

The McCloud Judgement - Joint statement

Purpose

1. This statement provides members of public service pension schemes with an update on what has become known as the McCloud judgement. This statement has been agreed with Management Side and Trade Union Side at the Collective Consultation Working Group (CCWG). The CCWG, facilitated by NIC-ICTU (Northern Ireland Committee – Irish Congress of Trades Unions), is comprised of representatives for NI public service pension scheme members and employer representatives and is the recognised forum for engagement on public service pension policy.

Background

2. In December 2018 the Court of Appeal in England and Wales upheld claims brought by some Firefighters and Judges that the transitional protections afforded to older members of those schemes were unlawfully age discriminatory. On 27 June 2019 the Supreme Court refused permission for a further appeal on that ruling.
3. Transitional protection is the policy which allowed some older workers to stay in the old, unreformed pension schemes, instead of being moved to new career-average schemes with higher pension ages in 2015. In most schemes transitional protection meant that those within 10 years of their schemes' normal pension age as at 1 April 2012 retained membership of their pre-2015 scheme, the majority of which were final-salary schemes.
4. The cases for Firefighters and Judges have been remitted to the Employment Tribunal. It will be for the Employment Tribunal to determine how this discrimination should be rectified in those schemes. In an announcement made on 15 July 2019, the Government accepted that the McCloud judgement means discrimination must also be rectified in the wider public service schemes.

Northern Ireland position

5. The reformed public service schemes in Northern Ireland incorporate similar age-based transitional protections, therefore it is appropriate that this discrimination is removed from public service schemes made under the Public Service Pensions Act (Northern Ireland) 2014.

6. Management and public service Trade Unions at CCWG are committed to working together to ensure a fair outcome for members of NI public service schemes in this process.

7. More detailed information at scheme level will be issued to members when further information becomes available.

Collective Consultation Working Group – 1 October 2019