifying member's underpin date would be the earlier of:
  - the date they leave active service with an immediate or deferred entitlement to a pension,
  - the date they reach their 2009 Scheme NPA, or
  - the date they die.
- The underpin date would relate to a specific 'relevant scheme membership' – i.e. a single, aggregated (where appropriate), scheme membership in which the member:
  - was active in the LGPS (NI) on 31 March 2012,
  - had membership of the 2015 Scheme,
  - did not have a disqualifying break in service, and
  - was not a councillor member.
- It is possible a qualifying member may have two (or more) relevant scheme memberships. Where this applies, they may have different underpin dates in respect of each one.
- At a qualifying member's underpin date, an initial comparison of the member's 2015 Scheme and 2009 Scheme benefits would be undertaken based on:
  - the member's 'provisional assumed benefits' in a relevant scheme membership – broadly[46], the career average benefits they have accrued in the 2015 Scheme over the underpin period[47], and

[46] For members who have had a period in the 50/50 section of the 2015 Scheme, the underpin calculation assumes the member remained in the full section of the 2015 Scheme.

[47] The underpin period runs from 1st April 2015 to 31st March 2022, or to the member's underpin date where that is earlier than 31st March 2022.

- the member's 'provisional underpin amount' in a relevant scheme membership – broadly, the final salary benefits the member would have built up in the 2009 Scheme over the same period[48].

· If the provisional underpin amount is higher than the provisional assumed benefits at a qualifying member's underpin date, the member would be awarded a 'provisional guarantee amount' in respect of that relevant scheme membership.

· A provisional guarantee amount is a provisional assessment that the 2009 Scheme benefits would have been better for the member. At a qualifying member's underpin date, there would be no change to their pension entitlement arising from the provisional guarantee amount[49]. However, annual benefit statements sent to the member after their underpin date would confirm if a provisional guarantee amount has applied.

· Qualifying members may have multiple underpin dates in respect of a relevant scheme membership. This may occur where:

- The member has concurrent employments and ceases to be an active member in one before their 2009 Scheme NPA (in which they have relevant scheme membership). An underpin date would apply at the point the member leaves the LGPS (NI) in that post. If the member then aggregates their relevant scheme membership with their ongoing post, a further underpin date would apply at the earlier of the following:

  * the date they leave active service,
  * the date they reach their 2009 Scheme NPA, or
  * the date they die.

- The member leaves an employment in which they have relevant scheme membership with an immediate or deferred entitlement to a pension. An underpin date would apply at their date of leaving. If the member then re-joins the LGPS (NI) and aggregates their membership (without a disqualifying break in service), a further underpin date would apply at the earlier of the following:

[48] If the underpin date is after 31st March 2022, the member's final salary for the year up to their underpin date would be used for the purposes of calculating their provisional underpin amount.

[49] Unless their underpin crystallisation date immediately follows their underpin date – for example, if a member takes immediate payment of their benefits upon leaving the scheme.

  * the date they leave active service,
  * the date they reach their 2009 Scheme NPA, or
  * the date they die.

- Where a qualifying member has multiple underpin dates, it would be their provisional amounts from their latest underpin date that would be used for the purposes of the calculations at their underpin crystallisation date.

The underpin crystallisation date – proposed approach

- As the period between a qualifying member's underpin date and the date they take their benefits from the LGPS (NI) could be as much as 30 or 40 years, we propose that all qualifying members have an underpin crystallisation date in respect of a relevant scheme membership. This would ensure the comparison can be made when there is certainty on the final actuarial adjustments that might be applied, and in respect of the member's State Pension age.

- A variety of circumstances would give rise to a qualifying member's underpin crystallisation date and, in general, a qualifying member can only have one underpin crystallisation date in respect of a relevant scheme membership.

  A qualifying member's underpin crystallisation date would be the earliest of the following in respect of a relevant scheme membership:

  - the date a member takes voluntary payment of their pension, at any age between 55 and 75,
  - the date a member takes flexible retirement,
  - the date a member aged 55 or over leaves active membership as a result of redundancy, or due to business efficiency,
  - the date a member retires on ill-health grounds,
  - the date a member transfers out or trivially commutes their benefits, or
  - the date a member dies.

