Government Actuary's Department

The Local Government Pension Scheme (England and Wales)

Guidance for applying McCloud remedy to retrospective cases (before 1 October 2023)

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1. Introduction

1.1 We have been requested by the Secretary of State for Housing, Communities and Local Government to provide guidance on how actuarial guidance should be applied to remedy the benefits calculated in the past for members eligible for the statutory underpin.

1.2 This guidance supersedes that dated 4 July 2024 and has been updated to provide guidance in relation to cash equivalents on divorce, pension credits and pension debits (in sections 6 to 8 of this guidance). These updates reflect changes introduced by the Local Government Pension Scheme (Miscellaneous Amendments) (Member Benefits) Regulations 2026 (SI 2026/226).

1.3 The Local Government Pension Scheme (Amendment) (No. 3) Regulations 2023 (the 2023 Regulations) (SI 2023/972) came into force on 1 October 2023. Part 3 of those regulations sets out the retrospective McCloud remedy to be applied to eligible members who had a relevant benefit event before 1 October 2023.

1.4 The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the 2014 Scheme Transitional Regulations) sets out the calculation of the statutory underpin.

1.5 This guidance sets out how to apply the McCloud remedy for the following cases:

- Retirement recalculations: final underpin date before 1 October 2023
- Transfer top-up payments: original calculation date before 1 October 2023
- Trivial commutation top-up payments: original calculation date before 1 October 2023
- Scheme pays pension offset: final underpin date before 1 October 2023
- Cash equivalents for divorce: PSO effective date between 1 April 2014 and 30 September 2023
- Pension credits: PSO effective date between 1 April 2014 and 30 September 2023
- Pension debits: PSO effective date between 1 April 2014 and 30 September 2023

1.6 Please note that this guidance is in respect of the calculation (or recalculation) required at the relevant date for remedy only. Where a member or their personal representatives are owed payment, interest should be applied in line with relevant legislation and tax considerations should be made as required.

1.7 This guidance has been carried out in accordance with the applicable Technical Actuarial Standards: TAS 100 issued by the Financial Reporting Council (FRC). The FRC sets technical standards for actuarial work in the UK.

Implementation and Review

1.8 The Secretary of State is required to consult GAD before issuing actuarial guidance under the Local Government Pension Scheme (England and Wales) Regulations 2013 (Regulation 2(3) of the 2013 Regulations).

1.9 As part of this consultation, the Ministry for Housing, Communities and Local Government (MHCLG) has asked GAD to recommend the appropriate application of actuarial guidance in respect of applying the McCloud remedy to the retrospective cases listed above. This document forms GAD's recommendation.

1.10 This guidance has effect only when it is issued by the Secretary of State in accordance with Regulation 2(3) of the 2013 Regulations and is subject to the implementation instructions provided at that time.

1.11 This guidance has been written for pension administrators and assumes knowledge of general pension terminology, and familiarity with pension calculations for the Local Government Pension Scheme (England and Wales). Any questions concerning the application of this guidance should in the first instance be referred to MHCLG for onward transmission to GAD.

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

Use of this note and third-party reliance

1.13 This guidance has been prepared for the use by MHCLG and the scheme administrators for the purposes of applying the McCloud remedy to historic cases. This guidance may be published on the MHCLG 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.

1.14 Other than MHCLG and the scheme administrators, no person or third party is entitled to place any reliance on the contents of this guidance, except to any extent explicitly stated herein. GAD has no liability to any person or third party for any action taken or for any failure to act, either in whole or in part, on the basis of this guidance, whether or not GAD has agreed to the disclosure of its advice to the third party.

2. Retirement recalculations

2.1 This section applies to retirement recalculations where the final underpin date was before 1 October 2023.

2.2 For members who retired before 1 October 2023, Regulation 5 of the 2023 Regulations applies. That regulation sets out that it should be determined whether those members are or were entitled to a final guarantee amount. If they are or were entitled, then an amount may need to be paid to the member or, if the member has died, to their personal representatives. The administrator is required to consider whether it is necessary to calculate (or recalculate) the final guarantee amount in respect of members in line with Regulations 4A to 4V of the 2014 Scheme Transitional Regulations.

