



Government  
Actuary's  
Department

# The Firefighters' Pension Scheme (Wales)

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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## 1. Introduction

- 1.1 This guidance is addressed to the Welsh Government as the responsible authority for the Firefighters’ Pension Scheme in Wales (the Schemes). The Scheme include the Firefighters’ Pension Scheme (Wales) 1992, the New Firefighters’ Pension Scheme (Wales) 2007 (the legacy schemes) and the Firefighters’ Pension Scheme (Wales) 2015 (the 2015 Scheme).
- 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 the Firefighters’ Pensions (Remediable Service) (Wales) Regulations 2023 (SI 2023/961) (referred to in this note as the “Remediable Service Regulations”):

| Administrative procedure                                              | Regulation(s) | Relevant section of this document |
|-----------------------------------------------------------------------|---------------|-----------------------------------|
| Calculation of appropriate amount, pension credits and pension debits | 26 & 27       | 2 to 4                            |
| Calculation of alternative pension debit                              | 26 & 28       | 5                                 |
| Calculation of value of benefits, for arrangements other than a PSO   | 29            | Paragraph 1.33                    |

- 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<sup>1</sup>.
- 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. Throughout this guidance, any reference to divorce should be taken to include dissolution.

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)<sup>2</sup>. 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 four 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<sup>3</sup>.

<sup>1</sup> This includes in-scope McCloud pensioners, even though their benefits in payment may remain unchanged at the time of rollback.

<sup>2</sup> 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.

<sup>3</sup> Regardless of whether they have made a McCloud choice and are awaiting payment.

- 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<sup>4</sup> or deferred choice pensioners<sup>5</sup> for whom an irrevocable McCloud remedy choice has not been made (nor has a final default choice been applied).
- Group 4 consists of McCloud immediate choice (tapered) pensioners 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<sup>6</sup>
- Deferred choice members: an active or deferred member immediately before 1 October 2023<sup>7</sup>

Note that members are assigned to Groups 1 to 4 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 | Group 4         |
|------------------|---------|---------|---------|-----------------|
| Immediate choice | No      | Yes     | Yes     | Yes             |
| Deferred choice  | Yes     | Yes     | Yes     | No <sup>8</sup> |

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

<sup>4</sup> Throughout this guidance, reference to ‘pensioners’ includes members who have partially retired.

<sup>5</sup> 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, taper protected or unprotected before rollback.

<sup>6</sup> See PSPJOA section 6(2)

<sup>7</sup> See PSPJOA section 10(2)

<sup>8</sup> Deferred choice members (including tapered members) were rolled back into the legacy scheme on 1 October 2023. This means even if a deferred choice tapered member retires on or after 1 October 2023 without having made their irrevocable McCloud choice (i.e, becoming a deferred choice pensioner), they will receive legacy payments until and unless they elect for the reformed scheme. This makes them similar to the protected immediate choice pensioners (in Group 3) who have not yet made their irrevocable McCloud choice and they should be treated in a similar manner.

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 covers cases where the McCloud choice would result in contribution adjustments under PSPJOA section 15 (Immediate choice members) and section 17 (Deferred choice members, deferred correction). This includes both contribution overpayments (where the scheme manager is required to pay an amount of compensation to the member in respect of the overpaid contributions) and contribution underpayments (where additional contributions are owed to the scheme manager).
- 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<sup>9</sup>)

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). 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 <sup>10</sup> | Scheme benefits are payable from |
|---------|--------------------------------------------------|-----------------------------------------------|----------------------------------|
| 1       | Pre-1 April 2015                                 | Relevant legacy scheme guidance <sup>11</sup> | Relevant legacy scheme           |
| 2       | 1 April 2015 to 31 March 2022                    | This guidance                                 | Relevant legacy scheme           |
| 3       | Post-31 March 2022 <sup>9</sup>                  | Reformed scheme guidance                      | Reformed scheme                  |

- 1.12 If the member has elected to purchase benefits under a “Matthews” options exercise, administrators should have regard to the “Special members” section of the GAD guidance

<sup>9</sup> 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)).

<sup>10</sup> 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.

