



Government
Actuary's
Department

Local Government Pension Scheme (Northern Ireland)

McCloud / Sargeant litigation:
Equalities impact

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Executive summary

1. This note has been put together to help the Department for Communities (DfC) understand how LGPS NI members are likely to be affected by the proposed McCloud underpin remedy (set out in the paper “Local Government Pension Scheme (NI) “Addressing unlawful age discrimination in LGPS (NI) 2015 transitional protection, Working proposal” dated March 2020”), from an equality point of view. The impact of the remedy is analysed by sex and age.
2. The analysis presented considers the result of applying the remedy to members who joined before 1 April 2012.

Analysis by sex

Figure 1a: Percentage of currently protected, eligible and expected to benefit from remedy split by sex

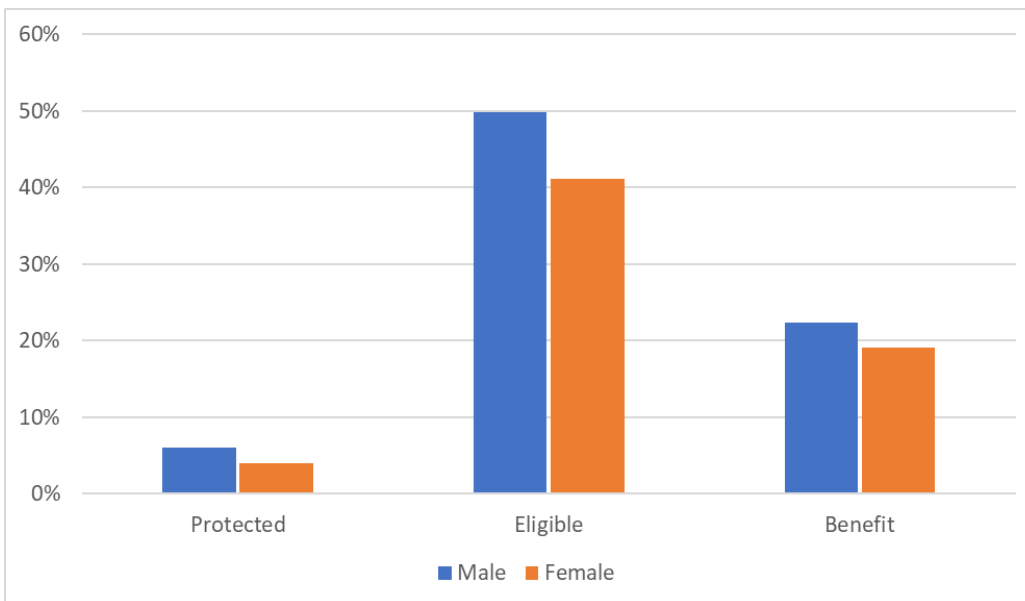
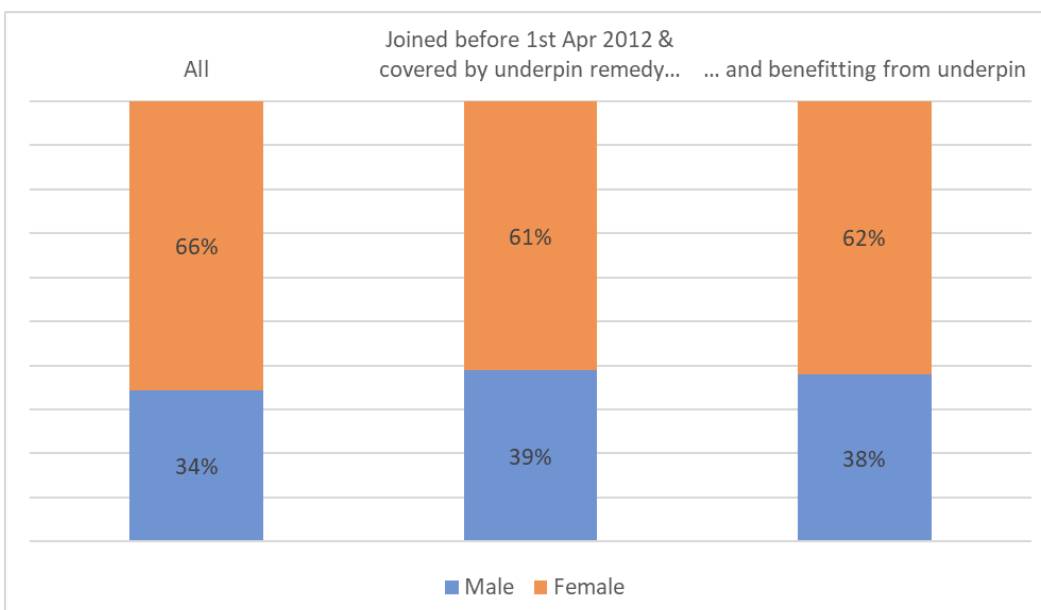


