Government
Actuary's
Department

Northern Ireland Teachers' Pension Scheme

Guidance for applying McCloud remedy to benefits relating to member voluntary contributions (MVCs)

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Contents

1. Introduction

1.1 This guidance is addressed to the Department of Education Northern Ireland (DENI) as scheme manager of the Northern Ireland Teachers' Pension Scheme (NITPS) (the Schemes). The Schemes include:

- "the legacy scheme" which is final salary and has two sections: the NPA60 section (for new entrants who first joined the NITPS up to 31 December 2006, with a Normal Pension Age (NPA) of 60) and the NPA65 section (for new entrants who first entered the legacy scheme between 1 January 2007 and 31 March 2015, with an NPA of 65)

- "the 2015 scheme" which is the 2015 career average scheme (for existing members of the NITPS who transitioned from the legacy scheme to the reformed scheme from 1 April 2015 under the transitional protection arrangements or joined the NITPS for the first time after that date). Normal Pension Age for this scheme is the later of 65 or State Pension Age (SPA).

This guidance has been prepared for the use of the scheme administrator for the purposes of adjusting remediable benefits arising from member voluntary contributions (MVCs) paid to the Schemes. Remediable MVCs are those in relation to members in scope of the McCloud remedy where the contract for the MVC started in the McCloud remedy period, 1 April 2015 to 31 March 2022. Member voluntary contributions may have been paid towards:

- Additional pension (AP)
- Election to buy out the standard reduction (buy-out election)
- Faster accrual.

1.2 The contributions paid towards these benefits are collectively referred to in this guidance as MVCs.

1.3 Depending on the type of MVC, the McCloud remedy regulations:

- may automatically vary the member's 2015 scheme remediable MVC rights to the equivalent AP in the relevant legacy scheme;
- may enable the member to opt for it to be varied; or
- may enable the member to receive compensation.

1.4 This guidance sets out the adjustment calculations required where the value of the rights in the alternative scheme need to be determined.

1.5 Where compensation of the MVCs is to be paid by the Schemes, this should amount to the total of all relevant remediable voluntary contributions paid by the member, less an amount in respect of the value of tax relief in accordance with the relevant paragraphs of Direction 5 of the Public Service Pensions (Exercise of Powers, Compensation and

Information) Directions 2022[1], with interest applied in line with relevant paragraphs of Directions 14 and 15.

1.6   The effective dates of the adjustment calculations are to be in line with that set out in this guidance. Any adjusted benefit 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.

1.7   AP, buy-out election or faster accrual limits do not apply in accordance with Regulation 30 (b) of the Teachers' Pension Scheme (Remediable Service) Regulations (Northern Ireland) 2023. Therefore, this guidance does not consider limits on additional pension.

1.8   This note has been prepared in accordance with the following Regulations of SR 2023/131 (Teachers' Pension Scheme (Remediable Service) Regulations (Northern Ireland) 2023 – referred to in this note as the Remediable Service Regulations):

Administrative procedure	Regulation(s)	Relevant section of this document
Calculating and/or varying remediable MVCs in 2015 scheme to AP in the legacy scheme		
Buy-out election	28 (1b)	2
Faster accrual	28 (1b)	2
Additional pension	28 (1b), 34, 38	3
Varying remediable AP in legacy scheme to AP in 2015 scheme on election	28 (1a), 33, 40	4
Allowing for remediable additional pension contributions in considering additional pension limits in the 2015 scheme	30 (b)	2-5
Varying remediable AP in legacy scheme to non-AP in 2015 scheme on election	28 (1a), 41	5

1.9   The guidance provided in this document has been prepared in conjunction with the Department of Education Northern Ireland (DENI), and in light of the equivalent guidance prepared for the Teachers' Pension Scheme (England and Wales).

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[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1124480/The_Public_Service_Pensions__Exercise_of_Powers_Compensation_and_Information__Directions_2022.pdf

1.10   Where reference in this guidance is made to calculating the benefits in relation to the remediable MVCs, unless specified otherwise, calculations should be undertaken using the related guidance and factors effective at the original date of calculation. A summary of the historic guidance and factors is set out in the Appendix.