- What happens at a qualifying member's underpin crystallisation date would vary, and is described in more detail for each circumstance in 'the revised underpin – application' section in the body of this document. In most cases, however, it would involve a member's provisional underpin amount and their provisional assumed benefits being updated to give a member's 'final underpin amount' and their 'final assumed benefits'. How the provisional figures are updated to become final figures would vary depending on the circumstance. The table below summarises what is proposed to apply under the draft regulations.

Application of underpin

Circumstance giving rise to a member's underpin crystallisation date	**How provisional underpin amount and provisional assumed benefits calculated at a qualifying member's underpin date are updated at a member's underpin crystallisation date**
Voluntary age retirement or flexible retirement	• Include any cost of living increases that would have applied to the member's pension under the 2009 or 2015 Schemes between the meNumbereerpin date and their underpin crystallisation date, and • To include any actuarial adjustments relating to the member's age, that would have applied under the 2009 or the 2015 Schemes.
Redundancy[50] and ill-health pension being paid (from active or deferred status)	• To include any cost of living increases that would have applied to the member's pension under the 2009 or 2015 Schemes between the member's underpin date and their underpin crystallisation date, and • To include any actuarial increases relating to the member's age, that would have applied under the 2009 Scheme and 2015 Scheme.

[50] Including termination on grounds of business efficiency

- Where a qualifying member's final underpin amount is higher than their final assumed benefits at their underpin crystallisation date, the member would be awarded a 'final guarantee amount' in respect of that relevant scheme membership. An addition would be made to their pension account in respect of that final guarantee amount.
- For certain types of underpin crystallisation, the draft regulations do not prescribe that members' provisional underpin amount and provisional assumed benefits are updated to give 'final' amounts. This applies in the following cases:
  - Transfers out – instead, the scheme administrator would need to comply with actuarial guidance issued by the Department, and the Public Sector Transfer Club memorandum, where appropriate
  - Trivial commutations - instead, the scheme administrator would need to comply with actuarial guidance issued by the Department
  - Deaths – instead, the regulations prescribe what should apply in relation to any survivor benefits that may be payable

Annex C

This annex provides examples to illustrate how the proposed underpin would operate in different situations. These examples illustrate some (but not all) of the factors which may impact whether an underpin addition may apply in different situations. The examples shown are:

1. Retirement from active service at age 65
2. Retirement from active service at State Pension age ('SPa')
3. Retirement from active service at age 69 after SPa
4. Early retirement from active service at age 60
5. Benefits from deferred retirement with no underpin addition at underpin date
6. Benefits from deferred retirement with an underpin addition at underpin date
7. Retirement from active service with Tier 1 ill health pension

All the examples are based on a member aged 47 in 2012, who did not receive underpin protection originally. This member has a 2015 Scheme normal pension age equivalent to their SPa under the current timetable, 67, and a normal pension age of 65 in the 2009 Scheme.

The pension calculated is the pension accrued over the remedy period (1 April 2015 to 31 March 2022). In practice, such members may have pension relating to pre-2015 and post-2022 periods which is not considered here.

The examples rely on the following assumptions:
Inflation reflects actual experience up to 2020, with 2% pa assumed thereafter; increases are applied on 1 April. Known Inflationary increases over the year to 1 April 2016: -0.1%,1 April 2017: 1.00%, 1 April 2018: 3.00%,1 April 2019: 2.40% and 1 April 2020: 1.70%

- Salary increases, promotions and retirements occur on 31st March in the relevant year.
- The current State Pension age timetable is followed.
- Current early and late retirement factors are assumed to be applicable for future retirement
- The pension amounts are in nominal terms at retirement.
- The amounts are shown rounded to the nearest £10.

Please note that these examples are for illustrative purposes only. Generally, they only consider one of the key variables which may impact how the proposed underpin would apply to a member, in practice other variables may also be significant. The comparisons are based on the pension payable at different points in time.

Example 1 (retirement at age 65)

In **2012 the member was aged 47**, and so **did not receive underpin protection originally.** However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

In this example the member's underpin date will be the same as the underpin crystallisation date and, practically, only one check will be required.

As the member is taking their benefits immediately upon leaving, we can adjust the 2015 Scheme pension to allow for this being paid two years earlier than their 2015 Scheme normal pension age (age 67). No adjustment would be required in this example for the calculation of the 2009 Scheme benefit (as this would be paid without adjustment from age 65).

