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# NHS Pension Schemes

Guidance for applying McCloud remedy to incoming non-Club transfers

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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 adjusting remediable benefits awarded on receipt of non-Club incoming transfers to the Schemes. Remediable non-Club incoming transfer benefits are those received by the Schemes with an effective date in the McCloud period, 1 April 2015 to 31 March 2022, in respect of members who are within the scope of the McCloud remedy.
- 1.3 The adjustment calculations set out in this guidance must be carried out at the same effective date as the original calculation. Where a member has multiple remediable non-Club incoming transfers, the adjustment calculations should be repeated for each transfer. The adjusted benefits should be adjusted thereafter in line with the relevant scheme's rules, for example to reflect early or late retirement factors at the retirement date or to allow for revaluation.
- 1.4 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
Conversion of 2015 scheme benefit to legacy benefit on roll back	55(6)	2
Conversion of legacy scheme benefit to 2015 scheme benefit on election	38(3), 40(2) and 41(5)	3
Adjustment of legacy scheme cash equivalents	46(3)	4
Calculation of legacy and 2015 scheme credits from additional payments for remediable transfer values	48(2)	5

- 1.5 The guidance provided in this document has been prepared in light of our advice to DHSC in the technical bulletin dated 27 September and its acceptance of the proposed recommendations 1 and 2.

- 1.6 Where reference in this guidance is made to calculating transfer in credits, 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 Incoming non-Club transfer Factors and guidance</b>	6 Mar 2015	1 Apr 2015
<b>National Health Service Pension Scheme Incoming non-Club transfer Factors and guidance</b>	31 Jan 2020	29 Oct 2018

### 2015 scheme

GAD guidance	Issued on	Effective from
<b>National Health Service Pension Scheme 2015 Incoming non-Club transfers Factors and guidance</b>	6 Mar 2015	1 Apr 2015
<b>NHSPS E&amp;W Incoming non-club transfers: Factors and guidance</b> Addendum to note dated 6 March 2015.	n/a	16 March 2016
<b>National Health Service Pension Scheme 2015 Incoming non-Club transfers Factors and guidance</b>	31 Jan 2020 (updated 28 Apr 2020)	29 Oct 2018

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

### Exclusions

- 1.8 This guidance only covers remediable non-Club incoming transfers received by the Schemes, including any associated additional payments. Remediable non-Club transfers are transfers where the joining date in relation to the transfer payment falls within the period of the member's remediable service. For non-Club incoming transfers not in scope for the McCloud remedy, the relevant non-Club transfers guidance should be followed. In particular, all non-Club incoming transfers where the joining date in relation to the transfer payment falls on or after 1 April 2022 should be based on the relevant 2015 scheme guidance.
- 1.9 This guidance does not provide guidance on action that may need to be taken should the service or pension credit calculated using this guidance result in a breach of other scheme rules, such as those relating to service caps. This should be considered with the scheme manager where a breach arises.

- 1.10 This guidance only applies for members of the Schemes who fall within 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 Different instructions and factors should be used to calculate credits for transfers made in accordance with the Public Sector Transfer Club and under bulk transfer terms.
- 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, the corresponding adjustment should be applied when undertaking the alternative scheme calculation.
- 1.14 This guidance does not apply to transfers received from ‘corresponding schemes’<sup>1</sup> although any such transfers which included remediable service should be treated as though that remediable service were accrued in the NHS Pension Scheme.

## **Implementation**

- 1.15 This guidance should be used with effect from 1 October 2023.
- 1.16 This guidance has been written for the scheme manager and scheme administrator and assumes knowledge of general pension terminology, and familiarity with pensions calculations for the Schemes. Any questions concerning the application of the guidance should, in the first instance, be referred to the scheme manager.
- 1.17 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.

## **Compliance and limitations**

- 1.18 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 incoming transfers received 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.
- 1.19 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.

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<sup>1</sup> A corresponding health service scheme the provisions of which the Secretary of State has determined correspond to the provisions of the 2015 scheme regulations.