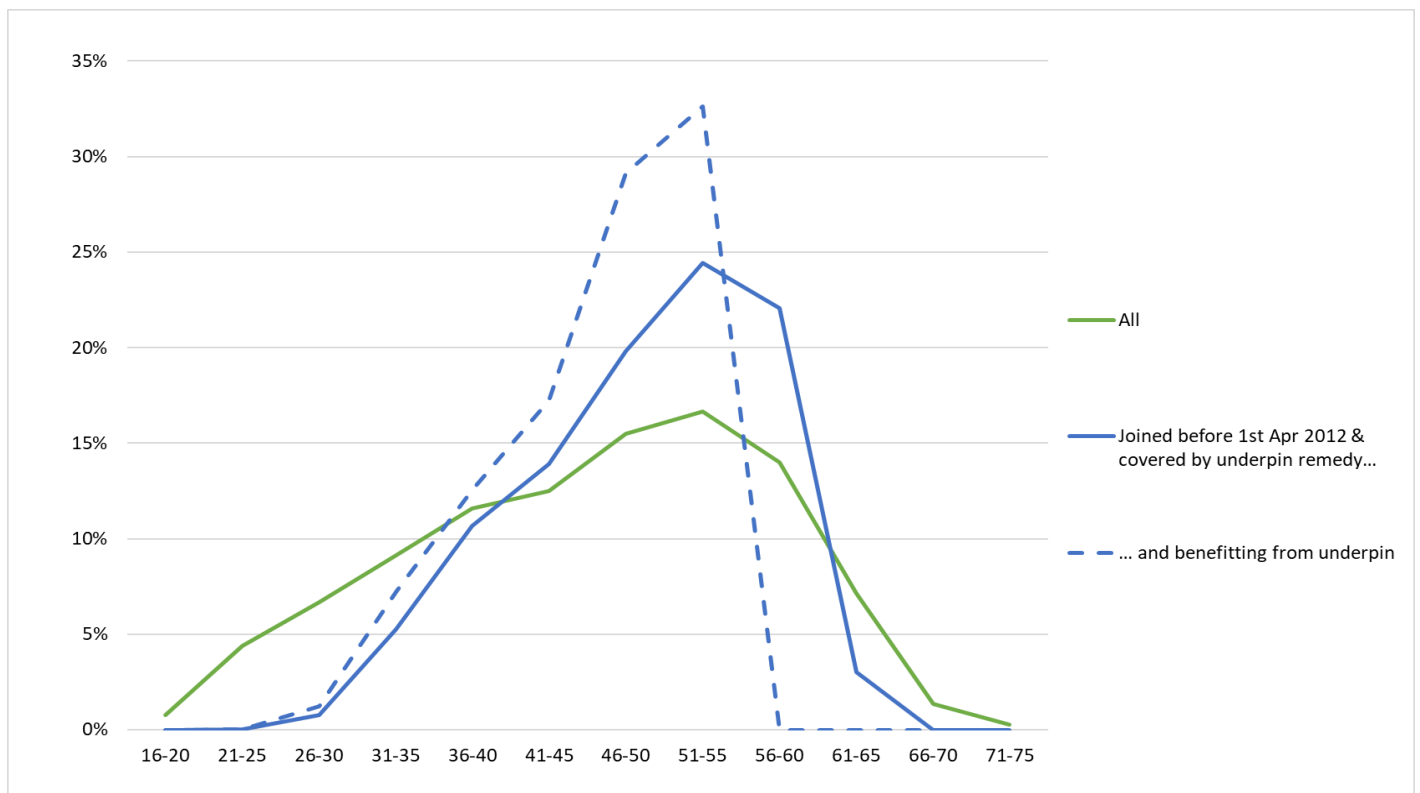
Figure 1b: Remedy coverage and benefit by sex



