LGPS administrator guide

The McCloud remedy - underpin protection

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1. Introduction

Purpose of the guide

This guide explains how underpin protection works in the LGPS after the changes made because of the McCloud case. The changes took effect from 1 October 2023.

The guide was released in two stages due to the breadth and complexity of the McCloud remedy project. Version 1.0 was released in November 2023, which included sections 1 to 5. Version 2.0 was released in October 2024, which included sections 6 and 7.

This guide does not address teacher excess service cases. Further legislation is required to implement the McCloud remedy for these members.

The guide is for administering authorities in England, Scotland and Wales.

Background

The Government has introduced legislation to address the findings of the McCloud case in public service pension schemes. In the McCloud case, the Court of Appeal found that the protections provided to older members, when the schemes were reformed in 2014 and 2015, had unlawfully discriminated against younger members on grounds of age.

The Public Service Pensions and Judicial Offices Act 2022 provides the framework for the changes. Each public service pension scheme (PSPS) is responsible for changing its own rules within the framework provided by the Act.

In England and Wales, the changes were made by the LGPS (Amendment) (No.3) Regulations 2023, which came into force from 1 October 2023. These regulations amend the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.

In Scotland, the changes were made by the LGPS (Remediable Service) (Scotland) Regulations 2023, which came into force on 1 October 2023. These regulations amend the LGPS (Scotland) Regulations 2018 and the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014.

In the LGPS, the discrimination has been addressed by extending underpin protection to younger members. However, the 1 October 2023 changes did not just extend the protection to younger members. The 'old' underpin rules did not include enough detail to ensure that protected members received a career average pension that was at least as good as they would have received under the final salary scheme. The October 2023 changes introduced more detail about how the underpin works in different circumstances. This is to ensure it works effectively and consistently for all protected members.

Overview

You will need to implement the McCloud remedy for all protected members from 1 October 2023. You will also need to review all leavers from 1 April 2014 (1 April 2015 for Scotland), even if the member already received an addition to their pension entitlement because they qualified for underpin protection under the old rules.

The revised underpin

Key points to note about the revised underpin:

- it also protects early leavers
- each pension account is assessed separately – this means that a member with more than one pension account may not qualify for underpin protection in all their pension accounts
- it is a two-stage process – a provisional underpin check is calculated on a member's 'underpin date' and a final underpin calculation is done on the 'final underpin date'. This ensures that actuarial adjustments are taken into account in the comparison of benefits
- the value of the CARE benefits is called the 'assumed benefits'
- the value of the notional final salary benefits is called the 'underpin amount'
- a 'final guarantee amount' is calculated at the final underpin date. This is the difference between the value of the assumed benefits and underpin amount – with actuarial adjustments and inflationary adjustments taken into account
- you may also have to do a further underpin calculation when the member dies
- underpin protection must be taken into account when calculating survivor benefits, death benefits, transfers out, cash equivalent transfer values for divorce purposes, trivial commutations and small pots etc
- a 'final guarantee amount' does not count towards the Pension Input Amount in annual allowance calculations.

Qualifying criteria

The qualifying criteria have also changed. These are set out in detail in section 2.

You will need to ensure that you take account of unaggregated LGPS pensionable service and pensionable service in a different McCloud remedy scheme when assessing if a pension account qualifies for underpin protection.

Pensions tax

HM Treasury has made changes to the tax rules to ensure, as far as possible, that members affected by the McCloud remedy are not adversely affected. You can view the guidance for LGPS administrators on the GOV.UK website.

McCloud data

You will need to collect, upload and validate your McCloud data before you can perform any underpin calculations.

We provided guidance on the data you need to collect to create notional final salary benefits and tools to help you do this in July 2020.

In March 2023, we provided guidance on the options available to you if you have not been able to collect the necessary data, or you have reason to believe it is not accurate. This guidance sets out the steps you should take to collect, validate and query McCloud data. At the moment, this guidance only applies in England and Wales. We expect the Scottish Scheme Advisory Board to issue an adapted version for Scotland.

You can view these documents on the administrator guides and documents pages of www.lgpsregs.org and www.scotlgpsregs.org. Filter on 'McCloud' as the subject.

Statutory guidance

MHCLG set up a McCloud guidance working group to decide what other statutory guidance is needed. This group was made up of LGPS administrators, actuarial advisers, SPPA, the LGA and GAD.

