Government Actuary's Department

Armed Forces Pension Arrangements

Pension Sharing on Divorce for McCloud members: Initial Cash Equivalent Value calculation on or after 1 October 2023 – "Prospective – full guidance"

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Government Actuary's Department

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1. Introduction

1.1 This guidance is addressed to the Ministry of Defence (MOD) as scheme manager of the Armed Forces Pension Arrangements (the Schemes). The Schemes include the Armed Forces Pension Scheme 2015 (AFPS15) and the Early Departure Payments Scheme 2015 (EDP15), known collectively as the reformed scheme, and the following legacy schemes:

- The Armed Forces Pension Scheme 1975 (AFPS75)
- The Armed Forces Pension Scheme 2005 (AFPS05)
- The Early Departure Payments Scheme 2005 (EDP05)
- The Full Time Reserve Service Pension Scheme 1997 (FTRS97)
- The Reserve Forces Pension Scheme 2005 (RFPS05) and
- The Non-Regular Permanent Staff Pension Scheme 2011 (NRPS11).

1.2 This guidance has been prepared in accordance with the Public Service Pensions and Judicial Offices Act 2022 (PSPJOA) and the following Regulations of SI 2023/998 (Remediable Service) Regulations 2023:

Administrative procedure	Regulation(s)	Relevant section of this document
Calculation of appropriate amount, pension credits and pension debits	AFPS75: Schedule 1, regulation 29 to 31 AFPS05: Schedule 2, regulation 32 to 34 RFPS05: Schedule 4, regulation 29 to 31 FTRS97: Schedule 5, regulation 30 to 32 NRPS11: Schedule 6, regulation 30 to 32	2 to 4
Calculation of alternative pension debit	AFPS75: Schedule 1, regulation 32 AFPS05: Schedule 2, regulation 35 RFPS05: Schedule 4, regulation 32 FTRS97: Schedule 5, regulation 33 NRPS11: Schedule 6, regulation 33	5
Calculation of value of benefits, for arrangements other than a PSO	AFPS75: Schedule 1, regulation 33 AFPS05: Schedule 2, regulation 36 RFPS05: Schedule 4, regulation 33 FTRS97: Schedule 5, regulation 34 NRPS11: Schedule 6, regulation 34	Paragraph 1.28

1.3 This guidance assumes that rollback as part of McCloud remedy has taken place which means all remediable service of in-scope members has been placed back into their relevant legacy scheme[1].

1.4 This guidance has been prepared for the use of the Schemes' administrators and applies to members who are eligible for the McCloud remedy (McCloud members) when they request a quotation for divorce proceedings and dissolution of civil partnerships. For this guidance to apply, the initial Cash Equivalent (referred to in this note as CEV) calculation date must be on or after 1 October 2023. The initial CEV is produced when seeking a Pension Sharing Order (PSO)[2]. The guidance refers to the remediable pensionable service they have accrued during the remedy period (1 April 2015 to 31 March 2022) as "McCloud remediable service", or simply "remediable service".

1.5 This guidance distinguishes between three groups of McCloud members as calculation steps vary for them:

- Group 1 consists of deferred choice members who have not yet received pension benefits for McCloud remediable service[3].
- Group 2 consists of McCloud pensioners who have either made their irrevocable remedy choice or had a final default choice applied.
- Group 3 consists of McCloud immediate choice (protected or unprotected) pensioners[4] or deferred choice pensioners[5] for whom an irrevocable McCloud remedy choice has not been made (nor has a final default choice been applied).

1.6 For the calculation of the initial Remediable Cash Equivalent Value (as set out in Section 2 of this guidance), it is the member's position, including their status and whether they have made their final and irrevocable McCloud remedy choice by the initial CEV calculation date, that determines which group a member falls under. For the calculation of the value of remediable shareable rights, as well as the calculation of the remediable pension debit and other relevant debits (as set out in Section 3 and Section 5 of this guidance), it is the member's position as at the **transfer day** that determines which group a member falls under.

1.7 McCloud members are classified as either:

- Immediate choice members: a pensioner (or deceased) immediately before 1 October 2023[6]

[1] This includes in-scope McCloud pensioners, even though their benefits in payment may remain unchanged at the time of rollback.

[2] Steps for calculating the initial CEV are set out in Section 2 of this guidance. This is not to be confused with the re-calculation of the CEV for implementing the PSO (set out in Section 3 of this guidance). This guidance applies if a member requested a quotation for divorce proceedings before 1 October 2023 provided the initial CEV calculation date is on or after 1 October 2023.

[3] Regardless of whether they have made a McCloud choice and are awaiting payment.

[4] Throughout this guidance, reference to 'pensioners' includes members who may also have deferred benefits.

[5] Generally, a deferred choice member will make their choice before retirement, but exceptionally they may retire and start receiving legacy scheme payments before making their DCU election. These members may have been protected or unprotected before rollback.

[6] See PSPJOA section 6(2)

- Deferred choice members: an active or deferred member immediately before 1 October 2023[7]

Note that members are assigned to Groups 1 to 3 above based on their position as at the initial CEV calculation date or the **transfer day**, not based on their position immediately before 1 October 2023. For information, the following table sets out which groups immediate choice or deferred choice members may be assigned to:

	Group 1	Group 2	Group 3
Immediate choice	No	Yes	Yes
Deferred choice	Yes	Yes	Yes

1.8 If, under the rules of the scheme, a member can make separate McCloud elections in relation to remediable service in two or more employments, they should be assigned a group above for each employment separately (for example, a member may fall into group 1 for one employment and group 3 for another employment).

1.9 This guidance covers pensioner members where the McCloud choice would result in pension adjustments for past overpayments or underpayments (i.e. adjustment under PSPJOA section 14 for immediate choice members, or equivalent adjustment for deferred choice pensioners).

1.10 This guidance also covers cases where a member has made voluntary pension contributions in respect of remediable service to increase their benefits. Please see paragraph 2.7 to 2.12.

1.11 Depending on the McCloud member's pensionable service, one or more of the following tranches may be shareable in divorce:

- Tranche 1: Non-remediable pension benefits in respect of legacy scheme service prior to 1 April 2015
- Tranche 2: Remediable pension benefits in respect of service during the remedy period (1 April 2015 to 31 March 2022)
- Tranche 3: Non-remediable pension benefits in respect of reformed scheme service (post 31 March 2022[8])

This guidance covers only the calculations relating to Tranche 2: Remediable pension benefits in respect of service during the remedy period (1 April 2015 to 31 March 2022).

[7] See PSPJOA section 10(2)

[8] For most members, Tranche 3 is pension benefits in respect of service post 31 March 2022. However, for a member with a disqualifying break, pensionable service in relation to Tranche 3 may start before 1 April 2022 (see PSPJOA section 1(6)).

There may be interactions with the calculations for Tranche 1 in Scottish divorce cases (see Section 3).