<sup>11</sup> 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.

note, “The New Firefighters’ Pension Scheme 2006 (England), The New Firefighters’ Pension Scheme 2007 (Wales), The New Firefighters’ Pension Scheme 2007 (Northern Ireland): Individual Cash Equivalent Transfers: Guidance & Factors for CETVs: CETV factors effective 29 October 2018 to 28 March 2023”, dated 9 August 2024.

- 1.13 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’.
- 1.14 Where the member has made a remediable added year payment<sup>12</sup> (or payments), then in applying this guidance:
- The CEV if the member makes a legacy scheme election should include allowance for the benefits provided by these added years
  - The CEV if the member makes a reformed scheme election should include allowance for the compensation payment of the aggregate of all of the member’s remediable added years payments net of tax relief payable under regulation 28(4)(a) of the Remediable Service Regulations, plus interest applied up to the initial CEV date or transfer day as the case may be.

Any resulting debit on divorce should apply to added year benefits or compensation payment detailed above.

- 1.15 Where the member has made a remediable added pension payment<sup>13</sup> (or payments), then in applying this guidance the CEV should not take account of the compensation payment of the aggregate of all of the member’s remediable added pension payments net of tax relief payable under regulation 27(4) of the Remediable Service Regulations.
- 1.16 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 (see paragraph 1.11 above).
  - The benefits payable from the legacy scheme (due to rollback) are Tranche 1 and 2 benefits.
  - 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

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<sup>12</sup> As defined in the Remediable Service Regulations, regulation 28(5).

<sup>13</sup> As defined in the Remediable Service Regulations, regulation 27(7)

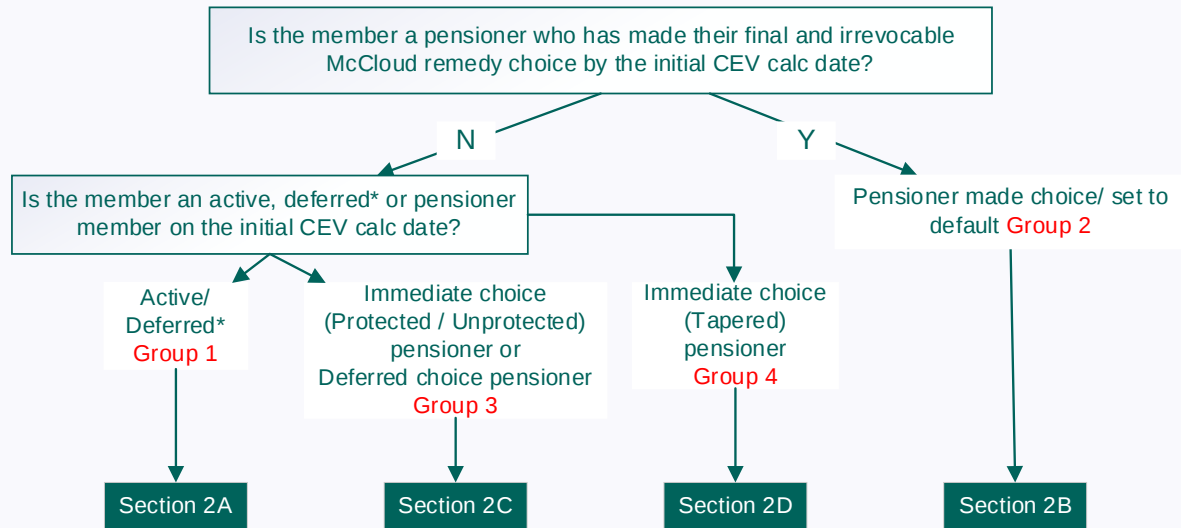
legacy and reformed schemes if the member makes a reformed scheme election minus the Tranche 3 benefits.

- 1.17 In particular, pension benefits in the Firefighters’ Pension Scheme 1992 should be determined as if the relevant accrual rate applied uniformly across their service within this scheme.
- 1.18 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.
- 1.19 Nothing in this guidance should be read as overriding the regulations which govern the Schemes.