As a result, MHCLG published statutory guidance on 17 June 2024 for administering authorities in England and Wales. SPPA adapted the guidance and issued it to administering authorities in Scotland on 4 July 2024. The guidance aims to support authorities to implement the remedy by providing:

- the Government's / Scottish Ministers' view on the approaches that should be taken for several key issues to achieve consistency
- additional guidance on certain technical issues.

In particular, the guidance includes the following topics:

- the deadline to complete implementing the remedy, including revisiting past cases (paragraph 9)
- potential loss and contingent decisions (paragraphs 10 and 11)
- governance (section 2)
- data collection and verification (section 3)
- identifying members in scope (section 4)
- qualifying scenarios (section 5)
- case prioritisation (section 6)
- technical matters (sections 7, 8, 9 and 10)
- compensation (section 11).

The guidance is available on the administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

GAD has updated actuarial guidance to reflect the changes. MHCLG has published the following updated guidance:

- Early retirement
- Late retirement
- Transfers
- Trivial commutation
- Pension debits – transfer date from 1 April 2014
- Pension sharing following divorce
- Flexible retirement.

SPPA has published the following:

- Early retirement
- Late retirement
- Transfers
- Trivial commutation.

MHCLG and SPPA have also issued GAD guidance on applying the McCloud remedy to retrospective cases.

You can access the GAD guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) or www.scotlgpsregs.org (Scotland).

Communicating with members

In our view, the changes made to the LGPS regulations for McCloud constitute a material change to the Scheme's rules. This means that you must have communicated the change to all members who may be affected by 31 December 2023.

The relevant legislation is regulation 8 of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013.

We provided template disclosure wording to help you meet this requirement. We have also provided:

- dedicated areas of the member websites (www.lgpsmember.org and www.scotlgpsmember.org) including information about the McCloud remedy, a video, examples of how different members are affected, frequently asked questions and an interactive tool for members to find out if they are affected
- a member factsheet in Word format that you can edit and adapt for your own use
- template paragraphs to add to existing member letters outlining how the McCloud remedy affects the calculation
- template McCloud public service pensions history forms
- templates of new letters that will be needed for members affected by the McCloud remedy who have already left the LGPS – some letters are still in development.

You can view the template wording and letters, and member factsheet on the administrator guides and documents pages of www.lgpsregs.org and www.scotlgpsregs.org. Filter on 'McCloud' as the subject.

How to use this guide

This guide covers the LGPS in England and Wales, and Scotland. In most cases, the underpin works the same for both schemes; where there are differences, we make this clear.

The guide should be read in conjunction with the McCloud implementation statutory guidance. This is available on the administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

Sections 2 to 6 set out how the revised underpin applies to relevant calculations from 1 October 2023. You will note that some of the examples in these sections use dates of leaving / taking benefits before 1 October 2023, this is just for illustration purposes.

Section 7 is about revisiting past calculations.

Each section sets out the list of regulations that apply.

Underlined terms are defined in the Dictionary which can be found in Section 8.

Section 9 sets out areas of the regulations where we think further clarification is needed.

2. Which pension accounts qualify for underpin protection?

Overview

This section looks at the conditions that must be met for a pension account to qualify for underpin protection. You need to assess if a pension account:

1. has remediable service, and
2. where that account contains 'aggregated LGPS service' or 'transferred-in service', if that remediable service qualifies for underpin protection in the LGPS.

Each pension account is assessed separately. You need to follow steps 1 to 3 below for all pension accounts to establish if the pension account has remediable service.

You only need to follow step 4 where the pension account contains 'aggregated LGPS service' or 'transferred-in service'.

Remediable service

Section 77 of the Public Service Pensions and Judicial Offices Act 2022 (PSPJOA) defines the remediable service condition as being met if:

- the service in question takes place in the underpin period
- the service is pensionable in the LGPS CARE scheme
- the person was on 31 March 2012, or any earlier day, in pensionable service in a McCloud remedy scheme
- there is no disqualifying gap in service in the period starting with the day after the date condition 3 was met and the day before the service in question.

Underpin protection

The LGPS regulations set out whether remediable service qualifies for underpin protection in the LGPS.

There are some circumstances when service will be remediable under the PSPJOA but will not qualify for underpin protection. This is most likely to be when remediable service from another LGPS pension account or McCloud remedy scheme is aggregated/transferred to the pension account you are assessing and there has been a gap of more than five years in active membership of any public service pension scheme between:

- the end of that remediable service, and
- the date the member joined the active CARE account to which the service was aggregated.