Tranche	Period of service the pension benefits relate to	Primary divorce guidance to use[9]	Scheme benefits are payable from
1	Pre-1 April 2015	Relevant legacy scheme guidance[10]	Relevant legacy scheme
2	1 April 2015 to 31 March 2022	This guidance	Relevant legacy scheme
3	Post-31 March 2022[11]	Reformed scheme guidance	Reformed scheme

1.12 If the member has transfer in benefits received by the scheme during remediable service, the administrators should establish the member's remediable service benefits under the legacy scheme option and the reformed scheme option by first considering the 'Guidance for applying McCloud remedy to incoming non-Club transfer', and 'The Public Sector Transfer Club Memorandum'.

1.13 In many cases, it is easy to disaggregate the McCloud member's benefits into Tranches 1, 2 and 3. For any ambiguous cases:

- Tranche 3 benefits are the benefits payable from the reformed scheme which, because of rollback, reflect service on and after 1 April 2022 for most McCloud members[11].
- The benefits payable from the legacy scheme are Tranche 1 and 2 benefits (where Tranche 2 benefits would have been rolled back if not originally accrued in the legacy scheme).
- Tranche 1 benefits are calculated as the pre-2015 legacy scheme benefits the member would be entitled to if they make a reformed scheme election.
- Tranche 2 benefits (the remediable service benefits) are calculated as the remaining benefits payable from the legacy scheme following rollback.
- As Tranche 1 and Tranche 2 are payable from the legacy scheme,
  - Tranche 2 legacy scheme style of benefits can be calculated as total legacy style benefits payable from the legacy scheme if the member makes a legacy scheme election minus Tranche 1 legacy scheme benefits (as calculated above).
  - Tranche 2 reformed scheme style of benefits can be calculated as total reformed style benefits payable from the legacy scheme if the member makes a reformed scheme election. This is equivalent to the total reformed benefits paid from legacy and reformed schemes if the member makes a reformed scheme election minus the Tranche 3 benefits.

[9] The relevant guidance should be used in conjunction with the factors in force at the calculation date for the initial CEV calculation and in force at the **valuation day** for the re-calculation of CEV for implementation.

[10] If a McCloud member is going through a Scottish divorce and they accrued Tranche 1 benefits during their marriage, the calculation for the ex-partner's cash equivalent value will need to be changed. More information can be found in paragraph 3.11.

[11] For most members, Tranche 3 is pension benefits in respect of service post 31 March 2022. However, for a member with a disqualifying break, pensionable service in relation to Tranche 3 may start before 1 April 2022 (see PSPJOA section 1(6)).

1.14 The flow chart on the next page sets out how the sections and subsections of this guidance apply to an individual pension debit member (PDM), whose PSO also affects the corresponding pension credit member (PCM):

- Section 2 sets out the approach to calculate the initial remediable cash equivalent value.
- Section 3 sets out the approach to calculate the remediable shareable rights.
- Section 4 sets out the approach to calculate the remediable pension credit.
- Section 5 sets out the approach to calculate the remediable pension debit and other relevant debits.

1.15 Nothing in this guidance should be read as overriding the regulations which govern the Schemes.

Exclusions

1.16 This guidance does not apply to members who are not eligible for McCloud remedy. For these members, the administrators should use the relevant scheme guidance and factors.

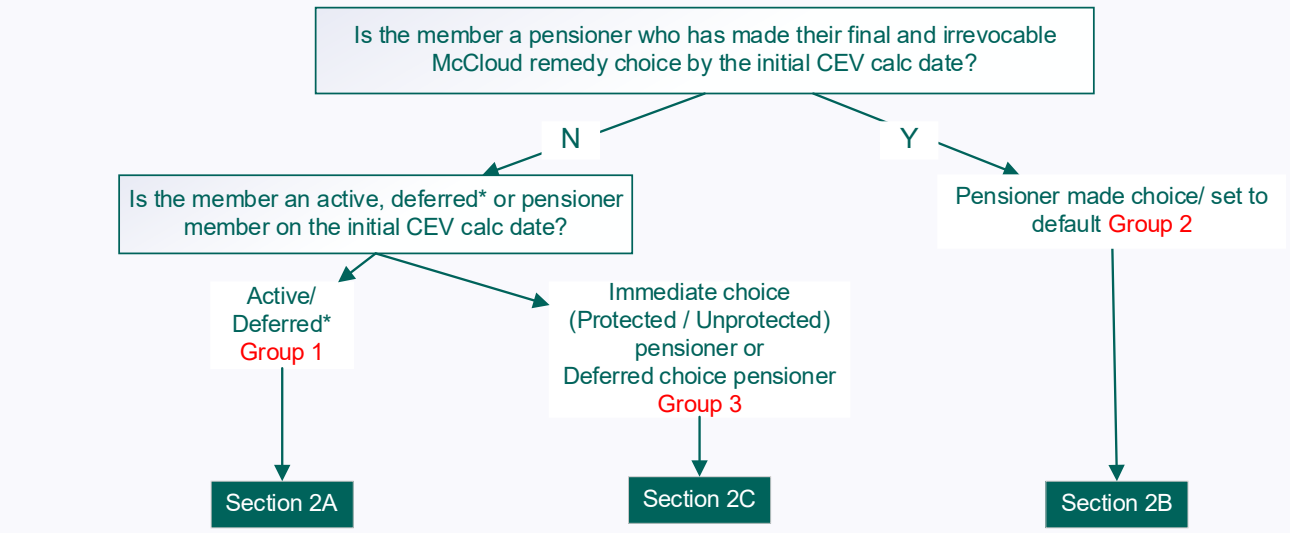
1.17 Divorce cases involving members eligible for the McCloud remedy, where the information provided to court included a CEV calculated before 1 October 2023, are not covered by this guidance. This includes such cases where the PSO had not been implemented by 30 September 2023.

1.18 For McCloud members with remediable service described in paragraphs 1.4 and 1.5, this guidance covers only the calculations of cash equivalent values, shareable rights, pension credits and pension debits in respect of McCloud remediable service. If a member has relevant Tranche 1 and Tranche 3 benefits, equivalent calculations should be carried out using the primary guidance shown in the table in paragraph 1.11. The resultant answers (for all relevant tranches) should be added together to give total amounts for all the member’s pensionable service.