3. Figure 1a shows the proportions of women and men who currently have underpin protection (far-left bar), the proportion who would be eligible for remedy (second bar) and expected to benefit from remedy (third bar).
4. Figure 1b shows that 66% of all active members are women (far-left bar). Of members who qualify for the underpin remedy, 61% are women under the remedy (second bar). Of members who qualify and also benefit from the remedy, 62% are women (third bar).
5. We can observe that the proportion of men and women who are both eligible for remedy and those who are expected to benefit from remedy broadly matches the profile of the scheme.

Analysis by age

Figure 2: Remedy coverage and benefit by age as at 31 March 2019



6. Figure 2 shows that:
 - a) The majority of active members are aged between 41 and 60 (green line).
 - b) The majority of members who qualify for the remedy are also aged between 41 and 60, although this age group qualifies to a larger extent (between ages 41-60, the solid blue line is higher than the green line). Younger members are less likely to qualify as a greater proportion of these members joined after 2012. Members aged 62 and over will already have protection (and hence not benefit from remedy).
 - c) The majority of members who qualify and also benefit from the remedy are aged between 36 and 55 (dashed blue line)
7. Figure 2 therefore indicates that the remedy proposals have different impacts across different age groups (note that if the impact was the same on all age groups the two blue lines would closely mirror the green line).

Introduction

8. The Local Government Pension Scheme Northern Ireland pension fund (LGPS NI) introduced a new CARE benefit structure with effect from 1 April 2015 ('the 2015 scheme'). For members who were 10 years or less from Normal Retirement Age on 1 April 2012 (ie aged 55 or above), an underpin was provided based on the existing final salary scheme ('the 2009 scheme'). In December 2018, the Court of Appeal found that similar transitional provisions in the pension schemes for firefighters and the judiciary resulted in unlawful age discrimination. The UK Government believes that the difference in treatment will need to be remedied across all affected public service pension schemes, including LGPS NI¹.
9. DfC officials have set out their preferred policy approach for remedying the discrimination in the LGPS NI in the paper "Local Government Pension Scheme (NI) "Addressing unlawful age discrimination in LGPS (NI) 2015 transitional protection, Working proposal" dated March 2020.
10. DfC have commissioned GAD to prepare data on the number of members who may be affected by the remedy by sex and age, so that they can consider the equality impacts of the proposed remedy. GAD have prepared this note for DfC for that purpose.

Underpin: eligibility

11. This note is based on data on the active members of LGPS NI as at 31 March 2019. These members can be split into three groups:
 - a) Those already eligible for the underpin under the regulations as they stand
 - b) Those who are not currently eligible for the underpin, but would be eligible under the proposed remedy
 - c) Those who are not eligible for the underpin (even after remedy)

Underpin: members expected to benefit

12. Members who are eligible for the underpin may, on taking their benefits, either:
 - a) Benefit from the underpin: Receive a higher pension because the underpin of the final salary scheme benefits is greater than the CARE benefits. Members are more likely to benefit from the underpin if they remain in the scheme for many years and receive significant salary increases over this time.
 - b) Not benefit from the underpin: Receive their CARE pension without any uplift, because it is higher than the final salary scheme benefits
13. In the remainder of this note, we consider the number of members qualifying for the underpin (and those subsequently expected to benefit from the underpin) according to:
 - a) Sex
 - b) Age (and sex)

Data

14. The analysis is based on member data as at 31 March 2019. Exclusions made to the data are described in Appendix A.

¹ Public Service Pensions: Written statement - HCWS1725 15 July 2019
<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-15/HCWS1725/>