To determine the final guarantee amount, the administrator should calculate the final assumed benefits and final underpin amount as at the final underpin date, applying early and late retirement factors as required in Regulations 4K and 4L of the 2014 Scheme Transitional Regulations and using the factors effective at the final underpin date, and using the statutory underpin approach set out in the following relevant guidance notes:

- Where early retirement reduction factors apply, The Local Government Pension Scheme (England and Wales) Early payment of pension Guidance note, dated 24 January 2024 [paragraphs 2.17 to 2.19].
- Where late retirement increase factors apply, Local Government Pension Scheme (England and Wales) Late Retirement Guidance note, dated 24 January 2024 [paragraphs 2.13 to 2.15].

2.3 Where the benefits taken by the member were not subject to early retirement reduction factors (for example, benefits taken on ill health retirement, redundancy or where the reduction was waived by the employer), then no early retirement reduction factors should apply in determining the final assumed benefits and final underpin amount. However, where the member's provisional assumed benefits includes any additional pension under Regulation 16 of the 2013 Regulations, the additional pension is subject to early retirement reduction factors as set out in Regulation 4K(6) of the 2014 Scheme Transitional Regulations.

2.4 The calculated final guarantee amount should be applied as required under the relevant Regulation 5(3) to 5(6) of the 2023 Regulations and allowing for Regulation 5(7) as required.

2.5 For the avoidance of doubt, although the above guidance notes apply in relation to the application of early and late retirement factors in the statutory underpin calculations, it is the early and late retirement factors which would have applied at the final underpin date which should be used.



2.6 The tables below summarise the guidance notes and factors that were implemented between 1 April 2014 and 30 September 2023. This provides a summary only; administrators should ensure the early and late retirement factors in effect at the final underpin date are used:

Early retirement

Relevant documents	Date of document	Guidance operative / factors effective from
The Local Government Pension Scheme (England and Wales) Early Payment of Pension – Guidance note	28 March 2014	1 April 2014
The Local Government Pension Scheme (England and Wales) Early payment of pension – Guidance note	18 April 2016	29 April 2016
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	26 November 2018	8 January 2019
Local Government Pension Scheme (England and Wales) Early payment of pension – Guidance note	5 May 2021	11 May 2021
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	30 June 2023	3 July 2023

Late retirement

Relevant documents	Date of document	Guidance operative / factors effective from
The Local Government Pension Scheme (England and Wales) Late Retirement – Guidance note	26 March 2014	1 April 2014
The Local Government Pension Scheme (England and Wales) Late Retirement – Guidance note	18 April 2016	4 January 2017
Local Government Pension Scheme (England and Wales) Late Retirement – Guidance note	28 June 2019	1 September 2019
Local Government Pension Scheme (England and Wales) Late Retirement – Guidance note	5 May 2021	11 May 2021
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	30 June 2023	1 September 2023

Note: for late retirement calculations after 1 September 2019, as well as the guidance note relevant for the retirement date, as set out in that guidance note, earlier versions of the guidance note may also need to be referred to.

3. Transfer top-up payments

3.1 This section applies to transfer top-up payments where the original calculation date was before 1 October 2023. This excludes bulk transfer payments, and Club transfer payments.

3.2 Regulation 10(4) of the 2023 Regulations sets out that the value of a transfer out taken under Regulation 96 of the 2013 Regulations by a member eligible for the statutory underpin before, or calculated as at a date before, 1 October 2023 should be recalculated in accordance with actuarial guidance issued by the Secretary of State, taking into account the member's provisional underpin amount and provisional assumed benefits.

When recalculating the transfer amount, the actuarial guidance which should be referred to is the transfer out (CETV) guidance and factors in effect at the original calculation date, with allowance for the statutory underpin in line with the calculations set out in paragraphs 4.5 to 4.15 of *The Local Government Pension Scheme (England and Wales) Individual Incoming & Outgoing Transfers Guidance* note, dated 24 January 2024.

3.3 Where the recalculated transfer value exceeds the original transfer value, the administering authority must take reasonable steps to pay the difference (including allowance for interest as may be required) to the original receiving scheme.

3.4 Where the member is a Category A or Category B member, as defined in Regulation 4 of the 2023 Regulations, the administrator may carry out the above calculation in respect of the statutory underpin only; i.e. without recalculation of the member's original transfer value. Where the transfer amount in respect of the statutory underpin is greater than zero, this can be treated as the 'difference' in paragraph 3.3 above.

3.5 Where the member is a Category C member, if part of the original transfer value was in respect of the original statutory underpin calculation, then a recalculation of the statutory underpin only can be carried out (as per paragraph 3.4 above), and the transfer amount from this recalculation can be compared to the amount originally included in the transfer payment in respect of the underpin.