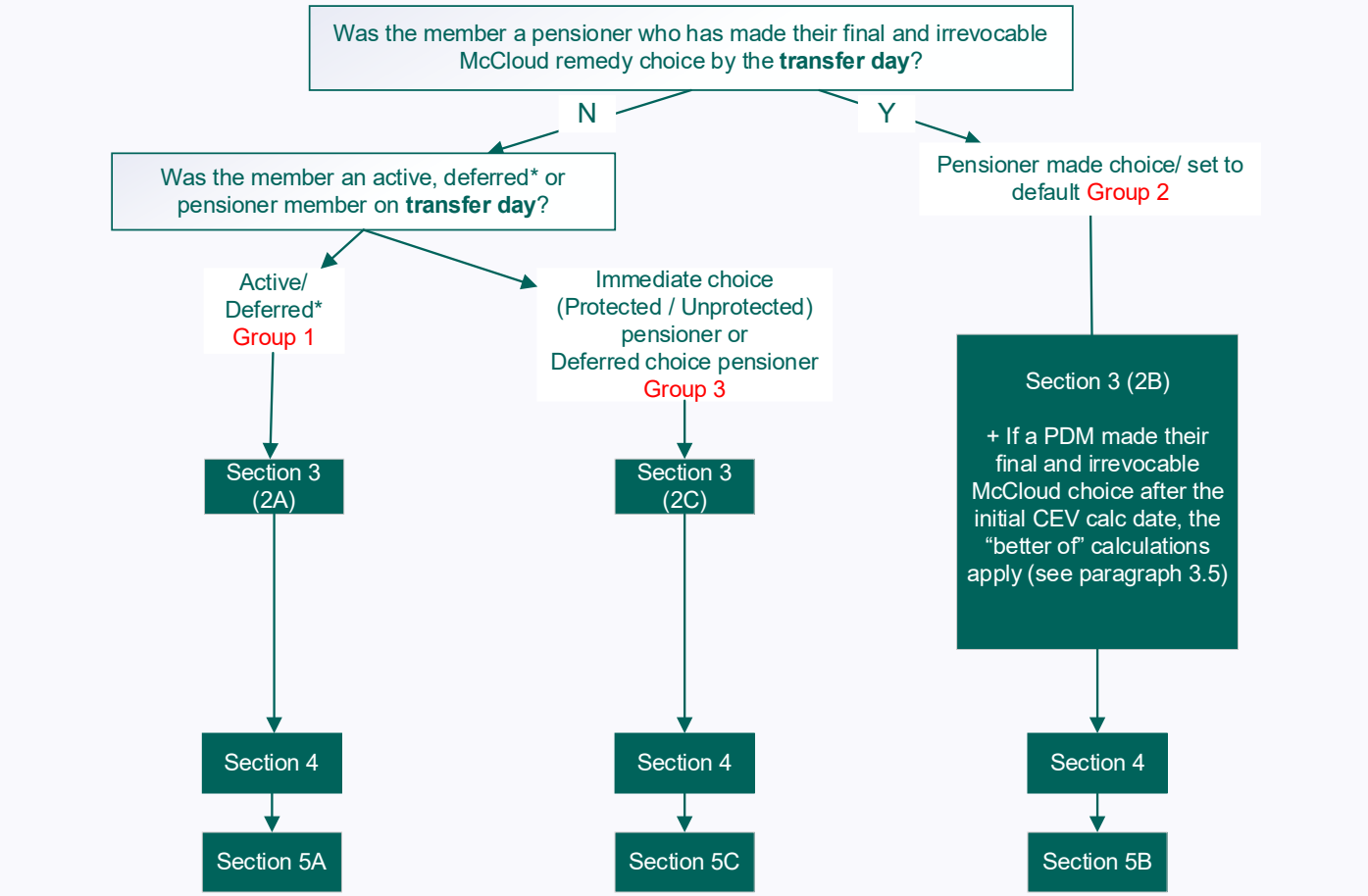
1.19 The following cases should be referred to the scheme manager in the first instance, for onward referral to GAD:

- Cases where compensation differs depending on McCloud choice (e.g. in relation to annual allowance tax charges, in particular in out of scope years).
- Cases where the member is a part-time volunteer reserve with remediable service as they had been a regular or in FTRS and who had purchased Added Pension in AFPS15.
- Any non-standard cases.

McCloud member requests quotation for divorce proceedings and the initial CEV calculation date is on or after 01/10/2023



The PSO received includes a legacy annex



*Active and deferred members are not in receipt of pensions. For divorce purposes, an active member is treated as a deferred member whose last day was the day before the calculation date.

Implementation

1.20 This guidance should be used for initial CEV calculations and subsequent calculations on or after 1 October 2023 for a member described in paragraphs 1.4 and 1.5.

1.21 This guidance has been written for pension administrators and assumes knowledge of general pension terminology, and familiarity with retirement calculations for the Schemes. Any questions concerning the application of the guidance should, in the first instance, be referred to the scheme manager.

1.22 In line with best practice and in order to ensure that factors are being used as intended and the instructions are fit for purpose, GAD plan to follow up with example calculations for this guidance note. The scheme manager may also consider whether some example calculations are sent to GAD for review.

1.23 This guidance should be read in conjunction with the divorce guidance(s) in force on or after 1 October 2023. These include:

GAD guidance	Issued on[12]
Armed Forces Pension Arrangements Pension Sharing on Divorce Factor guidance Version 1.1	13 Feb 2020

Compliance and limitations

1.24 Other than MOD and the scheme administrators, no person or third party is entitled to place any reliance on the contents of this guidance, except to any extent explicitly stated herein. 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 guidance, whether or not GAD has agreed to the disclosure of its advice to the third party.

1.25 This guidance may be published on MOD and the scheme administrator's website but must not otherwise be reproduced, distributed or communicated in whole or in part to any other person without GAD's prior written permission.

1.26 If any cases arise which do not fall under the standard approach set out in this guidance, they should be referred to the scheme manager in the first instance.

1.27 This guidance 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.

Arrangements on divorce other than pension sharing

1.28 Arrangements on divorce other than pension sharing orders are not covered in this guidance. However, where paragraph 1.4 applies (except for the reference to a PSO) and

[12] The factors included in the listed guidance note have been updated since the note was first issued. For all calculations, please use factors in force at the calculation date for the initial CEV calculation and in force at the **valuation day** for the re-calculation of CEV for implementation.

a value of benefits calculation is requested, the scheme should provide the RCEV as set out in Section 2 for remediable service.

2. Calculation of remediable cash equivalent value (RCEV)

2.1 Subsection 2A to 2C focus on the calculation of the remediable cash equivalent value (RCEV) for Tranche 2. As mentioned in paragraph 1.11, RCEV may only form part of a member’s shareable CEV in divorce. In these circumstances, separate CEVs should be calculated for each tranche of benefits in respect of non-remediable service.

2.2 Once CEV calculations for all tranches are complete, the administrator should add together Tranche 1 CEV (if applicable) and RCEV before quoting the total as the cash equivalent value of the member’s benefit from the relevant legacy scheme. This is because benefits in relation to the remediable service will be payable from the relevant legacy scheme regardless of the member’s McCloud remedy choice.

2.3 If applicable, the administrator should quote the Tranche 3 CEV as the cash equivalent value of the member’s benefit from the reformed scheme.

2.4 For the calculation of the initial Remediable Cash Equivalent Value (RCEV), it is the member’s status as at the initial CEV calculation date that determines which group a member falls under:

- Group 1 consists of deferred choice members who have not yet received pension benefits for McCloud remediable service[13].
- Group 2 consists of McCloud pensioners who have either made their irrevocable remedy choice or had a final default choice applied.
- Group 3 consists of McCloud immediate choice (protected or unprotected) pensioners[14] or deferred choice pensioners[15] for whom an irrevocable McCloud remedy choice has not been made (nor has a final default choice been applied).