Assumptions

15. In order to estimate the number of members who are expected to ultimately benefit from the remedy underpin, it is necessary to make assumptions about members' future careers, in particular how long they remain in the scheme and their future pay increases (both pay awards and individual promotion or progression pay).
16. The analysis in this note is based on the assumptions adopted for the 2016 valuation. These assumptions are consistent with those used in our draft paper "McCloud / Sargeant litigation: Potential cost impacts" of 13 February 2020 and are set out in our paper "Actuarial valuation as at 31 March 2016: Advice on assumptions" dated 18 December 2018.
17. The estimated number of members expected to benefit from the remedy underpin is sensitive to the assumed increase rates for earnings and CPI (which is used in the 2015 scheme CARE revaluation). For example, if earnings were to increase in line with CPI (rather than 2.2% above CPI) then we would expect very few members to benefit from the underpin.
18. This analysis of the number of members expected to benefit from the remedy underpin is based on an average member at a particular age and sex and the 2016 valuation assumptions. Allowing for variations in individual members' future service or salary progression may produce different figures, because the underpin may bite for 'high flyers' with significant salary progression, but not for those with less salary progression. In addition, based on our current calculations we can only identify if members of a particular age and sex will on average benefit based on their expected future method of exit (ie retirement, withdrawal, ill health retirement, or death in service).
19. The analysis of the number of members expected to benefit should be treated with some caution because of the sensitivity to assumptions and the limitations in the methodology discussed above. Some features of this analysis may not be realistic for every individual, however, the analysis does indicate the broad pattern of members expected to benefit.
20. Further details of the assumptions are set out in Appendix B.

Compliance and limitations

21. This work has been carried out in accordance with the applicable Technical Actuarial Standard TAS 100 issued by the Financial Reporting Council (FRC). The FRC sets technical standards for actuarial work in the UK.
22. Important limitations are set out in Appendix C.

Analysis by sex

Summary

23. The tables that follow analyse the number of members who would qualify for the remedy and the number who would be expected to benefit by sex. The key results are:
- In terms of number of members, 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
 - 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.
 - 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.

Table 1: Proportion of members covered and expected to benefit from remedy split by sex

	Remedy	
	Covered by underpin remedy	Benefitting from remedy
Male population	50%	22%
Female population	41%	19%

Analysis

24. The following tables considers the number of members in each of the following three categories, split by sex and remedy proposal.
- Those already eligible for the underpin under the regulations as they stand
 - Those who are not currently eligible for the underpin, but would be eligible under the proposed remedy
 - Those who are not eligible for the underpin (even after remedy)

Table 2: Members with different potential underpin status

	Total members		Men		Women	
	Count	%	Count	%	Count	%
Group A: Member of the scheme on 1 Apr 2012 – underpin protection	2,284	4%	990	6%	1,294	4%
Group B: Member of the scheme on 1 Apr 2012 – no underpin protection	22,871	44%	8,899	50%	13,972	41%
Group C: Not a member of the scheme on 1 Apr 2012	26,639	51%	7,967	45%	18,672	55%
Total	51,794		17,856		33,938	

25. There is a marginally higher proportion of male members who have underpin protection and a higher proportion of female members who joined the scheme on or after either remedy date. Whilst these characteristics work in opposite directions the overall impact is that proportionally more male members may be expected to be eligible for the remedy underpin than female members.
26. The following paragraphs consider members in Group B, that is members who are not already eligible for the underpin, but would be under the proposed remedy and on taking their benefits in the future would expect to receive an underpin.

Table 3: Group B members expected to benefit from remedy

	All members	Men	Women
Number of members expected to benefit	10,449	3,979	6,470
Proportion of members expected to benefit (as a proportion of all members)	20%	22%	19%

27. Men have a higher expectation of gaining from the remedy than women; 22% compared to 19%. This is the result of men being more likely to have joined the Scheme prior to 1 April 2012 and therefore qualify for the remedy.