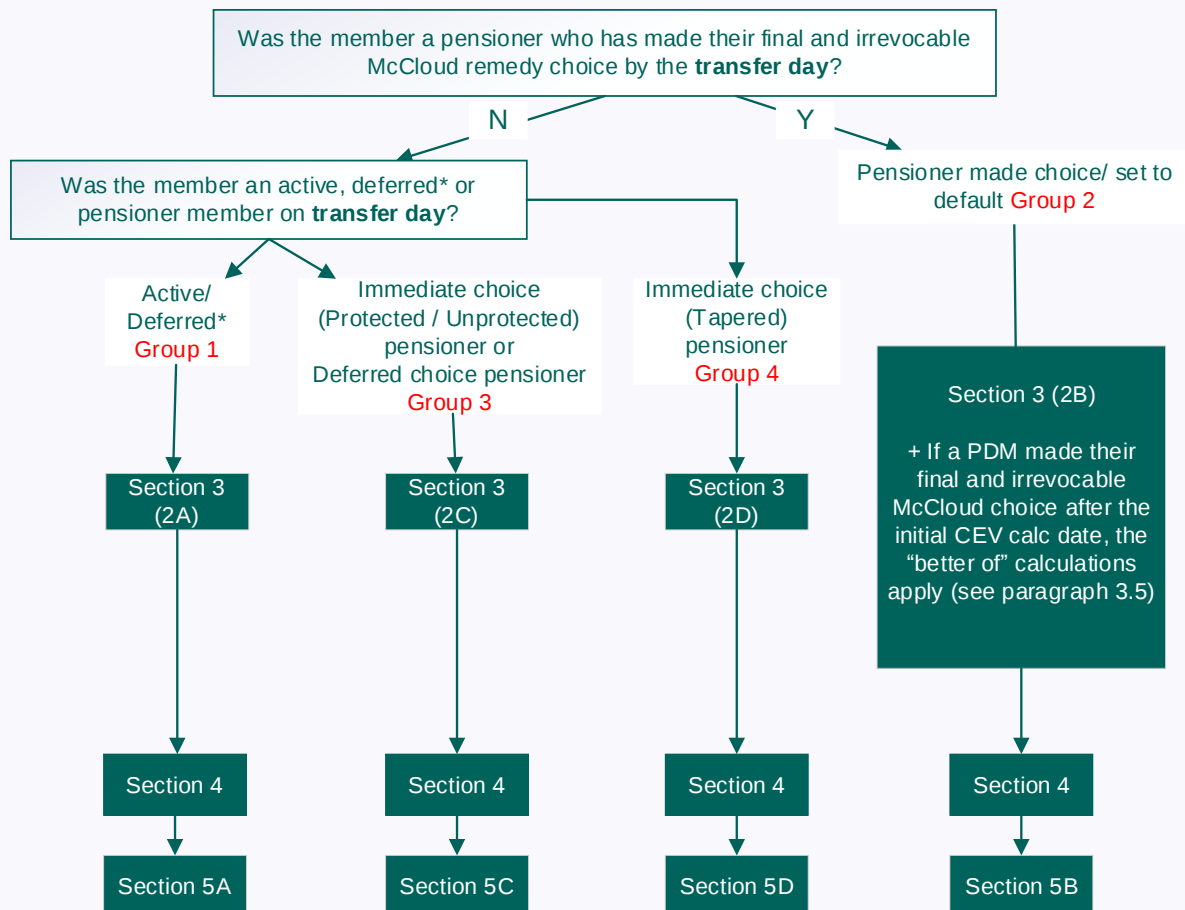
## **Exclusions**

- 1.20 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.
- 1.21 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.
- 1.22 For McCloud members with remediable service described in paragraphs 1.4 to 1.6, 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.
- 1.23 With the exception of the cases mentioned in paragraphs 1.10 and 1.14, any cases where the member is owed compensation which would differ depending on the member’s future McCloud election should be referred to Welsh government in the first instance, for onward referral to GAD.

