



Government  
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# NHS Pension Schemes

Guidance for applying McCloud remedy to non-Club transfers out

Garry Swann and Louise Fletcher  
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## 1. Introduction

- 1.1 This guidance is addressed to the Department of Health and Social Care (DHSC) as scheme manager of the National Health Service Pension Schemes (the Schemes). The Schemes include the 1995 and 2008 Sections (the legacy schemes) and the 2015 scheme.
- 1.2 This guidance has been prepared for the use of the Schemes' administrators for the purposes of calculating remediable non-Club transfers out i.e. Cash Equivalent Transfer Values (CETVs). A remediable non-Club transfer out is the portion of the non-Club CETV paid out by the Schemes in respect of benefits earned by the member in the McCloud remedy period only, 1 April 2015 to 31 March 2022.
- 1.3 This guidance sets out the approach to be used in determining the value of a member's remediable transfer value under the relevant legacy scheme and the 2015 scheme, and the approach to determining the remediable transfer value paid.
- 1.4 The results from the calculations set out in this guidance will be used to notify the receiving scheme of the results and to determine any additional payments to be made by the Schemes.
- 1.5 This guidance has been prepared in accordance with the following Regulations of SI 2023/985 (the McCloud Regulations):

Administrative procedure	Regulation(s)	Relevant section of this document
<b>Recalculation of non-Club transfer values paid before 1 October 2023</b>	44(2)	2
<b>Calculation of non-Club transfer values to be paid on or after 1 October 2023</b>	45(2)	3
<b>Transfers of remediable rights in the legacy scheme to the 2015 scheme before 1 October 2023</b>	46(2)	2
<b>Transfers of remediable rights in the legacy scheme to the 2015 scheme on or after 1 October 2023</b>	47(2)	3

- 1.6 The guidance provided in this document has been prepared in light of our advice in the technical bulletin to DHSC dated 27 September 2023 and its instructions following that advice.

- 1.7 Where reference in this guidance is made to recalculating elements of past transfer values, calculations should be undertaken using the related guidance and factors in force at the effective date of the original calculation. These include:

### Legacy schemes

GAD guidance	Issued on	Effective from
<b>National Health Service Pension Scheme Non-Club transfers out (CETVs) Factors and guidance</b>	6 Mar 2015	1 Apr 2015
<b>National Health Service Pension Scheme: Non-Club transfers out (CETVs) Addendum to note dated 6 March 2015</b>	n/a	16 March 2016
<b>National Health Service Pension Scheme Non-Club transfers out (CETVs) Factors and guidance</b>	8 Aug 2019	29 Oct 2018

### 2015 scheme

GAD guidance	Issued on	Effective from
<b>National Health Service Pension Scheme 2015 Non-Club Transfers (CETVs) Factors and guidance</b>	6 Mar 2015	1 Apr 2015
<b>National Health Service Pension Scheme 2015: Non-Club transfers out (CETVs) Addendum to note dated 6 March 2015</b>	n/a	16 March 2016
<b>National Health Service Pension Scheme 2015 Non-Club Transfers (CETVs) Factors and guidance</b>	8 Aug 2019	29 Oct 2018

- 1.8 Where the existing guidance does not contain the factors required for a particular member, these cases should be referred to GAD.

### Exclusions

- 1.9 This guidance only covers remediable non-Club transfers paid by the Schemes. For non-Club transfers out not in scope for the McCloud remedy, the relevant CETV guidance should be followed as normal.
- 1.10 This guidance only applies for members of the Schemes who fall under the scope of the McCloud remedy, and any subsequent reference to member is limited to this group. To be in scope of the McCloud remedy, a member must have remediable service as defined by Section 1 of the Public Services Pensions and Judicial Offices Act 2022.
- 1.11 Nothing in this guidance should be read as overriding the regulations which govern the Schemes.

- 1.12 This guidance does not apply for bulk transfers and transfers under the Public Sector Transfer Club.
- 1.13 Where an adjustment was applied to Guaranteed Minimum Pension (GMP) (to reflect the inflationary increases on the GMP which were the responsibility of the State Scheme after GMP Payment Age) at the original calculation date, adjustment should also be applied when undertaking the remedy calculation.

## **Implementation**

- 1.14 This guidance should be used with effect from 1 October 2023.
- 1.15 This guidance has been written for the scheme manager and scheme administrator and assumes knowledge of general pension terminology, and familiarity with pension calculations for the Schemes. Any questions concerning the application of the guidance should, in the first instance, be referred to the scheme manager.
- 1.16 In line with best practice and in order to ensure that factors are being used as intended and the instructions are fit for purpose, we suggest that some example calculations are sent to GAD for review. Alternatively, GAD can provide examples illustrating example calculations for this guidance note, if requested.

## **Compliance and limitations**

- 1.17 This guidance has been prepared for the use of DHSC and the scheme administrator for the purpose of applying the McCloud remedy to non-Club transfers paid by the Schemes. This guidance may be published on DHSC 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.
- 1.18 Other than DHSC and the scheme administrator, 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.
- 1.19 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.
- 1.20 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.