This is considered in more detail in the rest of this section.

The process

This section should be read in conjunction with section 4 of the McCloud implementation statutory guidance which sets out a recommended process for identifying members in scope.

As part of the process, you need to write to members with service in the remedy period who do not qualify for underpin protection based on the information you currently hold. You need to do this to find out if they have any previous public service pension scheme (PSPS) membership that would mean they qualify. In practice, you may wish to write to all members.

We have produced a template McCloud public service pensions history form to help you with this. You can view this on the administrator guides and documents page of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

You can also use the National Insurance Database (NIDB) to help identify membership held in other LGPS funds. The NIDB does not contain complete membership information, so you should always contact the other administering authority for more information where a record is identified.

How to assess if a pension account qualifies

To assess if a pension account qualifies, follow these steps:

- Step 1 - does the account include service during the underpin period?
- Step 2 – was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
- Step 3 – is there a disqualifying gap?
- Step 4 – does the remediable service qualify for underpin protection?

For steps 2 and 3 we have included FAQs under each step. Also see worked examples.

Step 1 - does the account have any of the following service?

- **LGPS service:** service built up in that LGPS active CARE account in the underpin period
- **aggregated LGPS service:** service in the LGPS that was added to the account from a different LGPS account and was built up in the underpin period
- **transferred-in service:** service transferred from a different McCloud remedy scheme (including a different LGPS scheme) to the active CARE account. The service must have been built up between 1 April 2015 (1 April 2014 for transfers from LGPS England and Wales to LGPS Scotland) and 31 March 2022. Service initially transferred to a different CARE account that is later aggregated with the pension account being assessed is also included.

If the transferred-in service was originally built up in a McCloud remedy scheme (other than an LGPS scheme) and the member did not qualify for benefits (eg did not meet the vesting period) on leaving that scheme, do not include that service for step 1.

The McCloud implementation statutory guidance confirms that a deferred refund CARE account cannot qualify for underpin protection. However, if the LGPS membership in that account was during the underpin period and is later aggregated or transferred to a different LGPS CARE account, the membership could then qualify for underpin protection.

The underpin period is between 1 April 2014 (1 April 2015 for Scotland) and 31 March 2022, or if earlier, the date the member attained final salary scheme normal retirement age.

A McCloud remedy scheme is a public service pension scheme in England, Wales, Scotland or Northern Ireland that covers one of the following groups:

- civil servants
- teachers
- the judiciary
- local government workers
- NHS staff
- firefighters

- police officers
- armed forces personnel.

If the account does not have any of these types of service, it does not qualify for underpin protection. If the member later aggregates LGPS service to it or transfers service from a different McCloud remedy scheme, you will need to check again if it qualifies.

If the account has any of the three types of service listed above - go to step 2.

See technical query 12, for queries related to step 1.

Step 2 - was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?

The pensionable service does not need to be aggregated with the LGPS pension account, so you need to take into account any unaggregated LGPS pensionable service and pensionable service in a different McCloud remedy scheme when assessing if this applies.

If the answer to step 2 is no, the pension account does not qualify for underpin protection. If the answer to step 2 is yes, go to step 3.

What counts as pensionable service for step 2?

The member must qualify for benefits on leaving the period of membership that occurs on or before 31 March 2012 for it to count as pensionable service for step 2.

However, if a member left a scheme without qualifying for benefits and they:

- subsequently aggregated that service to the legacy scheme of the same or a different McCloud remedy scheme, and
- qualified for benefits when the periods of service are combined,

the service will count as pensionable service for step 2.

In practice, this means that membership built up in the ‘legacy’ scheme of a McCloud remedy scheme where the member does not qualify for benefits, will not count for step 2:

- while at frozen refund status
- if the member dies while at frozen refund status
- if the contributions are refunded

- if it is aggregated to the reformed scheme of the McCloud remedy scheme
- if it is transferred to the reformed scheme of a different McCloud remedy scheme, or
- if it is transferred to a scheme that is not a McCloud remedy scheme.

If the service is at frozen refund status, you need to check whether it has later started counting for step 2. This could happen where the member has aggregated or transferred the service to the legacy scheme of a McCloud remedy scheme and, when combined, it became pensionable service.