**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

- 1.24 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 to 1.6.
- 1.25 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.
- 1.26 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.
- 1.27 This guidance should be read in conjunction with the divorce guidance(s) in force on or after 1 October 2023. These include:

### Legacy scheme and Reformed (2015) scheme

| GAD guidance                                                                     | Issued on <sup>14</sup> |
|----------------------------------------------------------------------------------|-------------------------|
| <b>The Firefighters’ Pension Scheme (England) 1992</b>                           | 06 Mar 2020             |
| <b>The Firefighters’ Pension Scheme (Wales) 1992</b>                             |                         |
| <b>The Firefighters’ Pension Scheme (Northern Ireland) 2007</b>                  |                         |
| <b>Pensioner cash equivalents on divorce, pension credits and pension debits</b> |                         |
| <b>Factors and guidance</b>                                                      |                         |
| <b>The New Firefighters’ Pension Scheme (England) 2006</b>                       | 06 Mar 2020             |
| <b>The New Firefighters’ Pension Scheme (Wales) 2007</b>                         |                         |
| <b>The New Firefighters’ Pension Scheme (Northern Ireland) 2007</b>              |                         |
| <b>Pensioner cash equivalents on divorce, pension credits and pension debits</b> |                         |
| <b>Factors and guidance</b>                                                      |                         |
| <b>The Firefighters’ Pension Scheme 2015 (Wales)</b>                             | 30 Jan 2020             |
| <b>Pension Sharing on Divorce</b>                                                |                         |
| <b>Factors and guidance</b>                                                      |                         |

- 1.28 This guidance has been reissued on 8 April 2025 with a minor clarification in paragraph 1.4.

## Compliance and limitations

- 1.29 Other than Welsh Government 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

<sup>14</sup> The factors included in each 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.

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.

- 1.30 This guidance may be published on Welsh Government and the scheme administrators' websites but must not otherwise be reproduced, distributed or communicated in whole or in part to any other person without GAD's prior written permission.
- 1.31 If any cases arise which do not fall under the standard approach set out in this guidance, they should be referred to Welsh Government in the first instance.
- 1.32 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**

- 1.33 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 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 Subsections 2A to 2D 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 on 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<sup>15</sup>.
  - 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<sup>16</sup> or deferred choice pensioners<sup>17</sup> for whom an irrevocable McCloud remedy choice has not been made (nor has a final default choice been applied).
  - Group 4 consists of McCloud immediate choice (tapered) pensioners for whom an irrevocable McCloud remedy choice has not been made (nor has a final default choice been applied).

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<sup>15</sup> This group includes deferred choice members who have made a McCloud choice and are awaiting payment.

<sup>16</sup> Throughout this guidance, reference to ‘pensioners’ includes members who have partially retired.

<sup>17</sup> 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, taper protected or unprotected before rollback.

- 2.5 Each of the upcoming subsections 2A to 2D 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 + ContAdjR)                                                                   |
| 2     | 2B      | = CEVL or CEVR depending on member’s McCloud choice                                                 |
| 3     | 2C      | = Maximum (Init_CEV, Alt_CEV + Alt_UpayAdj + Alt_ContAdj)                                           |
| 4     | 2D      | = Maximum (Alt_CEV_L + Alt_UpayAdj_L + Alt_ContAdj_L,<br>Alt_CEV_R + Alt_UpayAdj_R + Alt_ContAdj_R) |

- 2.6 For members who have taken partial retirement, 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 partial retirement (receiving some benefits from the legacy scheme) but have not yet made their irrevocable choice, should be treated as Group 3.

## **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<sup>18</sup>. Since 1 October 2023 (rollback), their remediable service is in the legacy scheme and any contribution adjustment arising from rollback (under PSPJOA Section 16) is assumed to be settled<sup>19</sup>.

### **2.7 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.

### **2.8 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.

### **2.9 ContAdjR – stands for Contribution Adjustment Reformed**

If, in respect of the remedy period, the member would have paid different contributions towards benefits based on the reformed scheme (compared to the legacy scheme), allowance should be made for remedy period member contribution adjustments in the scenario where all rights for remediable service are based on benefits in the reformed scheme.