3.6 For the avoidance of doubt, although the approach in the above guidance note applies in relation to the statutory underpin calculations required to determine any transfer top up payments, it is the transfer factors in effect at the final underpin date which should be applied.

3.7 The table below summarises the guidance notes and factors that were implemented between 1 April 2014 and 30 September 2023. This provides a summary only; administrators should ensure the transfer factors in effect at the final underpin date are used:

Relevant documents	Date of document	Guidance operative / factors effective from
The Local Government Pension Scheme (England and Wales) Individual Incoming & Outgoing Transfers – Guidance note	28 March 2014	1 April 2014
The Local Government Pension Scheme (England and Wales) Individual Incoming & Outgoing Transfers – Guidance note	8 April 2016	29 April 2016
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	9 November 2018	19 November 2018
The Local Government Pension Scheme (England and Wales) Individual Incoming & Outgoing Transfers – Guidance note	8 April 2020	1 November 2020
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	25 May 2023	1 June 2023

4. Trivial commutation top-up payments

4.1 This section applies to trivial commutation top-up payments where the original calculation date was before 1 October 2023.

4.2 The calculations set out in this section include those which apply to small pot payments and trivial commutation lump sum death benefits for members eligible for the statutory underpin with a calculation date before 1 October 2023.

4.3 Regulation 11(2) of the 2023 Regulation sets out that Regulations 4A to 4V of the 2014 Scheme Transitional Regulations should be applied to determine a final guarantee amount.

For a commutation of member pension: to determine the final guarantee amount, the administrator should calculate the final assumed benefits and final underpin amount as at the final underpin date, applying the early and late retirement factors effective at the final underpin date and using the statutory underpin approach set out in the following relevant guidance notes:

- Where early retirement reduction factors apply, The Local Government Pension Scheme (England and Wales) Early payment of pension Guidance note, dated 24 January 2024 [paragraphs 2.17 to 2.19].
- Where late retirement increase factors apply, Local Government Pension Scheme (England and Wales) Late Retirement Guidance note, dated 24 January 2024 [paragraphs 2.13 to 2.15].

For a commutation of survivor's pension: the survivor guarantee amount should be recalculated in line with Regulation 4O of the 2014 Scheme Transitional Regulations.

4.4 The original payment should then be recalculated in accordance with actuarial guidance issued by the Secretary of State.

To recalculate the original payment, the administrator should apply the approach set out in the Trivial Commutation guidance note that was effective at the date of the original calculation, with allowance for the final guarantee amount in the Member pension amount and/or the survivor's guarantee amount in the Dependant's pension amount as relevant. The final guarantee amount and survivor's guarantee amount are the recalculated values set out in paragraph 4.3.

4.5 Where the recalculated payment exceeds the original payment, the difference (with allowance for interest as required) should be paid to the member or the member's representatives as relevant.

5. Scheme pays pension offsets

5.1 This section applies to scheme pays pension offsets where the member's final underpin date was before 1 October 2023.

5.2 Members who retired before 1 October 2023 with an increase to their pension under Regulation 4(4) of the 2014 Scheme Transitional Regulations may have been subject to annual allowance in their retirement year.

5.3 Where members in 5.2 elected to use the scheme pays mechanism to meet the tax charge and where the pension offset applied is then recalculated excluding any increase to their pension under Regulation 4(4) of the 2014 Scheme Transitional Regulations, this re-calculation should be based on the scheme pays factors in force on the date the member elected for scheme pays.

6. Cash equivalents for divorce

6.1 This section applies where a pension sharing order (PSO) was made in respect of a member eligible for the statutory underpin with an effective date between 1 April 2014 and 30 September 2023 (inclusive) and the cash equivalent value of the member's relevant benefits need to be recalculated as required under Regulation 12(2) of the 2023 Regulations.

6.2 Regulation 12(2) of the 2023 Regulations requires that the recalculation is carried out as at the date on which the original calculation was made.

6.3 The approach to the recalculation depends on the member's circumstances at the original calculation date:

6.3.1 Where the final underpin date in relation to the member had occurred before the PSO effective date, the recalculation must take into account the member's final guarantee amount [Regulation 12(3) of the 2023 Regulations].