[13] Regardless of whether they have made a McCloud choice and are awaiting payment.

[14] Throughout this guidance, reference to ‘pensioners’ includes members who may also have deferred benefits.

[15] Generally, a deferred choice member will make their choice before retirement, but exceptionally they may retire and start receiving legacy scheme payments before making their DCU election. These members may have been protected or unprotected before rollback.

2.5 Each of the upcoming subsections 2A to 2C set out the calculation of RCEV for one of the groups. At a high level, the key RCEV formula for each group are:

Group	Section	RCEV formula
1	2A	= Maximum (CEVL, CEVR)
2	2B	= CEVL or CEVR depending on member’s McCloud choice
3	2C	= Maximum (Init_CEV, Alt_CEV + Alt_UpayAdj)

2.6 For members with remediable benefits in payment who also have a deferred pension account in respect of remediable service, their CEV should include values of benefits in payment as well as their deferred benefits. Importantly, when deciding which group they belong to, the administrator should consider if they have made/ been defaulted to an irrevocable McCloud remedy choice. For example, an immediate choice member who has taken benefits from the legacy scheme, but has not yet made their irrevocable choice, should be treated as Group 3.

Members who made voluntary pension contributions in respect of remediable service

Additional Reckonable Service

2.7 For the groups of members listed below who have made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), the additional reckonable service benefits will be payable from the legacy scheme regardless of McCloud choice. Therefore, the RCEV calculated in paragraphs 2.15, 2.17 and 2.22 should also include the CEV of the legacy benefits provided by the member voluntary contribution payments, regardless of the McCloud choice.

- Protected members who made remediable voluntary contributions to secure additional reckonable service during remediable service under the relevant legacy scheme.
- Unprotected members who, before the calculation date, retrospectively purchased additional reckonable service under the relevant legacy scheme.

Enhanced Pension

2.8 For the groups of members listed below who have made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), the enhanced pension benefits will only be payable from the legacy scheme if member elects for the legacy scheme as their final and irrevocable McCloud choice. Therefore, the CEV calculated using the AFPS75 scheme guidance and factors as if remediable service was in AFPS75[16] should also include the CEV of the legacy benefits provided by the contribution payments. This should not be included in the reformed CEV as the member will not receive any benefits or compensation in respect of Enhanced Pension if they choose the reformed scheme.

[16] This relates to CEVL in paragraph 2.13, the first bullet in paragraph 2.17, Init_CEV in paragraph 2.19 for immediate choice pensioners who were protected or deferred choice pensioners or Alt_CEV in paragraph 2.20 for immediate choice pensioners who were unprotected. For each member, one of these items will then be used to calculate RCEV.

- Protected members who made remediable voluntary contributions to secure enhanced pension during remediable service under AFPS75.
- Unprotected members who, before the calculation date, retrospectively purchased Enhanced Pension under AFPS75.

Group 3 immediate choice unprotected pensioners with AFPS15 Added Pension

2.9 For Group 3 immediate choice unprotected pensioners, AFPS15 Added Pension already in payment will remain in payment until the member makes their immediate choice. The McCloud choice implementation will result in these members receiving compensation for all their Added Pension contributions, less tax relief, plus interest and minus any Added Pension received. Therefore, when calculating Init_CEV in paragraph 2.19, Alt_CEV in paragraph 2.20, and Alt_UpayAdj in paragraph 2.21, the AFPS15 Added Pension should be excluded and the RCEV should include an allowance for the compensation, calculated as if the McCloud election is implemented on the calculation date. This compensation is payable regardless of the member’s McCloud choice and so is included in both Init_CEV and Alt_CEV.

General

2.10 Unlike Group 3 immediate choice unprotected pensioners who are yet to receive AFPS15 Added pension compensation at **transfer day** (paragraph 2.9), it is assumed that AFPS15 Added Pension compensation has been settled for all other unprotected members. Where this compensation is not fully settled, this should be settled outside the divorce CEV process; no allowance is made in the RCEV calculations.

2.11 Paragraphs 2.7 to 2.10 are relevant for the calculation of the value of remediable shareable rights (Section 3) via the calculation of RRCEV.

2.12 Please note that where the RRCEV includes allowance for Additional Reckonable Service benefits, Enhanced Pension benefits or Added Pension compensation (as set out in paragraphs 2.7 to 2.9), these components are also subject to debits by the pension sharing order.

2A. Group 1 – McCloud deferred choice members who have not yet received pension benefits for McCloud remediable service by the initial CEV calculation date

This section applies to a deferred choice member who has not yet received pension benefits for McCloud remediable service by the initial CEV calculation date[17]. Since 1 October 2023 (rollback), their remediable service is in the legacy scheme.

2.13 **CEVL – stands for Cash Equivalent Value Legacy**

Calculate the remediable legacy scheme cash equivalent in respect of the PDM’s remediable service (i.e. Tranche 2) using the relevant legacy scheme guidance and factors in force as at the calculation date, assuming all rights for remediable service are based on benefits in the relevant legacy scheme[18,19].

2.14 **CEVR – stands for Cash Equivalent Value Reformed**

Calculate the remediable reformed scheme cash equivalent in respect of the PDM’s remediable service (i.e. Tranche 2) using the relevant reformed scheme guidance and factors in force as at the calculation date, assuming all rights for remediable service are based on benefits in the reformed scheme[18].

2.15 **RCEV – stands for Remediable Cash Equivalent Value**

RCEV = Maximum (CEVL, CEVR)

CEVL	Cash equivalent value legacy, calculated in paragraph 2.13
CEVR	Cash equivalent value reformed, calculated in paragraph 2.14

[17] Regardless of whether they have made a McCloud choice and are awaiting payment.

[18] As per paragraph 2.7, if members made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), please include the CEV of the legacy benefits provided by the contribution payments.

[19] As per paragraph 2.8, if members made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), please include the CEV of the legacy benefits provided by the contribution payments.

2B. Group 2 – McCloud pensioners with known final and irrevocable remedy choice by the initial CEV calculation date

This section applies to a McCloud pensioner who has either made their irrevocable remedy choice or had a final default choice applied by the initial CEV calculation date.

2.16 For a McCloud pensioner who has already made their irrevocable remedy choice or for whom a default choice has been applied by the initial CEV calculation date, the rights relating to remediable service should be treated as being secured in line with the known McCloud choice.

2.17 Calculate the Remediable Cash Equivalent Value (RCEV) as at the calculation date in respect of the PDM’s remediable service (i.e. Tranche 2), this means:

- Using the relevant legacy scheme guidance and factors in force at the calculation date if the McCloud choice was for legacy scheme benefits[20,21]
- Using the reformed scheme guidance and factors in force at the calculation date if the McCloud choice was for reformed scheme benefits[20]

2.18 No allowance should be made in the RCEV for any under/overpayments. Where these have not yet been settled, the member should be in receipt of information about any outstanding under/overpayments and can provide this information to the court separately.