Analysis by age and sex

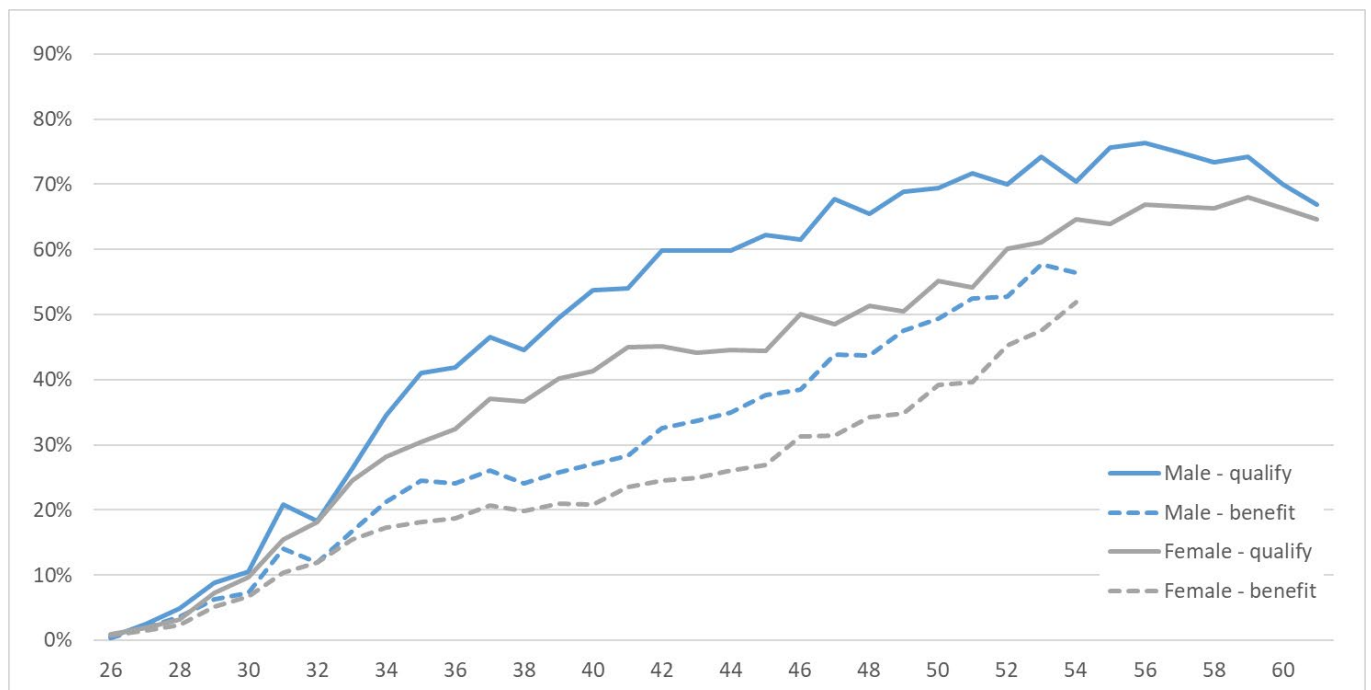
Summary

28. The charts and tables that follow analyse the number of members who would qualify for the underpin and the number who would be expected to benefit by age and sex. The key results are:
- a) In terms of number of members, just under 80% of LGPS NI members are aged between 31 and 60; with the highest proportion in the range 46 to 55.
 - b) Members aged 62 and over in 2019 will not be affected by the remedy (having been within 10 years of retirement on 1 April 2012, and hence protected)
 - c) Younger members are less likely to qualify for the underpin as a result of the remedy
 - d) Even where younger members qualify for the underpin, they are expected to be less likely to benefit from it, because they are more likely to leave service and so not obtain the pay increases require to make the final salary benefits higher than CARE
 - e) Considering age and sex, at each age
 - i) Men are more likely to qualify for the underpin than women
 - ii) Men are more likely to be expected to benefit from the underpin than women

Analysis

29. The charts and tables that follow analyse the number and proportions of members who would qualify for remedy and who would be expected to benefit by age and sex. Men are more likely to qualify for the remedy up to age 54 and more likely to benefit from the remedy at all ages where a benefit is observed. This is a result of men being more likely to have joined the Scheme before 1 April 2012.