The contribution adjustment associated with the member receiving reformed scheme benefit for remediable service (ContAdjR) is calculated as:

**ContAdjR** = (Lcont – Rcont) net of tax and with interest applied to calculation date

Lcont                      Legacy member contributions payable for the remedy period assuming rights were being accrued in the legacy scheme

Rcont                      Reformed member contributions payable for the remedy period assuming rights were being accrued in the reformed scheme

Please note that

- The contribution adjustment relates to adjustment under PSPJOA section 17 (deferred choice members).
- The contribution adjustment should exclude any adjustment on rollback (under PSPJOA section 16) and any compensation in respect of remediable added pension payments (see paragraph 1.15).

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<sup>18</sup> This group includes deferred choice members who have made a McCloud choice and are awaiting payment.

<sup>19</sup> If any contribution adjustment arising because of rollback (under PSPJOA Section 16) has not been settled, the scheme should resolve this as per scheme policy. It is not affected by, and is not taken into account in, the pension divorce calculations discussed in this note.

- Interest on the contribution adjustment, as required under the PSPJOA and associated Directions, should be applied up to the calculation date.
- Applicable interest rates differ between contribution overpayments (positive ContAdjR) and contribution underpayments (negative ContAdjR).
  - A positive ContAdjR occurs when legacy member contributions payable for the remedy period are greater than the reformed member contributions payable for the remedy period. This means if they choose to take remedy scheme benefits for remediable service, they have overpaid contributions (the scheme owes compensation to the member).
  - A negative ContAdjR occurs when legacy member contributions payable for the remedy period are less than the reformed member contributions payable for the remedy period. This means if they choose to take remedy scheme benefits for remediable service, they have underpaid contributions (the member owes contributions to the scheme).
- The contribution adjustment for both underpayments and overpayments should be calculated net of the tax relief waived under Section 18 of the PSPJOA.

## 2.10 RCEV – stands for Remediable Cash Equivalent Value

$$\text{RCEV} = \text{Maximum (CEVL, CEVR + ContAdjR)}$$

|          |                                                                                                                                                                                                                                                     |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| CEVL     | Cash equivalent value legacy, calculated in paragraph 2.7                                                                                                                                                                                           |
| CEVR     | Cash equivalent value reformed, calculated in paragraph 2.8                                                                                                                                                                                         |
| ContAdjR | Contribution adjustment associated with member choosing reformed scheme benefits (enter a positive number if compensation is due to the member; a negative number if additional contributions are due from the member), calculated in paragraph 2.9 |

**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.

- 2.11 For a McCloud member 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.
- 2.12 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
  - Using the reformed scheme guidance and factors in force at the calculation date if the McCloud choice was for reformed scheme benefits
- 2.13 No allowance should be made in the RCEV for any under/overpayments or member contribution adjustments. Where these have not yet been settled, the member should be in receipt of information about any outstanding under/overpayments and member contribution adjustments and can provide this information to the court separately.

## **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<sup>20</sup> for whom an irrevocable McCloud choice has not been made (nor has a final default choice been applied) by the initial CEV calculation date.

### **2.14 Initial\_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.

For immediate choice pensioners who were unprotected:

The initial scheme is the reformed scheme.

Please note that the CEV should include any rights of the member under the scheme. For a member who has partially retired, the CEV should include both the partial retirement pension in payment and any other rights in respect of remediable service which are not yet in payment. For deferred choice pensioners, their benefits in respect of any remediable voluntary contribution may not be in payment<sup>21</sup>, but the value should be included in the CEV.

### **2.15 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.

To calculate Alt\_CEV, the administrator should first calculate the member’s remediable benefits as at the Initial CEV calculation date<sup>22</sup>, as though remediable service were in the alternative scheme, 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 the member’s remediable benefits that:

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<sup>20</sup> 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, taper protected or unprotected before rollback.

<sup>21</sup> Regulation 12(10) of the Remediable Service Regulations.

<sup>22</sup> 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 2.16).

- 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.

## 2.16 **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:

**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 |
| ACTpayment | Actual benefits received by the members in respect of the remedy period                                                         |

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 lower 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.