- 1.20 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.
- 1.21 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. Conversion of 2015 scheme credit to legacy scheme credit on roll back

- 2.1 This section applies for all members at 30 September 2023 (including active, deferred, pensioner and deceased) who are to be rolled back to their relevant legacy scheme on implementation of the McCloud remedy and for whom the member's joining date with respect to the transfer payment was between 1 April 2015 and 31 March 2022.
- 2.2 On implementation of the remedy, the 2015 scheme credit originally awarded in respect of the non-Club transfer in should be rolled back to the relevant legacy scheme where an equivalent credit in the legacy scheme should be calculated in line with the paragraphs set out below.
- 2.3 For active and deferred members, this conversion is treated as having taken effect when the McCloud Regulations came into force and the original credit is rolled back into the legacy scheme. For pensioner and deceased members this conversion is treated as having taken effect at point of election or at the end of the member's immediate choice election period.

### Calculation of equivalent legacy scheme credit

**Legacy scheme credit = Credit calculated in respect of original transfer in amount using legacy scheme guidance**

- 2.4 The equivalent legacy scheme service credit or pensionable earnings increase for the transfer value received should be determined using the same effective date as the original calculation using the legacy scheme guidance and factors effective at that date (see paragraph 1.6).
- 2.5 This calculation will require the following information:
- Transfer value received
  - Scheme/section of receipt
  - Pensionable pay as required by the relevant guidance note
  - Effective date of the original calculation
  - Member age, Normal Pension Age and gender (at the effective date of the original calculation)
  - Related GMP information (if an adjustment was applied at the time of the original calculation)
- 2.6 Records of the member's original 2015 scheme credit should be retained, to facilitate any future 2015 scheme election.

### 3. Conversion of legacy scheme credit to 2015 scheme credit on election

- 3.1 This section applies on a 2015 scheme election where the member has a legacy scheme credit. There are two approaches depending on how the legacy scheme credit was established.

#### **Calculation where the original transfer was received into the legacy scheme**

**2015 scheme credit = *Credit calculated in respect of original transfer in amount using 2015 scheme guidance***

- 3.2 The equivalent 2015 scheme pensionable earnings increase for the transfer value received should be determined as at the date of the original calculation using the 2015 scheme guidance and factors effective at that date, see paragraph 1.6.
- 3.3 This calculation will require the following information:
- Transfer value received
  - Effective date of the original calculation
  - Member age, Normal Pension Age and gender (at the effective date of the original calculation)
  - Related GMP information (if an adjustment was applied at the time of the original calculation)

#### **Calculation where the original transfer was received into the 2015 scheme and subsequently rolled back to the legacy scheme**

**2015 scheme credit = *Originally calculated 2015 scheme credit***

## **4. Calculation for remediable legacy cash equivalent**

- 4.1 This section applies for any member for whom the scheme manager has used a legacy scheme remediable cash equivalent to acquire rights in the 2015 scheme before 1 October 2023. This is in respect of members who have transferred their service in the legacy schemes to the 2015 scheme on return from a break of 5 years or more on cash equivalent terms.
- 4.2 On implementation of the remedy, the scheme manager must calculate the cash equivalent of the member's remediable rights as if they were secured in (a) the relevant legacy scheme, and (b) the 2015 scheme. Where the greater of (a) and (b) is greater than the original cash equivalent, the scheme manager must acquire further rights in the 2015 scheme to reflect this difference.
- 4.3 The additional 2015 scheme pensionable earnings increase for the difference calculated should be determined as at the date of the original calculation using the 2015 scheme guidance and factors effective at the date of the original calculation.
- 4.4 Details of the applicable guidance notes are set out in 1.6.

## 5. Credits from additional payments for remediable transfer values

- 5.1 Where the non-Club incoming transfer was sent from another reformed public service pension scheme, the scheme manager may accept an additional payment as a result of the sending scheme's McCloud remedy. For example, the sending scheme will provide the receiving scheme with an additional CETV amount based on remedy. The additional credits to be awarded in respect of these additional payments, should be calculated using the same effective date and terms as the original transfer value (and converted in line with this guidance).

### Calculation for additional payments in respect of remediable non-Club incoming transfers

**Scheme credit = *Credit calculated in line with the approach used for the associated remediable non-Club incoming transfer, awarded in same scheme***