Figure 2: Proportion of members who qualify and benefit from remedy



30. Figure 4 and Tables 4-5 indicate:

- a) Members aged 62 and over in 2019 will not be affected by the remedy as they would already qualify.
- b) More generally members aged 55 or older (on 31 March 2019) are not expected to benefit from the remedy given the shorter time period for salary increases to accrue. However, for members below this age the lower voluntary withdrawal at older ages increases the likelihood of members benefitting from the remedy underpin.
- c) Younger members are less likely to qualify for the underpin as a result of the remedy. Given the higher turnover of employees at younger ages (and therefore the small percentage having been in employment prior to 1 April 2012) the proportion expected to qualify for an underpin generally increases with age.
- d) Even where younger members qualify for the underpin, they are expected to be less likely to benefit from it, because they are more likely to leave service and so not obtain the pay increases require to make the final salary benefits better than CARE.
- e) Men are more likely to qualify for the underpin than women (because a greater proportion of women joined after 2012; despite a marginally higher proportion of men being eligible for the existing underpin)
- f) Men are more likely to be expected to benefit from the underpin than women because they are more likely to qualify for the underpin
- g) However, there are higher numbers of female members which results in a more women benefitting from the remedy overall.

31. In summary, male members are both more likely to be eligible for and benefit from the remedy at almost all relevant ages.

32. Figure 4 is shown as tables below.

Table 4: Members who qualify for the remedy, by age and sex

Age	Male members			Female members			All members		
	Total number of members	Qualify for extended underpin	Proportion of total qualifying	Total number of members	Qualify for extended underpin	Proportion of total qualifying	Total number of members	Qualify for extended underpin	Proportion of total qualifying
16-20	122	0	0%	282	0	0%	404	0	0%
21-25	749	0	0%	1,519	1	0%	2,268	1	0%
26-30	1,107	66	6%	2,353	114	5%	3,460	180	5%
31-35	1,606	464	29%	3,115	744	24%	4,721	1,208	26%
36-40	1,856	880	47%	4,151	1,563	38%	6,007	2,443	41%
41-45	1,977	1,172	59%	4,504	2,010	45%	6,481	3,182	49%
46-50	2,652	1,771	67%	5,383	2,758	51%	8,035	4,529	56%
51-55	3,034	2,197	72%	5,590	3,396	61%	8,624	5,593	65%
56-60	2,816	2,085	74%	4,430	2,958	67%	7,246	5,043	70%
61-65	1,555	264	17%	2,132	428	20%	3,687	692	19%
66-70	313	0	0%	398	0	0%	711	0	0%
71-75	69	0	0%	81	0	0%	150	0	0%
All	17,856	8,899	50%	33,938	13,972	41%	51,794	22,871	44%

Table 5: Members expected to benefit from remedy, by age and sex

Age	Male members			Female members			All members		
	Total number of members	Number of members benefitting	Proportion of total benefitting	Total number of members	Number of members benefitting	Proportion of total benefitting	Total number of members	Number of members benefitting	Proportion of total benefitting
16-20	122	0	0%	282	0	0%	404	0	0%
21-25	749	0	0%	1,519	1	0%	2,268	1	0%
26-30	1,107	47	4%	2,353	81	3%	3,460	128	4%
31-35	1,606	290	18%	3,115	466	15%	4,721	755	16%
36-40	1,856	472	25%	4,151	839	20%	6,007	1,311	22%
41-45	1,977	665	34%	4,504	1,137	25%	6,481	1,802	28%
46-50	2,652	1,191	45%	5,383	1,851	34%	8,035	3,042	38%
51-55	3,034	1,314	43%	5,590	2,096	37%	8,624	3,410	40%
56-60	2,816	0	0%	4,430	0	0%	7,246	0	0%
61-65	1,555	0	0%	2,132	0	0%	3,687	0	0%
66-70	313	0	0%	398	0	0%	711	0	0%
71-75	69	0	0%	81	0	0%	150	0	0%
All	17,856	3,979	22%	33,938	6,470	19%	51,794	10,449	20%