[20] As per paragraph 2.7, if members made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), please include the CEV of the legacy benefits provided by the contribution payments.

[21] As per paragraph 2.8, if members made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), please include the CEV of the legacy benefits provided by the contribution payments.

2C. Group 3 – McCloud immediate choice (protected or unprotected) pensioners or deferred choice pensioners for whom an irrevocable McCloud remedy choice has not been made by the initial CEV calculation date

This section applies to an immediate choice (protected or unprotected) pensioner or deferred choice pensioner[22] for whom an irrevocable McCloud choice has not been made (nor has a final default choice been applied) by the initial CEV calculation date.

2.19 **Init_CEV – stands for Initial scheme Cash Equivalent Value**

Using the relevant scheme guidance and factors in force as at the calculation date, calculate the cash equivalent in respect of the PDM’s remediable service (i.e. Tranche 2) in the initial scheme, i.e. the scheme from which they are currently receiving benefit payments.

For immediate choice pensioners who were protected or deferred choice pensioners:

The initial scheme is the legacy scheme[23,24].

For immediate choice pensioners who were unprotected:

The initial scheme is the reformed scheme[23,25,26].

Please note that the CEV should include any rights of the member under the scheme. For a member who has remediable benefits in payment but also has a deferred pension account in respect of remediable service, the CEV should include both the pension in payment and any other rights in respect of remediable service which are not yet in payment.

2.20 **Alt_CEV – stands for Alternative Cash Equivalent Value**

Using the relevant scheme guidance and factors in force as at the calculation date, calculate the cash equivalent in respect of the PDM’s remediable service (i.e. Tranche 2) in the alternative scheme.

[22] Generally, a deferred choice member will make their choice before retirement, but exceptionally they may retire and start receiving legacy scheme payments before making their DCU election. These members may have been protected or unprotected before rollback.

[23] As per paragraph 2.7, if members made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), please include the CEV of the legacy benefits provided by the contribution payments.

[24] As per paragraph 2.8, if protected pensioners or deferred choice pensioners made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), please include the CEV of the legacy benefits provided by the contribution payments.

[25] As per paragraph 2.8, if unprotected pensioners made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), no allowance for this should be made in the initial (reformed) CEV.

[26] As per paragraph 2.9, if unprotected pensioners are receiving AFPS15 Added Pension, please exclude AFPS15 Added Pension from the CEV and include an allowance for compensation.

To calculate Alt_CEV, the administrator should first calculate the member’s remediable benefits as at the Initial CEV calculation date[27], as though remediable service were in the alternative scheme[28,29,30,31], using the following assumptions about alternative scheme benefits:

If the member took normal health retirement and would have been entitled to immediate retirement benefits from the alternative scheme, the administrator should assume in the calculation of member’s remediable benefits that:

- the member retired at the actual retirement age,
- any adjustment for early or late payment under the rules of the alternative scheme applied,
- and the member commuted the minimum that would be permitted if the member’s McCloud election was the alternative scheme

If the member took normal health retirement and would not have been entitled to immediate retirement benefits from the alternative scheme, the administrator should assume alternative benefits are payable as a deferred pension from deferred pension age, and the member commuted the minimum that would be permitted if the member’s McCloud election was the alternative scheme.

If the member took ill-health retirement from the initial scheme, the administrator should consider the member’s eligibility for ill-health retirement from the alternative scheme to determine if the member could have retired under ill-health at the actual retirement age, and if so what the ill-health benefits would be. If the member would not be eligible for ill-health benefits, then one of the two preceding paragraphs applies, depending on whether the member would have been entitled to immediate retirement benefits from the alternative scheme at their actual retirement age.

2.21 **Alt_UpayAdj – stands for Alternative Underpayment Adjustment**

As the member has been receiving benefits in respect of the remedy period, allowance should be made for McCloud remedy under/ overpayments of benefits associated with the alternative scheme:

[27] Although Alt_CEV is future looking as at the Initial CEV calculation date because it is the value of future benefits payable to the member under the alternative scheme under the specific assumptions, the calculation of what the payment streams in the alternative scheme would have been from the member’s actual retirement age is also needed for Underpayment adjustments (see paragraph 2.21).

[28] As per paragraph 2.7, if members made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), please include the CEV of the legacy benefits provided by the contribution payments.

[29] As per paragraph 2.8, if protected pensioners or deferred choice pensioners made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), no allowance for this should be made in the alternative (reformed) CEV.

[30] As per paragraph 2.8, if unprotected pensioners made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), please include the CEV of the legacy benefits provided by the contribution payments.

[31] As per paragraph 2.9, please include an allowance for AFPS15 Added Pension compensation for unprotected pensioners receiving AFPS15 Added Pension in their alternative (legacy) CEV.

Alt_UpayAdj	= (ALTpayment – ACTpayment) based on payments up to calculation date, with interest applied to calculation date

ALTpayment	Member benefits they would have received if they had been receiving alternative scheme benefits in respect of the remedy period[32]
ACTpayment	Actual benefits received by the members in respect of the remedy period excluding AFPS15 Added Pension if any[33]

Please note that

- Interest on the underpayment adjustment, as required under the PSPJOA and associated Directions, should be applied up to the calculation date.
- Alt_UpayAdj can range from being positive to negative.
  - A positive Alt_UpayAdj occurs when the member has received less benefits than they would have in the scenario where all rights for remediable service are based on benefits in the alternative scheme. This means if they choose to take alternative scheme benefits for remediable service, they have been underpaid to date (the scheme owes the member money).
  - A negative Alt_UpayAdj occurs when the member has received more benefits than they would have in the scenario where all rights for remediable service are based on benefits in the alternative scheme. This means if they choose to take alternative scheme benefits for remediable service, they have been overpaid to date (the member owes the scheme money).
- Applicable interest rates differ between underpayments (positive Alt_UpayAdj) and overpayments (negative Alt_UpayAdj).
- Underpayments (positive Alt_UpayAdj) would be paid in full so should be calculated gross of tax. Overpayments (negative Alt_UpayAdj) would be collected net of tax paid on the overpayment so should be calculated net of tax.
- This section only applies to McCloud remedy under/overpayments i.e. those resulting from a McCloud choice or potential McCloud choice. Administrators should deal with under/overpayments relating to non-McCloud scenarios as per usual procedures; these non-McCloud under/overpayments are not covered by this note.

2.22 **RCEV – stands for Remediable Cash Equivalent Value**

RCEV	= Maximum (Init_CEV, Alt_CEV + Alt_UpayAdj)

Init_CEV	Initial Cash Equivalent Value, calculated in paragraph 2.19
Alt_CEV	Alternative Cash Equivalent Value, calculated in paragraph 2.20

[32] Where the alternative scheme is the reformed scheme, benefits in relation to Additional Reckonable Service should be included, but not Enhanced Pension. Where the alternative scheme is the relevant legacy scheme and the member has purchased Additional Reckonable Service and/or Enhanced Pension before the calculation date, benefits in relation to these should be included.