Exclusions

1.11   This guidance only applies for members of the Schemes who have remediable MVCs that 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. DENI have also confirmed that members who retrospectively pay additional contributions to purchase additional pension in the legacy scheme will be able to choose reconstruction of their legacy AP.

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

1.13   Furthermore, although a member may fall under the scope of the McCloud remedy, the Remediable Service Regulations may exclude specific MVCs from the remedy. An example of such an exclusion is a legacy scheme MVCs where the contract began before 1 April 2015.

Implementation

1.14   This guidance should be used with effect from 1 October 2023.

1.15   This guidance has been written for DENI, as the scheme manager and administrator, 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.

1.16   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.

Compliance and limitations

1.17   This guidance has been prepared for the use of DENI for the purpose of applying the McCloud remedy to remediable MVCs. This guidance may be published on DENIs 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 DENI, 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 GAD.

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. Calculation of equivalent legacy scheme AP for 2015 scheme MVCs (non-AP)

2.1   The following section sets out the calculation of the equivalent legacy scheme AP to be offered on account of remediable MVCs originally paid in respect of non-AP benefits in the 2015 scheme.

2.2   The calculation of equivalent legacy scheme AP to be offered on account of remediable 2015 scheme AP is set out in section 3.

Method

2.3   The equivalent legacy scheme AP should be calculated in line with the paragraphs set out below. This calculation should be repeated for each MVC contract.

Calculation of equivalent legacy scheme AP

Legacy scheme AP in scheme year = Remediable MVCs paid by the member in that scheme year in respect of contract × 250 ÷ Cost of £250 of AP in legacy scheme

2.4   The cost of £250 of AP in the legacy scheme in the above calculation should be the monthly contribution factor effective as at:

- the date of election for faster accrual MVCs for each year
- the date of election for the first year of a buy-out contract, and then at the start of the scheme year for subsequent years.

For faster accrual MVCs the factor should be based on personal and dependants' benefits, the member's age at the date of election in each year, and a payment term of 1 year multiplied by 12 to get an annual factor.

For buy-out election MVCs the factor should be based on personal benefits only, the member's age at the date of election for the first year of the contract, and then the age at the start of the scheme year for subsequent years, and a payment term of 1 year multiplied by 12 to get an annual factor.

In the legacy scheme different tables apply depending on the original election date of the contract for indexation purposes. Please refer to the factor tables for elections made after 22 June 2010 (Remediable MVC contracts must have been started after this date). The original election date should be used when determining the appropriate factor sets to use, unless it is the second or subsequent years of a buy-out contract in which case it should be the factors applicable at the start of the relevant scheme year. The legacy scheme guidance and factor sets are detailed in the Appendix.

2.5   The calculation should be repeated for every scheme year in which remediable MVCs were paid. Each contract should be calculated separately. The effective date for each year's equivalent legacy scheme AP will then be the start of the scheme year in question. The converted AP in each scheme year should be adjusted thereafter in line with the Scheme's rules for AP, for example to allow for revaluation. The original

election date must have been after 22 June 2010, therefore, the revaluation will be in line with CPI.

2.6   Records of the member's original reformed scheme non-AP should be retained, to facilitate any future reform scheme election.

Specific considerations

2.7   Where compensation is paid or has been agreed to be paid to the member in respect of the contributions the member had paid for the 2015 scheme remediable MVC, those contributions should be excluded from the calculations.

2.8   For buy-out contracts, it is our understanding that the DENI policy is that for members that choose reconstruction and legacy benefits at retirement then relevant member contributions paid post 1 April 2022 (as well as those paid up to that date) should be allowed for in the calculation to determine the equivalent legacy scheme additional pension. The relevant member contributions to be included in the calculations (in addition to those paid before 1 April 2022) are those paid between 1 April 2022 and the earlier of the date of taking out a new buy-out election contract post 1 April 2022 and the date at which the member makes a choice as whether to refund, retain or reconstruct in respect of their remediable MVC.

2.9   Consideration of annual allowance is required where buy-out election contributions are converted to additional pension. Annual allowance considerations are not covered in this note.

2.10   AP, buy-out election or faster accrual limits do not apply in accordance with Regulation 30 of the Remediable Service Regulations.