If the member had a **salary of £30,000 in 2015**, experiences future annual **salary increases of 1% above inflation** and **retires at age 65**, their pensions over the underpin period would be as follows:

2015 Scheme (age 65): £5,240 pa	2009 Scheme (age 65): £5,190 pa (Final Salary age 65: £44,490)

In this example the member's 2015 Scheme benefits are higher and there would be **no underpin uplift addition required.**

Pension member receives: £5,240 pa

Alternatively,

If the member was promoted twice, receiving an additional 5% salary increase at the end of the remedy period and an additional 5% salary increase five years later, the underpin is now more than the age-adjusted 2015 Scheme pension at age 65:

2015 Scheme (age 65):	2009 Scheme (age 65):
£5,240 pa	£5,710 pa
	(Final Salary age 65: £48,920)

The **final guarantee amount** is the difference between these two amounts which equals £470. Following high salary increases the 2009 Scheme benefit structure becomes relatively more valuable and hence an underpin uplift addition would now be required. The 2015 Scheme benefit would be increased by the **underpin uplift addition** of £470 per year.

Pension member receives: £5,710 pa

Example 2 (retirement at SPa)

In **2012 the member was aged 47**, and so **did not receive underpin protection originally**. However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

In this example the member's underpin date will be when the member reaches age 65. At the underpin date the 2015 Scheme and 2009 Scheme benefits will be compared (with no allowance for actuarial adjustment).

If the member has the same **salary of £30,000 in 2015**, experiences future annual **salary increases of 1% above inflation**, the comparison at the underpin date (age 65) is as follows:

2015 Scheme: £5,820 pa	2009 Scheme: £5,190 pa (Final Salary age 65: £44,490)

The check at the underpin date shows the 2015 Scheme benefits are greater than the 2009 Scheme benefits and therefore **no 'provisional guarantee amount'** is required.

A subsequent underpin crystallisation check will be carried out at the member's retirement age, SPa (age 67), when the revalued pension amounts and correct actuarial adjustment factors are known. In both cases the pension amounts will be revalued in line with cost of living between age 65 and retirement. No actuarial adjustment will be required for the 2015 Scheme benefit; however the 2009 Scheme benefit is increased by two years late retirement factors, the underpin crystallisation check shows that:

2015 Scheme (SPa): £6,060 pa	2009 Scheme (SPa): £5,810 pa

For this member no **underpin uplift addition** would be required.

Pension member receives: £6,060 pa

Alternatively,

If the member was promoted twice, receiving **an additional 5% salary increase** at the end of the remedy period **and an additional 5% salary increase** five years later, the comparison at the underpin date (age 65) is now:

2015 Scheme: £5,820 pa	2009 Scheme £5,710 pa (Final Salary age 65: £48,920)

The check at the underpin date shows **no 'provisional guarantee amount'** is required.

However when the further check is undertaken when the member retires at the underpin crystallisation date, SPa (age 67), this check shows that once revaluation and different actuarial adjustments are allowed for the 2009 Scheme benefits are higher and the difference or **final guarantee amount** would be £340. The member's 2015 Scheme benefit would be increased by an **underpin uplift addition** of £340 pa.

2015 Scheme: £6,060 pa	2009 Scheme £6,400 pa

Pension member receives: £6,400 pa

Example 3 (Retirement after SPa)

In **2012 the member was aged 47**, and so **did not receive underpin protection originally**. However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

In this example the member's underpin date will be when the member reaches age 65. At the underpin date the 2015 Scheme and 2009 Scheme benefits will be compared (with no allowance for actuarial adjustment). A further underpin crystallisation check will be required when the member retires at age 69.

If the member has the same **salary of £30,000 in 2015**, experiences future annual **salary increases of 1% above inflation**, the comparison at the underpin date (age 65) is as follows:

2015 Scheme: £5,820 pa	2009 Scheme: £5,190 pa (Final Salary age 65: £44,490)

The check at the underpin date shows the 2015 Scheme benefits are greater than the 2009 Scheme benefits and therefore **no 'provisional guarantee amount'** is required.

A subsequent underpin crystallisation check will be carried out at the members retirement age, age 69, when the revalued pension amounts and correct actuarial adjustment factors are known. In both cases the pension amounts will be revalued in line with cost of living between age 65 and retirement. Both the 2015 and 2009 Scheme benefits will be increased by a late retirement factor; reflecting the benefits are being taken two years after the 2015 retirement age; and four years after the 2009 Scheme retirement age:

2015 Scheme (SPa): £6,790 pa	2009 Scheme (SPa): £6,560 pa

For this member **no underpin uplift addition** would be required.