## 2.17 Alt\_ContAdj – stands for Alternative Contribution Adjustment

If, in respect of the remedy period, the member has paid different contributions than those towards alternative scheme benefits, allowance should be made for remedy period member contribution adjustments associated with the alternative scheme:

Alt\_ContAdj = (ACTcont – ALTcont) net of tax and with interest applied to calculation date

|         |                                                                                                                                          |
|---------|------------------------------------------------------------------------------------------------------------------------------------------|
| ACTcont | Actual member contributions paid in respect of the remedy period                                                                         |
| ALTcont | Member contributions payable for the remedy period if they had been accruing alternative scheme benefits in respect of the remedy period |

Please note that:

- The contribution adjustment relates to adjustment under PSPJOA section 15 (immediate choice members) or section 17 (deferred choice members).
- The contribution adjustment should exclude any adjustment for deferred choice members on rollback (under PSPJOA section 16) and any compensation in respect of remediable added pension payments (see paragraph 1.15).
- For deferred choice members, ACTcont should be calculated as the contributions the member would have paid in the legacy scheme (regardless of whether the member was protected, unprotected or taper protected before rollback).
- Interest on the contribution adjustment, as required under the PSPJOA and associated Directions, should be applied up to the calculation date.
- Applicable interest rates differ between contribution overpayments (positive Alt\_ContAdj) and contribution underpayments (negative Alt\_ContAdj).
  - A positive Alt\_ContAdj occurs when the member has paid more contributions 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 overpaid contributions (the scheme owes compensation to the member).
  - A negative Alt\_ContAdj occurs when the member has paid lower contributions 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 underpaid contributions (the member owes contributions to the scheme).
- The contribution adjustment for both underpayments and overpayments should be calculated net of the tax relief waived under Section 18 of the PSPJOA.

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

RCEV = Maximum (Init\_CEV,  
Alt\_CEV + Alt\_UpayAdj + Alt\_ContAdj)

Init\_CEV Initial Cash Equivalent Value, calculated in paragraph 2.14

Alt\_CEV Alternative Cash Equivalent Value, calculated in paragraph 2.15

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 2.16

Alt\_ContAdj Contribution adjustment associated with member choosing alternative scheme benefits (enter a positive number if compensation is due to the member; a negative number if additional contributions are due from the member), calculated in paragraph 2.17

## **2D. Group 4 – McCloud immediate choice (tapered) 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 (tapered) pensioner 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 To implement the McCloud remedy, an immediate choice tapered member (currently receiving payments based on service in both the legacy and reformed schemes) must choose either their relevant legacy scheme or the reformed scheme for all their remediable service. Therefore, the remedy offers them two alternative options:

- one associated with the relevant legacy scheme,
- another associated with the reformed scheme.

### **2.20 Alt\_CEV\_L – stands for Alternative Cash Equivalent Value Legacy**

To calculate Alt\_CEV\_L, the administrator should follow paragraph 2.15, treating the relevant legacy scheme as the alternative scheme.

### **2.21 Alt\_CEV\_R – stands for Alternative Cash Equivalent Value Reformed**

To calculate Alt\_CEV\_R, the administrator should follow paragraph 2.15, treating the reformed scheme as the alternative scheme.

### **2.22 Alt\_UpayAdj\_L – stands for Alternative Underpayment Adjustment Legacy**

Since the member has been receiving benefits in respect of the remedy period (based on a mix of legacy scheme and reformed scheme accrual), allowance should be made for McCloud remedy under/overpayments of benefits associated with the legacy scheme.

To calculate Alt\_UpayAdj\_L, the administrator should follow paragraph 2.16, treating the relevant legacy scheme as the alternative scheme.

### **2.23 Alt\_UpayAdj\_R – stands for Alternative Underpayment Adjustment Reformed**

Since the member has been receiving benefits in respect of the remedy period (based on a mix of legacy scheme and reformed scheme accrual), allowance should be made for McCloud remedy under/overpayments of benefits associated with the reformed scheme.

To calculate Alt\_UpayAdj\_R the administrator should follow paragraph 2.16, treating the reformed scheme as the alternative scheme.

### **2.24 Alt\_ContAdj\_L – stands for Alternative Contribution Adjustment Legacy**

If, in respect of the remedy period, the member has paid different contributions than those towards only relevant legacy scheme benefits for the remedy period, allowance should be made for remedy period member contribution adjustments associated with the relevant legacy scheme.