[33] Where the initial scheme is the reformed scheme, no benefits in relation to Additional Reckonable Service or Enhanced Pension should have been paid. If an unprotected member has been receiving AFPS15 Added Pension, the AFPS15 Added Pension should be excluded as per paragraph 2.9. However it is to be included in the calculation of compensation, which should be included in the RCEV (via Init_CEV and Alt_CEV). Where the initial scheme is the relevant legacy scheme, benefits in relation to Additional Reckonable Service and/or Enhanced Pension should be included.

Alt_UpayAdj	Underpayment adjustment associated with member choosing alternative scheme benefits (enter a positive number if the member has been underpaid; a negative number if the member has been overpaid), calculated in paragraph 2.21

3. Calculation of the value of remediable shareable rights

3.1 As the McCloud member’s remediable service is in the legacy scheme after rollback, no further action is required if the court issues a PSO with one annex which relates to the reformed scheme only. This is because the court has decided that the member’s benefits accrued during the remediable service are not to be shared with the ex-partner. This effectively sets the percentage of member’s remediable benefits to be shared as 0%, or in the case of a Scottish divorce, a monetary amount of £0 in respect of remediable service.

3.2 The shareable rights relating to non-remediable service should be calculated separately. In this case, this would be the reformed scheme service for which the administrator should use the reformed scheme guidance and factors in force at the **valuation day**. Similarly, the administrator should follow the reformed scheme guidance for the calculation of shareable rights, pension credit and debit.

PSO with at least one annex which relates to legacy scheme

3.3 The remainder of this section applies when the court issues a PSO with at least one annex which relates to the legacy scheme and the member has some remediable service (so PSO consists of one annex in relation to legacy scheme only or multiple annexes in relation to legacy and reformed schemes). Since remediable service is in the legacy scheme after rollback, receiving a legacy scheme PSO annex means remediable service is shareable.

3.4 **RRCEV – stands for Recalculated Remediable Cash Equivalent Value**

Based on the member’s status at the **transfer day** (instead of the initial CEV calculation date), the administrator should follow the appropriate subsection (A to C) of Section 2 to re-calculate RCEV at the PSO **valuation day**. The recalculation should use guidance and factors in force on the PSO **valuation day** and use **transfer day** as the calculation date (instead of guidance and factors in force on the Initial CEV calculation date).

Cases where the PDM makes their irrevocable choice between initial CEV calculation date and **transfer day**

3.5 MOD has confirmed that their policy is to protect the PCM in cases where the PDM makes their irrevocable McCloud choice between initial CEV calculation date and **transfer day** (so has moved to Group 2 by **transfer day**), such that:

- Once the initial RCEV considers the "better of" value (i.e., Group 1 or 3 at the initial CEV calculation date), the RRCEV (and hence the value of remediable shareable rights) at the **transfer day** would also consider the "better of" value.

In such cases, the administrator should:

- Calculate Init_CEV in accordance with Section 2B, reflecting the member’s actual benefits payable from **transfer day** following their McCloud choice
- Calculate Alt_CEV by following paragraph 2.20 but apply the same commutation applied for that scheme in the RCEV calculation at the initial CEV calculation date (i.e. use the known commutation for the alternative scheme if this scheme was previously the initial scheme, otherwise assume minimum commutation),
- Calculate Alt_UpayAdj by following paragraph 2.21,

- Calculate RRCEV by following paragraph 2.22

Noting that:

- we expect any underpayment adjustments and /or AFPS15 Added pension compensation arising from the member making their irrevocable McCloud choice are settled by **transfer day**[34]. This means ACTpayment at **transfer day** should reflect the member's choice of benefits and could be different to the corresponding values at initial CEV calculation date.

3.6 **RPCEV – stands for Remediable Ex-Partner Cash Equivalent Value (English law)**

Divorces under English law: As RCEV relates to the member's remediable service in the legacy scheme after rollback, the percentage specified in the legacy scheme PSO Annex will determine the percentage of the member's remediable service benefits (valued in paragraph 3.4 or 3.5 as RRCEV) that are to be shared. This percentage should be used to calculate the Remediable Ex-Partner Cash Equivalent Value (RPCEV), which is the value of remediable shareable rights (or the PCM's cash equivalent value which relates to the PDM's remediable service):

RPCEV = RRCEV x legacy scheme PSO percentage

RRCEV	Recalculated cash equivalent value of the member's benefits in respect of their remediable service, calculated in paragraph 3.4 or 3.5

This same percentage will also apply to any pre-remediable service (i.e. Tranche 1) benefits which are being shared.

3.7 **RPCEV – stands for Remediable Ex-Partner Cash Equivalent Value (Scottish law)**

Divorces under Scottish law: The legacy scheme PSO annex will usually specify a monetary amount. The administrator should carry out the following steps (as shown in paragraph 3.8 and 3.9) to identify the monetary amount relating to the remediable service which should be used as the value of the remediable shareable rights (or the PCM's cash equivalent value which relates to the PDM's remediable service).

3.8 Firstly, the administrator should calculate the implied percentage of member's benefits that the ex-partner is entitled to.

Implied percentage = [MAL ÷ (RRCEV + RTranche 1 CEV)]

MAL	Monetary amount specified in the legacy scheme PSO annex
RRCEV	Recalculated cash equivalent value of the member's benefits in respect of their remediable service, calculated in paragraph 3.4 or 3.5
RTranche 1 CEV	Recalculated CEV as at **transfer day** in respect of legacy scheme service prior to 1 April 2015, as explained in paragraphs 1.11 and 1.18. This could be zero for divorce purposes if the member did not accrue Tranche 1 benefits during their marriage

[34] If this is not the case, the scheme should resolve them as per scheme policy. For the purposes of the divorce calculations, please assume the adjustments have been settled.

3.9 Then, the implied percentage can be used to calculate the monetary amount relating to the remediable service which should be used as the Remediable Ex-Partner Cash Equivalent Value.

RPCEV = RRCEV x implied percentage

RRCEV	Recalculated cash equivalent value of the member’s benefits in respect of their remediable service, calculated in paragraph 3.4 or 3.5

3.10 For English and Scottish divorces, the shareable rights relating to non-remediable service should be calculated separately, using the relevant guidance and factors in force at the **valuation day**. The resultant answers added together will give the total shareable rights.

3.11 Divorces under Scottish law: If the legacy scheme PSO covers Tranche 1 benefits (i.e. member has pre-1 April 2015 service), the calculation of ex-partner’s cash equivalent value in respect of RTranche 1 CEV should use the implied percentage calculated in paragraph 3.8 in place of the “Appropriate percentage” set out in Part A (legacy section) of the existing scheme divorce guidance.