Pension member receives: £6,790 pa

Alternatively,

If the member was promoted twice, receiving **an additional 5% salary increase** at the end of the remedy period **and an additional 5% salary increase** five years later, the comparison at the underpin date (age 65) is now:

2015 Scheme: £5,820 pa	2009 Scheme £5,710 pa (Final Salary age 65: £48,920)

The check at the underpin date shows **no 'provisional guarantee amount'** is required.

A further check would be undertaken when the member retires at the underpin crystallisation date, age 69. This check shows that once revaluation and different actuarial adjustments are allowed for the 2009 Scheme benefits are higher and the difference or **final guarantee amount** would be £420. The member's 2015 Scheme benefit would be increased by an **underpin uplift addition** of £420 pa.

2015 Scheme: £6,790 pa	2009 Scheme £7,210 pa

Pension member receives: £7,210 pa

Example 4 (early retirement at age 60)

In **2012 the member was aged 47**, and so **did not receive underpin protection originally**. However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

In this example the member's underpin date will be the same as the underpin crystallisation date and, practically, only one check will be required.

As we know the age the member is at retirement we can adjust the 2015 Scheme pension to allow for this being paid seven years earlier than the 2015 Scheme normal pension age; and the 2009 Scheme benefits are also reduced to reflect that this is being paid five years earlier.

If the member had a **salary of £30,000 in 2015**, experiences future annual **salary increases of 1% above inflation and retires at age 60**, their pensions over the remedy period would be as follows:

2015 Scheme (age 60): £3,710 pa	2009 Scheme (age 60): £3,470 pa (Final Salary age 60: £38,380)

In this example the member's 2015 Scheme benefits are higher and there would be **no underpin uplift addition** required.

Pension member receives: £3,710 pa

Alternatively,

If the member was promoted, receiving **an additional 10% salary increase** at the end of the remedy period, the 2009 Scheme benefit at age 60 is now more than the 2015 Scheme pension:

2015 Scheme (age 60):	2009 Scheme (age 60):
£3,710 pa	£3,800 pa (Final Salary age 60: £42,100)

Following high salary increases the 2009 Scheme benefit structure becomes relatively higher and hence an **underpin uplift addition** would now be required. The 2015 Scheme benefit would be increased by £90 pa.

Pension member receives: £3,800 pa

Example 5 (benefits after deferment)

In **2012 the member was aged 47, and** so **did not receive underpin protection originally**. However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

The example shows how the underpin check would be undertaken where the member leaves service at age 58 (with a deferred pension). Under our proposals, an underpin check would be undertaken at the date of leaving active service (underpin date) and compares the 2015 Scheme benefits with the 2009 Scheme benefits:

If the member had a **salary of £30,000 in 2015**, experiences future annual **salary increases of 1% above inflation** until **leaving the Scheme at age 58**. At the underpin date the Scheme benefits are not adjusted for different retirement ages; and the pensions over the remedy period are as follows:

2015 Scheme: £5,070 pa	2009 Scheme: £4,220 pa (Final Salary age 58: £36,180)

The check at the underpin date shows the 2015 Scheme benefits are greater than the 2009

Subsequent retirement at SPa

An underpin crystallisation check will be carried out at the member's retirement date, SPa, when the final revalued amounts and correct actuarial adjustment factors are known. In both cases the pension amounts will be revalued in line with cost of living increases between age 58 and retirement. No further actuarial adjustment will be required for the 2015 Scheme benefit; however the 2009 Scheme benefit is increased by two years late retirement factors:

2015 Scheme (SPa): £6,060 pa	2009 Scheme (SPa): £5,430 pa

In this example the member's 2015 Scheme benefits are higher and there would be **no underpin uplift addition** required.

Pension member receives: £6,060 pa

Benefit due to an eligible partner if the member dies before retirement

If the member illustrated was to die one year after deferment:

Where the check at the member's underpin date shows that the 2015 Scheme benefits are greater than the 2009 Scheme benefits and **no 'provisional guarantee amount'** is required, there would be **no underpin uplift addition** allowed for in the calculation of the partner's pension. Therefore, the partner's benefit would be the appropriate percentage of the revalued 2015 Scheme benefit.