To calculate Alt\_ContAdj\_L, the administrator should follow paragraph 2.17, treating the relevant legacy scheme as the alternative scheme.

**2.25 Alt\_ContAdjR – stands for Alternative Contribution Adjustment Reformed**

If, in respect of the remedy period, the member has paid different contributions than those towards only reformed scheme benefits for the remedy period, allowance should be made for remedy period member contribution adjustments associated with the reformed scheme.

To calculate Alt\_ContAdjR, the administrator should follow paragraph 2.17, treating the reformed scheme as the alternative scheme.

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

$$\text{RCEV} = \text{Maximum} (\text{Alt\_CEVL} + \text{Alt\_UpayAdjL} + \text{Alt\_ContAdjL}, \text{Alt\_CEVR} + \text{Alt\_UpayAdjR} + \text{Alt\_ContAdjR})$$

Alt\_CEVL Alternative Cash Equivalent Value Legacy, calculated in paragraph 2.20

Alt\_UpayAdjL Alternative Underpayment Adjustment associated with member choosing legacy scheme benefits (enter a positive number if the member has been underpaid; a negative number if the member has been overpaid), calculated in paragraph 2.22

Alt\_ContAdjL Alternative Contribution Adjustment associated with member choosing legacy scheme benefits (enter a positive number if compensation is due to the member; a negative number if additional contributions are due from the member), calculated in paragraph 2.24

Alt\_CEVR Alternative Cash Equivalent Value Reformed, calculated in paragraph 2.21

Alt\_UpayAdjR Alternative Underpayment Adjustment associated with member choosing reformed scheme benefits (enter a positive number if the member has been underpaid; a negative number if the member has been overpaid), calculated in paragraph 2.23

Alt\_ContAdjR Alternative Contribution Adjustment associated with member choosing reformed scheme benefits (enter a positive number if compensation is due to the member; a negative number if additional contributions are due from the member), calculated in paragraph 2.25

### 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 the 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 D) 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 Welsh Government 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, 3, and 4 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 Initial\_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 2.15 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 2.16,
- Calculate Alt\_ContAdj by following paragraph 2.17,
- Calculate RRCEV by following paragraph 2.18

Noting that:

- we expect any underpayment adjustments and/or contribution adjustments arising from the member making their irrevocable McCloud choice are settled by **transfer day**<sup>23</sup>. This means ACTpayment and ACTcont 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):

$$RPCEV = RRCEV \times \text{legacy scheme PSO percentage}$$

|       |                                                                                                                                        |
|-------|----------------------------------------------------------------------------------------------------------------------------------------|
| 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.

$$\text{Implied percentage} = [MAL \div (RRCEV + RTranche\ 1\ CEV)]$$

|     |                                                          |
|-----|----------------------------------------------------------|
| 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 <b>transfer day</b> in respect of legacy scheme service prior to 1 April 2015, as explained in paragraphs 1.11 and |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------|

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<sup>23</sup> 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.

1.22. This could be zero for divorce purposes if the member did not accrue Tranche 1 benefits during their marriage

- 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.

$$\text{RPCEV} = \text{RRCEV} \times \text{implied percentage}$$

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.
- 3.12 Any charges to cover the cost of work generated by the PSO, which the scheme manager has decided should be deducted from the value of benefits awarded 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 Section 6 of the legacy scheme 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 5D 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 calculation of pension debit relating to Tranche 1 benefits should use 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**<sup>24</sup>.

- 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, 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, 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.

### Contribution adjustment debit

- 5.11 In addition to calculating the pension debits (as per paragraph 5.7), the administrator should record in the administration system that a contribution adjustment debit will apply if the member opts to receive reformed scheme benefits for the remediable service. The contribution adjustment reformed debit “Deb\_ContAdjR” applicable on the settlement date is:

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<sup>24</sup> This group includes deferred choice members who have made a McCloud choice and are awaiting payment.

