London Borough of Hammersmith & Fulham **PENSIONS BOARD** **5 June 2019**	h&f hammersmith & fulham
LGPS COST CAP, MCCLOUD CASE (SUPREME COURT) AND ACTUARIAL VALUATION CONSULTATION	
Report of the Strategic Director, Finance and Governance	
Open Report	
Classification - For Information **Key Decision: No**	
Wards Affected: None	
Accountable Director: Philip Triggs, Tri-Borough Director of Treasury and Pensions	
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1. EXECUTIVE SUMMARY

1.1 This paper provides the Pensions Board Members a summary of:

a. Background information on the LGPS cost cap in public service pensions and recent developments.
b. Proposed changes to the actuarial valuation process.

2. RECOMMENDATIONS

2.1 The Board is requested to note:

a. The report and potential implications for the LBHF pension fund.
b. The consultation on the actuarial valuation process at Appendix 1.

3 THE LGPS COST CAP

3.1 In 2010, following the Lord Hutton report of public service pensions, one of the key recommendations was that the retention of public service defined benefit schemes should have a “cost cap” mechanism to control the cost of future pension provision.

3.2 HM Treasury decided that it was mainly the uncertainty around how long a pension is expected to be paid (pensioner longevity) that should be included in the mechanism. If future pensions in payment were longer than initially anticipated then the additional costs should be reflected in a reduction in pension payment or, alternatively, an increase in member contributions in order to reflect that the members’ pensions will be paid for a longer period.

3.3 Whilst the original concept from the Hutton report was a cost “cap”, it was also argued that there should be a “floor”. This would apply where the duration of pension paid to retired members is shorter than expected. In this event, theoretically, it would mean an increase in pensions benefit or a reduced employee contribution rate.

3.4 As new cost cap/floor mechanisms were constructed to accommodate the above points, there was an unexpected slowdown in UK longevity improvements. The result of this was that the cost floor became a far more significant issue then was initially anticipated at the time of the Hutton report as this slowdown in longevity would mean pensions would not be in payment for as long.

3.5 Whilst the cost cap/floor mechanism would normally be underway at this time, the Government Actuaries Department has suspended the process, pending the outcome of the McCloud Supreme Court case, currently underway.

4 MCCLOUD CASE

4.1 In connection with the cost cap/floor process above, revised actuarial assumptions were implemented to reflect the slowdown in longevity and had nearly reached completion when the Appeal Court judgment of the McCloud case was reached. This was a case where the Appeal Court examined benefit protections offered to judges in the reform of the Judiciary Pension Scheme, which were intended to protect them from changes being made to future pension benefits.

4.2 The reforms to the judges’ scheme and protection offered to older judges were found to be age discriminatory, on the basis that younger members of the judges’ scheme were offered no such protection. In December 2018, the Appeal Court found against the Government. The Government has since appealed the decision to the Supreme Court.

4.3 The implications of this case are that the transitional changes to public service schemes, when moving from final salary to career average revalued earnings (CARE) are now deemed, or likely to be deemed, to be unlawful, mainly on age discrimination grounds. On the basis that the appeal to the Supreme Court will not be resolved quickly, the cost cap/floor management process has now been paused with the understanding that any implications to LGPS pensions following the final ruling will be backdated to 1 April 2019.

4.4 As it is highly unlikely there will be any resolution before the 2019 actuarial valuation is complete, there are several possible ways of treating the outcome of the McCloud appeal and the cost management process. The LGPS Scheme Advisory Board is to issue guidance to funds and actuaries on the preferred approach.

5 TRIENNIAL ACTUARIAL VALUATION

5.1 With regard to the current triennial valuation, the Government has issued a consultation paper which suggests moving to quadrennial valuations (every four years instead of the current three) in line with the other public service pension schemes. Post 2019, the next valuation is widely expected to be 2024, both for LGPS Funds in England and Wales, and Scotland.

5.2 Whilst this would mean that LGPS scheme would fall into the same four-year cycle as the other public sector schemes and be aligned, a gap of five years between valuations would not be without complications in setting employer contributions over such a long period. It is likely that there would be an interim valuation in 2022 to solve the problem of the five-year gap.

6 EQUALITY IMPLICATIONS

6.1 Not applicable

7 LEGAL IMPLICATIONS

7.1 None

8 FINANCE AND RESOURCES IMPLICATIONS

8.1 Finance risks are outlined within the report.

9 IMPLICATIONS FOR BUSINESS

9.1 Not applicable

10 RISK MANAGEMENT

10.1 Risks are outlined within the report.

11 PROCUREMENT IMPLICATIONS

11.1 None

12 IT STRATEGY IMPLICATIONS

12.1 None

LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		

LIST OF APPENDICES:

Appendix 1: Local Government Pension Scheme: Changes to the Local Valuation Cycle and the Management of Employer Risk