Partner receives: 49/160 x £5,070 x 1.02 (assumed inflation) = £1,584 pa

An additional lump sum death grant payable of 5 times the annual rate of pension would also be payable **(£25,860).**

Alternatively,

If the member was promoted twice, receiving **an additional 5% salary increase** halfway through the remedy period and **an additional 10% salary increase** at the end of the remedy period, whilst there is no underpin required at the underpin date; the relative benefits being:

2015 Scheme: £5,210 pa	2009 Scheme: £4,850 pa (Final Salary age 58: £41,600)

Subsequent retirement at SPa

An underpin crystallisation check will be carried out at SPa. This check shows that once revaluation and actuarial adjustments are allowed for the 2009 Scheme benefits are higher and the difference or **final guarantee amount** required would be £10. The member's 2015 Scheme benefit would be increased by an **underpin uplift addition** of £10 pa, see:

2015 Scheme (SPa): £6,230 pa	2009 Scheme (SPa): £6,240 pa

Pension member receives: £6,240 pa

Following high salary increases the 2009 Scheme benefit structure becomes relatively more valuable and hence an **underpin uplift addition** would now be required. The 2015 Scheme benefit would be increased by £10 pa.

Benefits due to an eligible partner if the member dies before retirement

If the member illustrated was to die one year after deferment:

Where the check at the member's underpin date shows that the 2015 Scheme benefits are greater than the 2009 Scheme benefits and **no 'provisional guarantee amount'** is required, there would be no **underpin uplift addition** allowed for in the calculation of the partner's pension. Therefore, the partner's benefit would be the appropriate percentage of the revalued 2015 Scheme benefit.

Partner receives: 49/160 x £5,210 x 1.02 (assumed inflation) = £1,630 pa

An additional lump sum death grant payable of 5 times the annual rate of pension would also be payable **(£26,570).**

Example 6 (further illustration of benefits after deferment)

In **2012 the member was aged 47**, and so **did not receive underpin protection originally.** However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

The example shows how the underpin check would be undertaken where the member leaves service at age 63 (with a deferred pension). Under our proposals, an underpin check would be undertaken at the date of leaving active service (underpin date) and compares the 2015 Scheme benefits with the 2009 Scheme benefits:

If the member has a **salary of £30,000 in 2015**, experiences future annual salary **increases of 1% above inflation, an additional 10% salary increase** in the fourth year of the remedy period and **an additional 10% salary increase** at the end of the remedy period **until leaving the Scheme at age 63**, the relative pensions over the remedy period would be as follows:

2015 Scheme: £5,830 pa	2009 Scheme: £5,890 pa (Final Salary age 63: £50,460)

In this example there is a **'provisional guarantee amount'** of £60 pa.

Subsequent retirement at SPa

An underpin crystallisation check will be carried out at the member's retirement date, SPa, when the final revalued amounts and correct actuarial adjustment factors are known. In both cases the pension amounts will be revalued in line with cost of living increases between age 63 and SPa

(67). No further actuarial adjustment will be required for the 2015 Scheme benefit; however the 2009 Scheme benefit is increased by two years late retirement factors:

2015 Scheme (SPa): £6,320 pa	2009 Scheme (SPa): £6,860 pa

This check shows that once revaluation and different actuarial adjustments are allowed for the 2009 Scheme benefits are higher and the difference or **final guarantee amount** would be £540. The member's 2015 Scheme benefit would be increased by an **underpin uplift addition** of £540pa.

Pension member receives: £6,860 pa

This again illustrates that following high salary increases the 2009 Scheme benefit structure becomes relatively more valuable, and how the required underpin uplift addition can change between the underpin date and the underpin crystallisation date.

Benefit due to an eligible partner if the member dies before retirement

If the member illustrated was to die one year after deferment:

The check at the underpin date shows the 2009 Scheme benefits are greater than the 2015 Scheme benefits and a **'provisional guarantee amount'** of £60pa. is required. This uplift addition would be included in the calculation of the partner's pension as follows:

Partner receives: 49/160 x (£5,830 + £60) x 1.02 (assumed inflation) = £1,840 pa

An additional lump sum death grant payable of 5 times the annual rate of pension would also include the provisional guarantee amount **(£30,040)**

Example 7 (Active ill health retirement)

In **2012 the member was aged 47**, and so **did not receive underpin protection originally**. However, under our proposals, an underpin check would be undertaken to ensure that their benefits in the seven year remedy period are the greater of either:

2015 SCHEME	2009 SCHEME
1/49th of revalued salary each year Payable unreduced from State Pension age	1/60th of final salary each year Payable unreduced from age 65

If an active member was unlikely to be capable of working before their normal pension age and is eligible to retire under tier 1 ill health provision; they would be entitled to take their accrued pension without reduction and their total pension would include an element of prospective service. For this calculation the underpin and underpin crystallisation date would both be the date of ill health retirement.