2.11   The factors used for the calculation in paragraph 2.3 should ordinarily be those appropriate to the relevant scheme. However, since AP cannot be purchased after reaching NPA, in line with current regulations, then for any member where their 2015 scheme AP will continue beyond the legacy scheme NPA, factors will not be available. These cases should be referred to the scheme manager.

Information required

2.12   This calculation will require the following information:

- Relevant legacy scheme
- Member's age (last birthday) at start of each relevant scheme year or date of election if first year.
- Member's Normal Pension Age in the relevant legacy scheme (see 2.12 and 2.14)
- Total remediable MVCs paid by the member in respect of contract for each relevant scheme year
- Whether the remediable MVC's are in respect of faster accrual or buy-out election (since for faster accrual the contribution factor is based on personal and dependants benefits and for buy-out election it is based on personal only)

2.13   Where the relevant legacy scheme is the NPA60 section the Normal Pension Age applied should be age 60, and where the relevant legacy scheme is the NPA65 section, the Normal Pension Age applied should be age 65. This is, however, subject to paragraph 2.11.

3. Calculation of equivalent legacy scheme AP for 2015 scheme AP

3.1   The following section sets out the calculation of the equivalent legacy scheme AP to be offered on account of remediable MVCs used to purchase 2015 scheme AP.

Method

3.2   DENI as scheme manager has determined that the equivalent legacy scheme AP should be calculated by applying a ratio of appropriate factors to the remediable 2015 scheme AP, as shown below.

Calculation of equivalent legacy scheme AP

Legacy scheme AP = 2015 scheme AP $\times \dfrac{\textit{Cost of £250 of AP in 2015 scheme}}{\textit{Cost of £250 of AP in legacy scheme}}$

3.3   The factors above should be the factors which were effective at the contract election date, using the same variables as were originally used in calculating the 2015 scheme AP, and should be based on the member's age at the contract election date, contract length if applicable and dependant provision.

3.4   Records of the member's original 2015 scheme AP should be retained, to facilitate any future 2015 scheme election.

Specific considerations

3.5   AP limits do not apply in accordance with Regulation 30 of the Remediable Service Regulations.

3.6   DENI have confirmed that, where contributions in respect of the AP contract continue beyond 2022, they will not be adjusted for any factor changes.

3.7   The factors used for the calculation in paragraph 3.2 should ordinarily be those appropriate to the relevant scheme. However, since AP cannot be purchased after reaching NPA, in line with current regulations, then for any member where their 2015 scheme AP will continue beyond the legacy scheme NPA, factors will not be available. These cases should be referred to the scheme manager.

Information required

3.8   This calculation will require the following information:

   • Election date
   • Relevant legacy scheme
   • Member's age (last birthday) at contract election date
   • Member's Normal Pension Age in the relevant legacy scheme (although see 3.7 and 3.9) and in the 2015 scheme
   • Members chosen form of payment (eg lump sum or regular contributions)
   • Members chosen form of benefit (eg personal or personal and dependant)
   • The period of contributions as at the contract election date (between 1 year and 20 years)

3.9   Where the relevant legacy scheme is the NPA60 section the Normal Pension Age applied should be age 60, and where the relevant legacy scheme is the NPA65 section, the Normal Pension Age applied should be age 65. This is, however, subject to paragraph 3.7.

4. Calculation of equivalent 2015 scheme AP for legacy scheme AP

4.1   There are two approaches for determining the 2015 scheme AP on election, depending on, whether the remediable legacy scheme AP was established following a rollback of 2015 scheme AP or not.

AP in legacy scheme was a result of rollback of 2015 scheme AP

Method

4.2   Where the remediable legacy scheme AP arose as a result of a rollback of remediable 2015 scheme AP, the 2015 scheme AP on election should be the originally purchased 2015 scheme AP.

Calculation where legacy scheme AP arose from a rollback of 2015 scheme AP

2015 scheme AP = *Originally purchased 2015 scheme AP*

Specific considerations

4.3   This approach should not be taken for the following circumstance:

- Where compensation is paid or has been agreed to be paid to the member in respect of the contributions the member had paid for the 2015 scheme remediable MVC.