6.3.2 Where the underpin date in relation to the member had occurred before the PSO effective date but the final underpin date had not, the recalculation must take into account the member's provisional assumed benefits and provisional underpin amount [Regulation 12(4) of the 2023 Regulations].

6.3.3 Where the underpin date in relation to the member has not occurred before the PSO effective date, the recalculation will need to take into account the notional provisional assumed benefits and notional provisional underpin amount determined on the basis that the underpin date had occurred on the day immediately before the PSO effective date.

When recalculating the cash equivalent amount, the administrator should apply the Pension Sharing Following Divorce guidance note and factors that were effective at the original cash equivalent calculation date. For active and deferred members, this includes the transfer value guidance and factors (as referred to in section 3 of this note) that were effective at the original cash equivalent calculation date.

The statutory underpin should be calculated using the methodology set out in the Pension Sharing Following Divorce guidance note dated 3 July 2024, including:

- paragraphs 4.11, 4.13 and 4.18 for pensioner members;
- paragraph 5.4 and 5.5.4 for active and deferred members; and
- paragraph 6.3 for members who have flexibly retired

For the avoidance of doubt, the recalculation should be carried out as at the original cash equivalent calculation date and using the guidance and factors that were effective at that date, except that the statutory underpin should be allowed for using the methodology described in the 3 July 2024 Pension Sharing Following Divorce guidance note.

6.4 Where the recalculated cash equivalent value exceeds the original cash equivalent value, the administrator should take the actions required under Regulation 12(5) of the 2023 Regulations. This may include adjustment of any pension credit and pension debit arising from the pension sharing order. Administrators should refer to sections 7 and 8 of this note, as relevant.

6.5 Where the statutory underpin did not increase the original cash equivalent value, the administrator may recalculate the cash equivalent value in respect of the statutory underpin only, without recalculation of the remainder of the original cash equivalent value. Where the cash equivalent value of the statutory underpin is greater than zero then the condition in paragraph 6.4 above is met and the administrator should take the actions required under Regulation 12(5) of the 2023 Regulations. Where required, the recalculated cash equivalent value in respect of the statutory underpin can be taken as the difference between the recalculated cash equivalent value and the original cash equivalent value.

6.6 Where the statutory underpin increased the original cash equivalent value, the administrator may recalculate the cash equivalent value of the statutory underpin only, without recalculating the remainder of the original cash equivalent value. The cash equivalent value of the revised underpin may then be compared to the cash equivalent value originally included in respect of the underpin. Where the cash equivalent value of the revised underpin is greater than the original cash equivalent value in respect of the original underpin, then the condition in paragraph 6.4 above is met and the administrator should take the actions required under Regulation 12(5) of the 2023 Regulations. Where required, the difference between the recalculated cash equivalent value in respect of the statutory underpin and the original cash equivalent value in respect of the original underpin can be taken as the difference between the recalculated cash equivalent value and the original cash equivalent value.

6.7 The table below summarises the guidance notes and factors that were implemented between 1 April 2014 and 30 September 2023 in respect of pension sharing following divorce. This provides a summary only; administrators should ensure the guidance and factors in effect at the original calculation date are used:

Relevant documents	Date of document	Guidance operative / factors effective from
The Local Government Pension Scheme (England and Wales) Pensioner Cash Equivalent Factors on Divorce from 1 January 2012	18 January 2012	1 January 2012
The Local Government Pension Scheme (England and Wales) Pensioner cash equivalent factors on divorce	14 April 2016	29 April 2016
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	9 November 2018	19 November 2018
The Local Government Pension Scheme (England and Wales) Pension Sharing Following Divorce	11 June 2020	1 November 2020
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	25 May 2023	1 June 2023

For active and deferred members, the administrator may also need to refer to the transfer value guidance history summarised in section 3 of this note.

7. Pension credits

7.1 This section applies to the recalculation of benefits for pension credit members where the PSO effective date was between 1 April 2014 and 30 September 2023 (inclusive) and the recalculated cash equivalent value (see Section 6) exceeds the original calculation, as required under Regulation 12(5)(d) of the 2023 Regulations.

To determine the recalculated pension credit, the administrator should apply the pension credit guidance note that was in force at the date of the original calculation. The difference between the recalculated cash equivalent value and the original cash equivalent value, as calculated under section 6, should be multiplied by the appropriate percentage. This will determine the share of the difference that is to be allocated to the pension credit member. The pension credit factors in force at the date of the original calculation should then be applied to this amount to determine the additional pension credit. The recalculated pension credit at the original calculation date is the sum of the original pension credit and the additional pension credit.