## 2. Recalculating non-Club transfers out paid pre-1 October 2023

- 2.1 This section applies for all members for whom a remediable CETV was paid from the Schemes before 1 October 2023.
- 2.2 This section also applies to the transfers of remediable rights in the legacy scheme to the 2015 scheme before 1 October 2023

### Value of remediable rights under legacy and 2015 schemes

- 2.3 The value of the member's remediable rights must be calculated as if they were secured in the member's relevant legacy scheme and the 2015 scheme. These values should then be compared to the remediable transfer value paid, to determine whether an additional payment is due.
- 2.4 These calculations must be carried out at the same effective date as the original CETV calculation. The subsequent results may then be used to notify the receiving scheme of the results of the calculation. For eligible members who have returned to pensionable NHS employment after a break of more than 5 years, the result may then be used to notify the 2015 scheme of the results of the calculation.
- 2.5 The following calculations should be carried out in respect of benefits accrued (and subsequently revalued) in the 1 April 2015 to 31 March 2022 remedy period only.

### Calculation of remediable transfer value under the relevant legacy scheme

***Legacy scheme transfer value = Transfer value calculated in respect of remedy period benefits where the remediable rights are treated as having been secured in the relevant legacy scheme***

- 2.6 The above calculation should be carried out as at the effective date of the original calculation and allowing for remedy period benefits only.
- 2.7 The transfer value should be determined using the relevant legacy scheme guidance and factors as set out in paragraph 1.7.
- 2.8 This calculation will require the following information:
- Relevant legacy scheme
  - Effective date of original calculation
  - Member age, Normal Pension Age and gender (at the effective date of the original calculation)
  - The member's deferred pension and partner's pension, at the effective date of original calculation, in respect of remedy period benefits only, allowing for all of the member's remediable rights being secured in the relevant legacy scheme
  - Any additional purchased benefits (e.g. added pension). The additional benefits will need to be treated as if they had been secured in the relevant legacy scheme
  - Where the relevant legacy scheme was the 1995 section, the member's lump sum at the effective date of original calculation, in respect of remedy period benefits only

- Related GMP information (if an adjustment was applied at the time of the original calculation)

2.9 In calculating the legacy transfer value, administrators will also need to assess whether any additional contributions are due to or owed by the member. For example, if the definition of pensionable pay differs between the legacy scheme and 2015 Scheme, contributions may be owed or due to the member.

## Calculation of remediable transfer value under the 2015 scheme

***2015 scheme transfer value = Transfer value calculated in respect of remedy period benefits where the remediable rights are treated as having been secured in the 2015 scheme***

- 2.10 The above calculation should be carried out as at the effective date of the original calculation and allowing for remedy period benefits only.
- 2.11 The transfer value should be determined using the 2015 scheme guidance and factors as set out in paragraph 1.7.
- 2.12 This calculation will require the following information:
- Effective date of original calculation
  - Member age, Normal Pension Age and gender (at the effective date of the original calculation)
  - Any additional purchased benefits (e.g. added pension). The additional benefits will need to be treated as if they had been secured in the 2015 scheme
  - The member's deferred pension and partner's pension, at the effective date of original calculation, in respect of remedy period benefits only, allowing for all the member's remediable rights being secured in the 2015 scheme
  - Related GMP information (if an adjustment was applied at the time of the original calculation)
- 2.13 In calculating the 2015 transfer value, administrators will also need to assess whether any additional contributions are due to or owed by the member. For example, if the definition of pensionable pay differs between the legacy scheme and 2015 scheme, contributions may be owed or due to the member.

## Value of remediable transfer value paid

- 2.14 Once both the legacy scheme and 2015 scheme transfer values have been calculated, the higher of the two is compared to the remediable transfer value paid. The remediable transfer value paid is the part of the member's transfer value paid which is in relation to benefits accrued in the 1 April 2015 to 31 March 2022 remedy period. Where this information is not readily available, the remediable transfer value paid should be calculated as follows.

## Calculation of remediable transfer value paid

***Remediable transfer value paid = Transfer value calculated in respect of remedy period benefits where the remediable rights are in line with those accrued by the member***

- 2.15 For taper protected members, separate calculations are required for the part of the benefits which were accrued in the legacy scheme and those which were accrued in the 2015 scheme.
- 2.16 The above calculation should be carried out as at the effective date of the original calculation and using the same guidance and factors used for the original CETV calculation.
- 2.17 For protected members and for members who rejoined the scheme after a break of 5 years or more, the remediable transfer value paid is equal to the remediable transfer value under the relevant legacy scheme as calculated above.
- 2.18 For unprotected members, the remediable transfer value paid is equal to the remediable transfer value under the 2015 scheme as calculated above.



### **3. Calculating non-Club transfer values to be paid post-1 October 2023**

- 3.1 The calculation of remediable non-Club transfer values to be paid on or after 1 October 2023 should follow the relevant CETV guidance at the effective date.
- 3.2 The approach will require calculation of two transfer values as set out above:
- assuming the benefits earned in the remedy period were in the relevant legacy scheme; and separately
  - assuming the benefits earned in the remedy period were in the 2015 scheme.
- 3.3 The remediable transfer value should be the higher of the two amounts calculated and this should be reflected in the total transfer value to be paid from the Schemes.
- 3.4 Eligible members who have returned to pensionable NHS employment after a break of more than 5 years may be eligible to transfer deferred benefits from their earlier period of membership into the 2015 Scheme on a CETV basis. The same methodology set out in paragraphs in 3.2 and 3.3 applies to these members.