Original AP was purchased in the legacy scheme

Method

4.4   This section applies where the remediable legacy scheme AP was originally purchased as AP in the legacy scheme. This calculation should be repeated for each MVC contract.

4.5   The scheme manager has determined that the equivalent 2015 scheme AP should be calculated by applying a ratio of appropriate factors to the remediable legacy scheme AP, as shown below.

Calculation of equivalent 2015 scheme AP where legacy scheme AP did not arise from a rollback of 2015 scheme AP

$$\text{2015 scheme AP} = \text{Legacy scheme AP} \times \frac{\textit{Cost of £250 of AP in legacy scheme}}{\textit{Cost of £250 of AP in 2015 scheme}}$$

4.6   The legacy scheme and 2015 scheme factors should be the factors which were effective at the contract election date, using the same variables as was originally used in calculating the legacy scheme AP, and should be based on the member's age at the contract election date, the contract length if applicable and dependant provision.

Specific considerations

4.7   This calculation only applies where the original MVC was in respect of an AP in the legacy scheme. Where the original MVC was in respect of an AP in the 2015 scheme, this is covered in the *Calculation where legacy scheme AP arose from a rollback of 2015 scheme AP* section above.

4.8   DENI have made a policy decision to allow members who retrospectively pay additional contributions to purchase additional pension in the legacy scheme to be under the scope of the McCloud remedy and will be able to choose reconstruction of their legacy AP. Therefore, if the member chooses reformed AP, the above calculations will also apply.

4.9   AP limits do not apply in accordance with Regulation 30 of the Remediable Service Regulations.

Information required

4.10   This calculation will require the following information:

- Relevant legacy scheme
- Member's age (last birthday) at the contract election date
- Member's Normal Pension Age in the relevant legacy scheme (see 4.11) and in the 2015 scheme
- Members chosen form of payment (eg lump sum or regular contributions)
- Members chosen form of benefit (eg personal or personal and dependant)
- The period of contributions as at the contract election date (between 1 year and 20 years)

4.11   Where the relevant legacy scheme is the NPA60 section the Normal Pension Age applied should be age 60, and where the relevant legacy scheme is the NPA65 section, the Normal Pension Age applied should be age 65.

5. Calculation of equivalent 2015 scheme non-AP for legacy scheme AP (which arose as a result of the roll back of 2015 non-AP)

Method

5.1   Where the remediable legacy scheme AP arose as a result of a rollback of remediable 2015 scheme non-AP, the 2015 scheme non-AP on election should be the originally purchased 2015 scheme non-AP.

Calculation where legacy scheme AP arose from a rollback of 2015 scheme non-AP

2015 scheme non-AP = *Originally purchased 2015 scheme non-AP*

Specific considerations

5.2   This approach should not be taken for the following circumstance:

- Where compensation is paid or has been agreed to be paid to the member in respect of the contributions the member had paid for the 2015 scheme remediable MVC.

Appendix – Guidance and factors applicable in remedy period

For dates these notes came into effect, refer to the scheme manager in each case.

Additional pension

GAD note	Issued on
Legacy and 2015 schemes	
Northern Ireland Teachers' Pension Scheme **Final salary sections and career average section** **Purchase of additional pension and ceasing monthly contribution elections** **Factors and guidance**	2 April 2015
Northern Ireland Teachers' Pension Scheme **Final salary sections and career average section** **Purchase of additional pension and ceasing monthly contribution elections** **Factors and guidance**	24 June 2019

Buy-out election

GAD note	Issued on
2015 scheme	
Northern Ireland Teachers' Pension Scheme **Career average section** **Election to buy out the standard reduction** **Factors and guidance**	29 May 2015
Northern Ireland Teachers' Pension Scheme **Career average section** **Election to buy out the standard reduction** **Factors and guidance**	24 Sep 2019

Faster accrual

GAD note	Issued on
2015 scheme	
Northern Ireland Teachers' Pension Scheme **Career average section** **Faster accrual** **Factors and guidance**	26 March 2015
Northern Ireland Teachers' Pension Scheme **Career average section** **Faster accrual** **Factors and guidance**	17 Oct 2019

Faster accrual