If the member **had a salary of £30,000 in 2015**, experiences future annual salary **increases of 1% above inflation** and takes ill health retirement at age 60 (in 2025), their pensions over the underpin period would be as follows:

2015 Scheme (age 60): £5,280 pa	2009 Scheme (age 60): £4,480 pa (Final Salary age 60: £38,380)

As the ill health retirement occurs after 31 March 2022, no service enhancement is included in the comparison. Enhancements to the earlier of the members 2009 normal pension age and 31 March 2022 would be included. In this example the member’s 2015 Scheme benefits are higher and there would be **no underpin uplift addition required.**

Pension member receives: £5,280 pa

Alternatively,

If the member was promoted twice, receiving **an additional 15% salary increase** at the end of the remedy period and **an additional 5% salary increase** two years later, the underpin is now more than the 2015 Scheme pension at age 60:

2015 Scheme (age 60): £5,280 pa	2009 Scheme (age 60): £5,380 pa (Final Salary age 60: £46,100)

The **final guarantee amount** is the difference between these two amounts which equals £100. Following high salary increases the 2009 Scheme benefit structure becomes relatively more valuable and hence an **underpin uplift addition** would now be required. The 2015 Scheme benefit would be increased by the underpin uplift addition of £100 per year.

Pension member receives: £5,380 pa

Annex D

Consultation list
1. All w Members of the Northern Ireland Legislative Assembly
2. All Northern Ireland political parties, MPs and MEPs
3. All Northern Ireland District Councils
4. The Chief Executive of the Education Authority
5. The Chief Executive of the Northern Ireland Housing Executive
6. The Chief Executive of Translink
7. Employing Authorities contributing to the LGPS (NI)
8. Northern Ireland Local Government Association
9. National Association of Councillors (Northern Ireland Region)
10. Northern Ireland Local Government Officers' Superannuation Committee
11 Northern Ireland Committee of the Irish Congress of Trade Unions
12. Northern Ireland Public Service Alliance
13. Unite
14. GMB
15. Unison
16. Various representative groups and bodies
17. Equality Commission for Northern Ireland
18. SOLACE NI (the Irish Branch of the Society of Local Authority Chief Executives and Senior Managers (UK).

Annex E

Glossary

Term	Definition
2014 Regulations	The Local Government Pension Scheme Regulations (NI) 2014 (SR 2014 No. 188)
Active member	An active member means a person who is in an employment with a Local Government Pension Scheme (LGPS) employing authority, and i - (a) paying contributions to the Scheme; (b) treated as paying contributions to the Scheme; or (c) absent from that employment for one of the reasons mentioned in regulation 13 (contributions during absence from work) of the LGPS Regulations (NI) 2014 and entitled to pay contributions to the Scheme
Aggregation	Aggregation is the process of joining earlier benefits in the scheme from an earlier period of membership (or the cessation of a concurrent employment) with an active member's new (or, in the case of a concurrent employment, ongoing) pension account.
Annual allowance	Annual Allowance is the amount by which the value of a member's pension benefits may increase in a year without that member having to pay a tax charge imposed by HMRC.
Annual Benefit Statement (ABS)	Annual Benefit Statements are an estimate of the member's benefits earned to date, based on the information provided by the member's employer.
Break in service	A break in service is an interval between two periods of active membership of the LGPS (NI). ere this interval in longer than 5 continuous years, it becomes a disqualifying break in service.