7.2 The table below summarises the guidance notes and factors that were implemented between 1 April 2014 and 30 September 2023. This provides a summary only; administrators should ensure the pension credit guidance and factors in effect at the original calculation date are used:

Relevant documents	Date of document	Guidance operative / factors effective from
The Local Government Pension Scheme (England and Wales) Application of a Pension Credit to the Former Spouse or Civil Partner of the Member	26 March 2014	1 April 2014
The Local Government Pension Scheme (England and Wales) Application of a pension credit to the former spouse or civil partner of the member (post-2014 members)	12 April 2016	29 April 2016
The Local Government Pension Scheme (England and Wales) Application of a pension credit to the former spouse or civil partner of the member (post-2014 members)	1 March 2019	1 April 2019
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	25 May 2023	1 June 2023

7.3 Regulations 12(6D) to 12(6F) of the 2023 Regulations further set out circumstances in which a transfer value, lump-sum payment or payment to a qualifying arrangement may need to be recalculated following the determination of a revised pension credit. Where such a recalculation is required, it should be carried out using the actuarial guidance and factors that were in force at the date of the original calculation, taking into account the recalculated pension credit determined under this section.



8. Pension debits

8.1 This section applies to the recalculation of benefits for pension debit members where the PSO effective date was between 1 April 2014 and 30 September 2023 (inclusive) and the recalculated cash equivalent value (see Section 6) exceeds the original calculation, as required under Regulation 12(5)(b) of the 2023 Regulations.

To determine the recalculated pension debits, the administrator should apply the pension debit guidance and any relevant factors that were effective at the original calculation date. Allowance should be made for the revised statutory underpin using the methodology set out in the Local Government Pension Scheme (England and Wales) Application of a pension debit for divorced members (post-14) dated 3 July 2024, applying the factors that were effective at the original calculation date:

- For active and deferred members, paragraphs 3.12 to 3.18 of the pension debit guidance note should be applied to determine the member and partner underpin debit. For the underpin debit (member), the "Value of underpin (member pension)", should be based on the revised value of the statutory underpin determined under section 6 of this guidance note. For the underpin debit (partner), the revised provisional assumed benefits and provisional underpin amount should be used.
- For pensioner members, the member pension debit should be recalculated using the revised pension amount, including any revised statutory underpin amount, and applying the appropriate percentage. For the underpin debit (partner), this should be calculated in accordance with the methodology in paragraphs 3.20 and 3.21 of the pension debit guidance note, using the revised provisional assumed benefits and provisional underpin amount.

The total recalculated pension debit at the original calculation date is the total original pension debit adjusted to reflect the revised statutory underpin.

As the statutory underpin will be allowed for through separate underpin debits for the member and partner (other than for pensioner members for whom a separate underpin debit (member) is not required), any allowance for the statutory underpin included in the original member pension debits and/or partner pension debits should be removed when recalculating those debits.

8.2 Regulations 12(5A) to 12(5C) of the 2023 Regulations set out calculations where the administrator should reflect the recalculated pension debit. Where Regulations 12(5A) to 12(5C) apply, any recalculation required under Regulations 5, 6, 7, 8, 10 or 11 of the 2023 Regulations should be carried out using the actuarial guidance and factors applicable to the original calculation, taking account of the recalculated pension debit determined under this section.

8.3 The table below summarises the guidance notes and factors that were implemented between 1 April 2014 and 30 September 2023. This provides a summary only; administrators should ensure the pension debit guidance and factors in effect at the original calculation date are used:

Relevant documents	Date of document	Guidance operative / factors effective from
The Local Government Pension Scheme (England and Wales) Application of a Pension Debit for Divorced Members	28 March 2014	1 April 2014
The Local Government Pension Scheme (England and Wales) Application of a pension debit for divorced members	14 April 2016	29 April 2016
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	19 December 2018	8 January 2019
The Local Government Pension Scheme (England and Wales) Application of a pension debit for divorced members	11 June 2020	1 November 2020
Local Government Pension Scheme (England and Wales) - Consolidated Factor Spreadsheet	25 May 2023	1 June 2023

For active and deferred members, administrators may also need to refer to the transfer value guidance and factors summarised in Section 3 of this note when determining the pension debit in respect of the statutory underpin