Appendix A: Data

33. This note is based on the data provided in 2019. For the purpose of this analysis, the following manipulations have been made:

	Sex & Age analysis
Input data	61,176
Excluded duplicate records so analysis is by member, not employment record; only members with unique combination of NI number, sex and date of birth are included	9,382
Used for analysis	51,794

34. The data has been provided by the administering authority and their actuarial advisor. We have relied on the general completeness and accuracy of this data for this report. We have carried out limited checks on the data but these do not represent a full independent audit of the data supplied. In particular, GAD has relied on the general completeness and accuracy of the information supplied without independent verification.

Appendix B: Assumptions

35. This note is based on the assumptions recommended for the 2016 valuation, as detailed in our note “Local Government Pension Scheme (Northern Ireland) Actuarial valuation as at 31 March 2016 Advice on assumptions” of 18 December 2018. The limitations associated with these assumptions set out in that note also apply to this advice.

36. The estimated cost of extending the underpin is sensitive to assumptions that have different impacts on the benefits payable under the 2015 scheme and the underpin benefits, in particular assumptions regarding:

- a. Future increases in salaries and CPI
- b. Promotional salary increases
- c. Withdrawal (ie leaving active membership without an entitlement to immediate benefits)

37. The following table sets out the main financial assumptions.

Table B1: Financial assumptions

Discount rate	2.4% pa real; 4.45% nominal			
Pension increases	2.0% pa			
Long term salary growth	4.2% pa, 2.2% pa in excess of assumed CPI			
	Year	Gross discount rate	Pension increases ²	Salary growth
Short term variations in assumptions	2016/17	3.42%	1.0% ³	1.2%
	2017/18	5.47%	3.0% ⁴	2.2%
	2018/19	4.65%	2.2%	2.1%
	2019/20	4.24%	1.8%	2.3%
	2020/21	n/a	n/a	2.6%
	2021/22	n/a	n/a	2.8%
	2022/23	n/a	n/a	3.0%

² Relates to the Pension Increase made in the April following the year end

³ Order made for 2016/17

⁴ Order made for 2017/18

38. The following table sets out the assumed promotional pay salary scales:

Table B2: Promotional salary scales for all members

Age	All members
20	74.1
25	87.1
30	100.0
35	109.7
40	117.0
45	118.7
50	118.7
55	118.7
60	118.7
65	118.7

39. The following table sets out the assumed decrements:

Table B3: Voluntary withdrawal rates for all members

Age	All members
20	0.126
25	0.083
30	0.059
35	0.046
40	0.037
45	0.030
50	0.023
55	0.020
60	0.012
65	0.000

Appendix C: Limitations

40. These results show the estimates of the expected impact of the remedy assuming the proposed remedy applies to joiners prior to 1 April 2012. The actual number of members impacted will depend on the individual circumstances of each member.
41. This estimate is based on 2016 valuation assumptions. If different assumptions were adopted, results would be different.
42. In preparing this advice, we are aware that our analysis may be affected by risks arising from the impact of the COVID-19 pandemic. At this stage, the full impact of the COVID-19 pandemic is not known and will remain uncertain until further evidence is available. No adjustments have been applied to the analysis to reflect these risks. To the extent that COVID-19 impacts individual members' future salary growth and the future career paths it will impact which members are expected to benefit from the underpin and hence this analysis.
43. This note is based on data as at 31 March 2019, which has undergone quality checks and manipulations by GAD and also been manipulated according to Appendix A; however we have relied on the data provided.
44. GAD has no liability to any person or third party for any action taken or for any failure to act, either in whole or in part, on the basis of this report.
45. GAD are not legally qualified and our advice does not constitute legal advice. Advice in this area should be sought from an appropriately qualified person or source.
46. The form of remedy has not yet been legislated and if the final remedy differs from the assumptions made here, results will be different. One such example is which members are given remedy. In these figures, remedy is given to members that joined before April 2012. If remedy was extended to members who joined before April 2015 or all members regardless of when they joined, then the number of members expected to benefit would be higher (all else being equal).