3.12 Any charges to cover the cost of work generated by the PSO, which MOD has decided should be attributed to the ex-partner, should be deducted from the total shareable rights awarded to the ex-partner.

4. Calculation of the remediable pension credit

4.1 This section applies when the court issues a PSO with at least one annex which relates to the legacy scheme and where the PDM had some remediable service (so PSO consists of one annex in relation to legacy scheme only or multiple annexes in relation to legacy and reformed schemes). Since remediable service is in the legacy scheme after rollback, receiving a legacy scheme PSO annex means remediable service is shareable.

4.2 Using the RPCEV calculated in Section 3 as the ex-partner’s cash equivalent, the administrator should follow Part A (legacy section) of the scheme’s divorce guidance and factors in force at the **valuation day** and use **transfer day** as the calculation date to calculate the pension credit in respect of the remediable service.

4.3 The pension credit relating to non-remediable service should be calculated separately, using the relevant guidance and factors in force at the **valuation day** and using **transfer day** as the calculation date. The resultant pension credits for Tranches 1 and 2 added together will give the total pension credit in the legacy scheme. Any Tranche 3 pension credit will give the pension credit in the reformed scheme.

5. Calculation of the remediable pension debit and other relevant debits

5.1 This section applies when the court issues a PSO with at least one annex which relates to the legacy scheme which covers remediable service (so the PSO consists of one annex in relation to legacy scheme only or multiple annexes in relation to legacy and reformed schemes). Since remediable service is in the legacy scheme after rollback, receiving a legacy scheme PSO annex means remediable service is shareable.

5.2 Subsection 5A to 5C focus on the calculation of pension debits for remediable service (i.e. Tranche 2). The pension debits relating to non-remediable service should be calculated separately, using the relevant guidance and factors in force at the **valuation day**.

5.3 Divorces under Scottish law (following on from paragraph 3.11): If the legacy scheme PSO covers Tranche 1 benefits (i.e. member has pre-1 April 2015 service), the administrator should follow Part A (legacy section) of the existing scheme divorce guidance to calculate the pension debit in respect of Tranche 1 **but** replacing “Appropriate percentage” with the implied percentage calculated in paragraph 3.8.

5.4 The pension debits for non-remediable service plus the remediable service pension debit give the total pension debits which will apply depending on the member’s McCloud election (or assigned default scheme). These pension debits may have different benefit features, for example retirement ages, depending on whether they relate to the legacy or reformed style of benefits, and so should be considered separately for the purpose of any calculations.

5.5 Following rollback, benefits in relation to the remediable service will be payable from the relevant legacy scheme regardless of the McCloud choice. Therefore, as shown in the table in paragraph 1.11, the pension debit in respect of remediable service should be applied in the relevant legacy scheme.

5A. McCloud deferred choice members who have not yet received pension benefits for McCloud remediable service by the transfer day.

This section applies to a deferred choice member who has not yet received pension benefits for McCloud remediable service by the **transfer day**[35].

5.6 As the McCloud remedy offers affected members a choice of benefits for remediable service and in a case of divorce, the benefits should reflect pension debits, the administrators should carry out two pension debit calculations.

5.7 The two pension debit calculations for remediable service should be carried out at the PSO **valuation day**, using the **transfer day** as the calculation date. They are:

a. A pension debit assuming all rights in respect of remediable service are based on benefits in the relevant legacy scheme[36,37], calculated using the relevant legacy scheme guidance and factors in force at the **valuation day**.

b. A pension debit assuming all rights in respect of remediable service are based on benefits in the reformed scheme[36], calculated using the reformed scheme guidance and factors in force at the **valuation day**.

5.8 In both cases, the percentage used to calculate the pension debit should be the percentage specified in the legacy scheme PSO Annex, or the implied percentage for divorce cases under Scottish law, as calculated in paragraph 3.8.

5.9 Both sets of debit calculations should be recorded on the administration system and revaluation should apply as usual. The debit applies with effect from **transfer day**.

5.10 Until the McCloud member makes their final and irrevocable deferred remedy choice and pension benefits come into payment, the pension debit applicable for remediable service is that calculated as though all remediable service were in the relevant legacy scheme as the member is in the legacy scheme in respect of remediable service post-rollback. However, at the point when pension comes into payment, if they have elected for reformed scheme benefits for the remediable service, then the pension debit will need to be revised to reflect the pension debit in accordance with paragraph 5.7b above.

[35] Regardless of whether they have made a McCloud choice and are awaiting payment.

[36] As per paragraph 2.7, if members made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), please include the legacy benefits provided by the contribution payments.

[37] As per paragraph 2.8, if members made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), please include the legacy benefits provided by the contribution payments.

5B. McCloud pensioners with known final and irrevocable remedy choice by the transfer day

This section applies to a McCloud pensioner who has either made their irrevocable remedy choice or had a final default choice applied by the **transfer day**.

5.11 For a McCloud member who has already made their irrevocable remedy choice or for whom a default choice has been applied by the **transfer day**, the rights relating to remediable service should be treated as being secured in line with the known McCloud choice.

5.12 This means only one pension debit calculation for remediable service should be carried out at the PSO **valuation day**, using the **transfer day** as the calculation date to reflect the McCloud choice:

- Using the relevant legacy scheme guidance and factors in force at **valuation day** if the McCloud choice was for legacy scheme benefits[38,39]
- Using the reformed scheme guidance and factors in force at **valuation day** if the McCloud choice was for reformed scheme benefits[38]

5.13 The percentage used to calculate the pension debit should be the percentage specified in the legacy scheme PSO Annex, or the implied percentage for divorces under Scottish law, as calculated in paragraph 3.8.

5.14 Revaluation applies as usual to this pension debit. The debit applies with effect from **transfer day**.

5.15 It is expected that any AFPS15 Added Pension compensation adjustment and any underpayment adjustments arising from the member making their irrevocable McCloud choice are settled by **transfer day**[40]. This means no allowances are needed for these adjustments.

[38] As per paragraph 2.7, if members made voluntary contributions to secure Additional Reckonable Service in respect of remediable service (in AFPS75 or AFPS05), please include the legacy benefits provided by the contribution payments.

[39] As per paragraph 2.8, if members made voluntary contributions to secure Enhanced Pension in respect of remediable service (in AFPS75), please include the legacy benefits provided by the contribution payments.

[40] If any underpayment arising has not been settled, the scheme should resolve this as per scheme policy, outside of the debit calculations discussed here.

5C. McCloud immediate choice (protected or unprotected) pensioners or deferred choice pensioners for whom an irrevocable McCloud remedy choice has not been made by the transfer day.

This section applies to an immediate choice (protected or unprotected) pensioner or deferred choice pensioner[41] for whom an irrevocable McCloud choice has not been made (nor has a final default choice been applied) by the **transfer day**.

