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The McCloud judgment: navigating the rules.

Background

How the case came about

In 2014 and 2015, the Government introduced reforms to the public service pension scheme rules. The changes involved moving employees from a final salary scheme ("legacy scheme" — a pension based on your pay when you leave) to a career average salary scheme ("2015 scheme" — a pension which is based on what you earn each year).

Transitional protections were introduced for older members who were nearing retirement, known as "protected members" — to protect them against the impact of these changes. These transitional protections allowed older members to continue building pension benefits in their final salary pension scheme, whereas younger workers were moved into the "2015 scheme".

The changes to the scheme rules were challenged in court. In December 2018, the Court of Appeal ruled that the younger members of the pension schemes had been unlawfully discriminated against, as the protections that applied to older members of the pension schemes did not also apply to them. This became known as "the McCloud judgment".

The McCloud judgment

The decision in the McCloud case came in two parts, also known as the "McCloud Remedy". The first and prospective parts:

a.) closed the final salary public service pension legacy scheme arrangements on 31 March 2022
b.) ensured equal treatment for all public service pension scheme members by moving all active members into the 2015 scheme on 1 April 2022

The second and retrospective part of the judgment removes the impact of the transitional protections that applied only to "protected members". This part of the remedy:

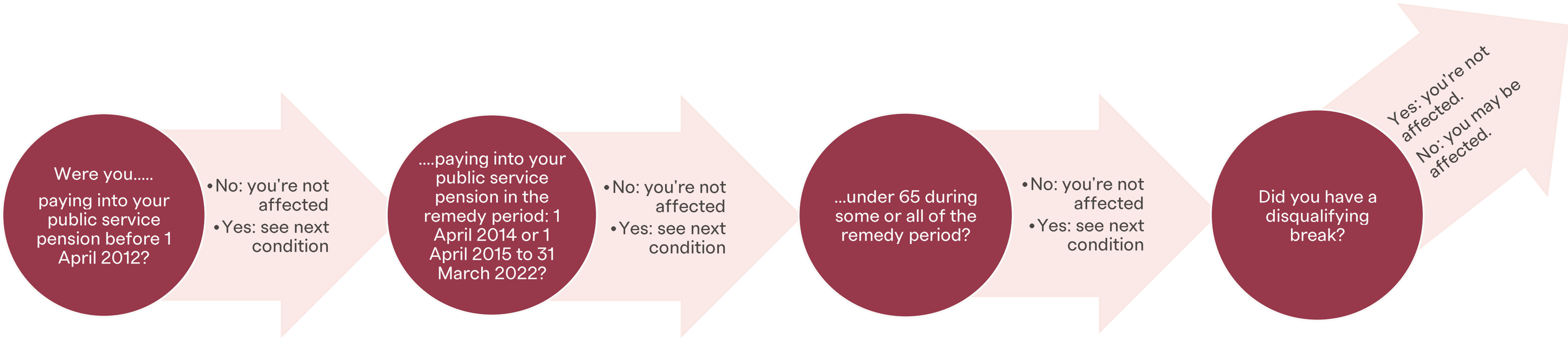
a.) returns members who moved to the 2015 scheme back into the legacy scheme for their pensionable service to cover the period from 1 April 2015 to 31 March 2022. This meant that younger members of public pension schemes now qualified to benefit from these transactional rules, known as "underpin protection".
b.) offers a choice of whether to receive legacy scheme benefits or 2015 scheme pension benefits.

Are you affected?

Determining factors

The McCloud judgment impacts individuals who are or were members of all public service pension schemes or certain local government schemes. Specifically, it affects those who were members of the public service pension scheme before 1 April 2012 and at any time between 1 April 2014 and 31 March 2022 (known as the remedy period). If you contributed to a pension before 1 April 2012 and during the remedy period with no break exceeding five years, you might be affected.

Note: The start date of the remedy period differs between different public service pensions.



The implications of McCloud

What does this mean for me?

Following the McCloud judgment, affected members will be issued with a revised annual allowance statement. This will set out the pension growth and benefits in their pension scheme for annual allowances purposes, covering the affected period.

Members who have exceeded their Annual Allowance (a threshold which restricts the amount of pension savings you're allowed each year before tax charges apply) are required to disclose the growth in value of their pension on their Self-Assessment tax return. To allow members to report this on their tax returns, they need to rely on information provided by their pension scheme provider. This information is sent annually (from the start of October following the end of the tax year) to confirm the growth in excess of the Annual Allowance. However, following the McCloud judgment, this will need to be reviewed again in light of the ruling.

The McCloud judgment may affect you in following ways:

- If you exceed your pension annual allowance for the tax year in question, additional tax charges may apply,
- If you previously incurred a tax charge, you may be due a refund.
- The value of your pension pot on retirement (and any elections that you have in place) may impact on your lifetime allowance (the amount that you can save into you pension pot over your lifetime).

How can CT help you?

Next steps

Those who have exceeded the standard annual allowance or previously had an annual allowance charge will receive a statement from your pension scheme provider. If you don't receive a statement by:

- October 2024 –for members of the Scottish Public Pensions Agency or NHS Pension Scheme
- August 2025 – for members of Scottish Local Government Pension Scheme

but believe you could be affected by the McCloud judgment, we suggest you request a statement and get in contact with your pension provider.

How we can help

For assistance with reviewing the position, please contact us. Our team of experts are on hand to help you navigate the issues and advise on the tax implications. We're can help with reporting and filing obligations if you're affected.

Alternatively, you can review the position yourself using HMRC's public service pension adjustment calculator.

Our team of experts

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If you have any questions about any of the issues raised in this document, please contact a member of our team.

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