Term	Definition
Concurrent employments	If a member has two or more contracts of employment within the LGPS the member may have more than one pension building up at the same time while the member does a variety of **jobs.**
CPI	Consumer Price Index.
Death benefits	• If a member dies in service as a member of the LGPS, subject to the certain qualifying conditions, these benefits are payable: • A widow's, widower's, civil or cohabiting partner's pension equal to 30.625% of the pension the member would have received if the member had retired on serious ill health grounds. • There are also pensions for eligible children. • There is also a lump sum death grant of **three times the member's assumed pensionable pay at the date of death pay**, provided the member was under age 75 at the date of death.
Death in service	If a member dies in service as a member of the LGPS a lump sum death grant of **three times that member's assumed pensionable pay at the date of death is paid**, no matter how long that member has been a member of the LGPS, provided the member was under age 75 at the date of death.
Deferred member	A person is a deferred member of the Scheme, in relation to an employment, if- (a) the person has qualifying service for a period of at least two years; (b) the person is no longer an active member of the Scheme in relation to that employment; (c) the person has not started to receive any pension under the Scheme in relation to that employment; and (d) the person has not reached the age of 75.
Disqualifying break in service	This is a continuous break of more than five years in active membership of a public service pension scheme.

Term	Definition
Early or late retirement factors	These are factors are calculated by an actuary. ere a pension is paid earlier than the member's normal retirement age, it is reduced to take account of the fact that it will, in all likelihood, be in payment for a longer period of time. Where a pension is paid later than the member's normal retirement age, it is increased to take account of the fact that it will, in all likelihood, be in payment for a shorter period of time.
Flexible retirement	From age 55, a member may reduce their hours or move to a less senior position, provided the member has met the 2 years vesting period in the scheme and the member's employer agrees, the member can take some or all of their accrued pension benefits.
GAD	Government Actuary's Department.
Main group	NILGOSC, the Scheme administrator carries out an assessment of employer covenants on a tri-annual basis. e purpose of employer covenant assessment is to assess the strength and reliability of each employing authority in the pension scheme to help determine if there is any risk that an employer may not be able to meet its pension liabilities. e covenant assessment therefore helps mitigate the risk of an employer's pension liabilities being spread across the other employers in the scheme in the event of default. sed on this assessment the employers are placed into groups. e majority of LGPS (NI) employers are in the Main Group and have a pooled contribution rate.
NILGOSC	The acronym for the LGPS (NI) scheme administrator. Their full name is the Northern Ireland Local Government Officers' Superannuation Committee.
Normal pension age (NPA)	Normal pension age for members of LGPS (NI) 2015 will be the same as the member's state pension age or age 65, whichever is later. As the state pension age increases so will each member's normal pension age meaning that a member could be older than 65 when they reach their normal pension age.

Term	Definition
Pensioner member	A person is a pensioner member of the Scheme if that person- (a) was an active member of the Scheme; (b) was a deferred member of the Scheme; or (c) was a pension credit member of the Scheme, and is in receipt of a benefit from the Scheme relating to that membership.
Public Sector Transfer Club	The Public Sector Transfer Club, more usually known as the Club, is a group of some 120 salary related occupational pension schemes, not all of whom are based in the public sector. The Club offers those who move between Club schemes the opportunity to transfer pension benefits on special terms. In general, when a member transfers pension benefits between Club schemes, the member will receive a broadly equivalent service credit in the new scheme, regardless of any increase in salary on moving.
Qualifying member	The members who would be in scope of the revised underpin, both the group originally protected and those who would newly gain underpin protection under our proposals.
Relevant scheme membership	Relevant scheme membership is a member's single Scheme membership which meets the following requirements. During the single scheme membership, the person- (a) was an active member of the 2009 Scheme on the 31st March 2012; (b) is or has been an active member of the Scheme; (c) does not have a disqualifying break in service; and (d) is not a councillor member.
Responsible authority	Section 2 to, and Schedule 2 of the Public Service Pension Schemes Act (Northern Ireland) 2014 specifies the Department for Communities as the responsible authority for the LGPS (NI).
Scheme Administrator	NILGOSC – the Northern Ireland Local Government Officers' Superannuation Committee.

Term	Definition
Survivor benefits	If a member dies in service as a member of the LGPS (NI), subject to the certain qualifying conditions, these benefits are payable: A widow's, widower's, civil or cohabiting partner's pension equal to 30.625% of the pension the member would have received if the member had retired on serious ill health grounds. There are also pensions for eligible children.
Transitional Regulation	The Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (NI) 2014 (SR 2014 No. 189).
Trivial commutation	Trivial Commutation is an option where **members can take a taxable lump sum from the LGPS in lieu of a small pension**. The total capital value of the pension must be less than £30k, in order to qualify for trivial commutation.

Available in alternative formats.

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