5.16 As the remedy choice is not known by **transfer day**, the administrator should implement a pension debit based on the member's current benefits in payment. The percentage used to calculate the pension debit should be the percentage specified in the legacy scheme PSO Annex, or the implied percentage for divorce cases under Scottish law, as calculated in paragraph 3.8. The debit is revalued as usual and applies with effect from **transfer day**.

5.17 If the member makes a McCloud election to receive their current benefits, the debit continues to be applied and no further action is needed.

5.18 If the member makes a McCloud election to receive the alternative scheme benefits, then the administrator should work out what the payment streams in the alternative scheme would have been from the member's actual retirement age, allowing for the member's actual choice of commutation. This would enable the administrator to calculate the ongoing pension that the member would be receiving instead at **transfer day** and apply the debit to this pension. The percentage used to calculate the pension debit should also be the percentage specified in the legacy scheme PSO Annex, or the implied percentage for divorce cases under Scottish law, as calculated in paragraph 3.8.

5.19 If the Recalculated Remediable Cash Equivalent Value (RRCEV) included allowance for any deferred pension (e.g. for a pensioner with a deferred pension account), the debit for that deferred pension should be calculated in accordance with paragraphs 5.6 to 5.10.

Underpayment adjustment debit

5.20 To ensure the value of member's debit reflects a share of all the benefits captured in the RRCEV calculated in Section 3, an underpayment adjustment debit (Deb_AltUpayAdj) will apply if the member opts to receive alternative scheme benefits.

5.21 An underpayment adjustment debit reduces the amount of money owed, either from the scheme to the member or from the member to the scheme by the legacy PSO%. If the member opts to receive alternative scheme benefits, the underpayment adjustment debit which applies to the member's underpayment adjustment at **settlement date** will be:

Deb_AltUpayAdj	= UpayAdjAlt x legacy scheme PSO percentage
UpayAdjAlt	= (ALTpayment – ACTpayment), based on payments up to **transfer day**, with interest applied to **settlement date** (a positive number if the scheme owes the member money; a negative number if the member owes the scheme money)

[41] Generally, a deferred choice member will make their choice before retirement, but exceptionally they may retire and start receiving legacy scheme payments before making their DCU election. These members may have been protected or unprotected before rollback.

ALTpayment	Member benefits they would have received if they had been receiving alternative scheme benefits in respect of the remedy period, with the alternative scheme lump sum and ongoing pension reflecting the member's actual commutation choice[42]
ACTpayment	Actual benefits received by the member in respect of the remedy period, excluding AFPS15 Added Pension if any[43]

5.22 Note the underpayment adjustment above is based on the member's actual commutation choice, so may be different to the underpayment adjustment used in the calculation of the Recalculated Remediable Cash Equivalent Value (RRCEV) in accordance with paragraphs 3.4 and 3.5 (which was based on an assumption that the member commuted the minimum permitted in the alternative scheme).

5.23 Please note that for the purposes of calculating the underpayment adjustment above, to which the PSO percentage should apply, the administrator should ignore payments on or after **transfer day**. The administrators should handle underpayments (or overpayments) between **transfer day** and **settlement date** separately, allowing for the pension debits which applied from **transfer day** plus McCloud interest (this is done outside of the divorce process which is the focus of this note).

AFPS15 Added pension compensation adjustment debit

5.24 If the member had any AFPS15 Added Pension in respect of remediable service as at **transfer day**, the relevant compensation would have been included in the RCEV as per paragraph 2.9. A debit in respect of this compensation would therefore be needed, regardless of the member's election. A compensation adjustment debit reduces the compensation due to the member by the legacy PSO%. The compensation adjustment debit which applies to the member's contribution adjustment at **settlement date** will be:

Deb_CompAdj	= CompAdj x legacy scheme PSO percentage
CompAdj	Compensation in respect of AFPS15 Added Pension contributions during the remedy period (Added Pension contributions, less tax relief, minus any Added Pension received, plus interest to **settlement date**)

5.25 Note the compensation adjustment above should be consistent with the compensation adjustment used in the calculation of the Recalculated Remediable Cash Equivalent Value (RRCEV) in accordance with paragraphs 3.4 and 3.5, but will have interest applied to the **settlement date** rather than the **transfer day**.

5.26 If illustrative figures (including pension debits) are to be provided to the member in advance of them making their McCloud election, then the administrator may calculate

[42] Where the alternative scheme is the reformed scheme, benefits in relation to Additional Reckonable Service should be included, but not Enhanced Pension. Where the alternative scheme is the relevant legacy scheme and the member has purchased Additional Reckonable Service and/or Enhanced Pension before calculation date, benefits in relation to these should be included.

[43] Where the initial scheme is the reformed scheme, no benefits in relation to Additional Reckonable Service or Enhanced Pension should have been paid. If an unprotected member has been receiving AFPS15 Added Pension, the AFPS15 Added Pension should be excluded as per paragraph 2.9. However it is to be included in the calculation of compensation, which should be included in the RCEV (via Init_CEV and Alt_CEV). Where the initial scheme is the relevant legacy scheme, benefits in relation to Additional Reckonable Service and/or Enhanced Pension should be included.

illustrative figures using paragraphs 5.16 to 5.25 above. Such illustrations will require an assumption about the **settlement date** and the member’s commutation choice.

6. Appendix

Key definitions

Settlement date

After a member has made their final and irrevocable McCloud election regarding remediable service, or has been assigned the default scheme at the end of the election period, the **settlement date** is the day when all final payments are made between the member and the pension scheme. This date marks the resolution of any under/overpayments of benefits or contributions, thereby implementing the final scheme benefits.

Transfer day

Section 29(8) of the Welfare Reform and Pensions Act 1999 (1999 Act) defines the **transfer day** as the day on which the pension sharing order takes effect. (The **transfer day** is sometimes also referred to as the Effective date.)

If the calculation is being done after a pension sharing order has been made, the calculation date is the **transfer day**, as per our standard divorce guidance.

The calculation of the cash equivalent should include benefits or future benefits to which, immediately before the **transfer day**, the transferor (pension debit member) is entitled. Factors should be selected with reference to the member’s status and age at the **transfer day**.

Where pension credit benefits for an ex-partner are to be calculated, factors should be selected with reference to the ex-partner’s age at the **transfer day**, and the ex-partner’s deferred pension age.

Valuation day

Section 29(7) of the 1999 Act defines **valuation day** as a day within the Implementation Period for the transferee (pension credit member) to become entitled to the pension credit. The responsible authority may specify the **valuation day** by notice in writing to the transferor and transferee. Section 34(1) of the 1999 Act defines the implementation period as the four-month period that starts on the **transfer day**, or if later, on the date the pension scheme has the prescribed information needed to implement the pension sharing order. (The **valuation day** is sometimes referred to as the Implementation date.)

Factors for implementation of a PSO should be those in force as at the **valuation day**. Where the member or ex-partner has a different deferred pension age at the **valuation day** compared to the **transfer day**, the deferred pension age at the **valuation day** should be used.