Deb\_ContAdjR = (Lcont – Rcont) net of tax with interest applied to settlement date x legacy scheme PSO percentage

Lcont Legacy member contributions payable for the remedy period assuming rights were being accrued in the legacy scheme

Rcont Reformed member contributions payable for the remedy period assuming rights were being accrued in the reformed scheme

Please note that:

- The contribution adjustment (before interest) should be equal to the contribution adjustment used in calculating RRCEV in accordance with paragraphs 3.4 and 3.5.
- Interest on the contribution adjustment, as required under the PSPJOA and associated Directions, should be applied up to the settlement date.
- The legacy scheme PSO percentage 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.

For completeness, no contribution adjustment debit should apply if the member chooses to receive legacy scheme benefits for remediable service.

## 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**.

- 5.12 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.
- 5.13 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
  - Using the reformed scheme guidance and factors in force at **valuation day** if the McCloud choice was for reformed scheme benefits
- 5.14 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.
- 5.15 Revaluation applies as usual to this pension debit. The debit applies with effect from **transfer day**.
- 5.16 It is expected that any underpayment adjustments and/or contribution adjustments arising from the member making their irrevocable McCloud choice are settled by **transfer day**<sup>25</sup>. This means no allowances are needed for these adjustments.

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<sup>25</sup> If any underpayment/contribution adjustment 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<sup>26</sup> for whom an irrevocable McCloud choice has not been made (nor has a final default choice been applied) by the **transfer day**.

- 5.17 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**.
- 5.18 If the member makes a McCloud election to receive their current benefits, the debit continues to be applied and no further action is needed.
- 5.19 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.
- 5.20 If the Recalculated Remediable Cash Equivalent Value (RRCEV) included allowance for any deferred pension (e.g. for a partial retirement member), the debit for that deferred pension should be calculated in accordance with paragraphs 5.6 to 5.10.

**Underpayment adjustment debit and contribution adjustment debit**

- 5.21 To ensure the value of member’s debit reflects a share of all the benefits captured in the RRCEV calculated in Section 3, the following debits will apply if the member opts to receive alternative scheme benefits:
- An underpayment adjustment debit (Deb\_AltUpayAdj)
  - A contribution adjustment debit (Deb\_AltContAdj)
- 5.22 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:

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<sup>26</sup> 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, taper protected or unprotected before rollback.

**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)

**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

**ACTpayment** Actual benefits received by the member in respect of the remedy period

5.23 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).

5.24 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).

5.25 A contribution adjustment debit reduces the compensation due to the member or reduces the additional contributions due from the member by the legacy PSO%. If the member opts to receive alternative scheme benefits, the contribution adjustment debit which applies to the member’s contribution adjustment at settlement date will be:

**Deb\_AltContAdj** = ContAdjAlt net of tax with interest applied to settlement date x legacy scheme PSO percentage

**ContAdjAlt** Contribution adjustment, in respect of the remedy period, required for member choosing the alternative scheme (if any, a positive number if compensation is due to the member; a negative number if additional contributions are due from the member)

5.26 Note the contribution adjustment above should be consistent with the contribution 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**.

5.27 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 illustrative figures using paragraphs 5.19 to 5.26 above. Such illustrations will require an assumption about the settlement date and the member’s commutation choice.

**5D. McCloud immediate choice (tapered) pensioners for whom an irrevocable McCloud remedy choice has not been made by the transfer day.**

This section applies to an immediate choice (tapered) pensioner for whom an irrevocable McCloud choice has not been made (nor has a final default choice been applied) by the **transfer day**.

- 5.28 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**.
- 5.29 Since the tapered member is currently receiving payments based on service in both the legacy and reformed schemes, their benefits (including the debit that applies) will need to be updated when an irrevocable McCloud choice is implemented.
- 5.30 The pension debit that will be applied to ongoing pension after the McCloud election, the underpayment adjustment debit and the contribution adjustment debit should be calculated in accordance with paragraphs 5.19 to 5.26, with the ‘alternative scheme’ reflecting the member’s McCloud choice.
- 5.31 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 illustrative figures using paragraph 5.30 above. Such illustrations will require an assumption about the settlement date and the member’s commutation choice and will need to be prepared separately for a legacy scheme election and a reformed scheme election.

## 6. Appendix

### Key definitions

#### 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 normal 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 normal pension age at the **valuation day** compared to the **transfer day**, the normal pension age at the **valuation day** should be used.