For example, a frozen refund in the LGPS which includes membership on or before 31 March 2012 will start counting for step 2 if:

- the member rejoined the same LGPS before 1 April 2014 (2015 in Scotland) and the member qualifies for benefits for the new record. This is because the previous membership would be added to the pre-14 (pre-15 in Scotland) scheme (ie 'the legacy scheme'). If the member had rejoined after 31 March 2014 (2015 in Scotland), the transfer value for the previous membership would buy benefits in the 2014 Scheme (2015 Scheme in Scotland) (ie the 'reformed scheme') and thus not count for step 2, or
- the member joined a different McCloud remedy scheme, transferred the frozen refund to it, the transfer purchased benefits in their legacy scheme and the member qualifies for benefits in that scheme.

However, you do not need to recheck if:

- regardless of whether the earlier period of service counts for step 2, the CARE account would not qualify for underpin protection (for example, because of a later break), or
- step 2 is met in respect of a different period of later service.

FAQs for step 2

If the member qualified for benefits on leaving that earlier period of service, will it always count for step 2?

Yes. If the member transferred the service to a scheme that is not a McCloud remedy scheme or trivially commuted the benefits, the service will still count for step 2. You do not need to recheck whether the earlier period continues to count for step 2.

When should you recheck whether an earlier period of service counts for step 2?

The 'LGPS McCloud implementation statutory guidance' confirms that you do the final check at the final underpin date for the CARE account.

If any events take place after the final underpin date, you do not need to re-assess the McCloud qualification status again. For example, where a member dies after their final underpin date, you do not reassess their qualification status for calculating any survivor benefits or death grants.

If the member dies as a deferred or an active member, they won't have a final underpin date, so the final check is done at death.

If the member has more than one final underpin date for a CARE account, you need to recheck at each final underpin date. If the member's protection status has changed between final underpin dates, this will only impact the calculations at the later final underpin date. It will not impact calculations at the earlier final underpin date because the underpin protection was factually correct at that time. A member may have more than one final underpin date for a CARE account where the member:

- takes tier 3 ill health retirement (not relevant for LGPS Scotland), or
- takes flexible retirement.

Are there any other circumstances when you will need to recheck whether an earlier period of service counts for step 2?

Yes. MHCLG and SPPA have confirmed you will need to recheck before doing:

- divorce calculations - where the member is an active member, deferred pensioner member (not relevant in Scotland) or a deferred member. You do not need to recheck for pensioner members, as you will have done the final check on the final underpin date.
- interfund adjustment calculations.

Do you need to recheck whether an earlier period of service counts for step 2 before doing an annual benefit statement?

We have confirmed with MHCLG / SPPA that you do not need to recheck the earlier period of service. You should include an appropriate caveat and ask the member to update you if anything has changed regarding the relevant earlier period of service.

Step 3 – Is there a disqualifying gap?

You need to check if there is a disqualifying gap in service between:

- the date the member left the service you have identified as counting for step 2, and
- the first day of the service you are assessing in the underpin period.

You need to take into account any previous public service pension scheme benefits the member holds. You can use the template McCloud public pensions history forms to collect this information.

A disqualifying gap is a period of more than five years when the member was not in pensionable service in a McCloud remedy scheme.

If the member's public sector employment was transferred to a different private sector employer, do not count any period of pensionable service in a broadly comparable scheme as a break in pensionable service for this purpose.

If there is no disqualifying gap, the service in question is remediable service - go to step 4 if the account contains 'aggregated LGPS service' or 'transferred-in service'.

If there is a disqualifying gap, the service in question does not qualify for underpin protection.

What counts as pensionable service for step 3?

The McCloud implementation statutory guidance confirms a deferred refund does not count as pensionable service for determining whether there has been a disqualifying gap in service for step 3.

It also confirms that the pensionable service must still be present at the final underpin date for it to count for step 3. This means a pension account may lose underpin protection if the member subsequently:

- transfers out service that initially counted for step 3 to a private pension scheme
- trivially commutes benefits that initially counted for step 3.

If this happens, a disqualifying break could be created.

This means there will be situations where a pension account initially qualifies for underpin protection but does not qualify at the final underpin date.

Similarly, there could be situations where a pension account does not initially qualify for underpin protection, but subsequently does. This could happen where a member no longer has a disqualifying gap because they aggregate / transfer a deferred refund with another period of public service pension scheme membership and it becomes pensionable service.

We don’t expect these situations to happen frequently. We have set out when we think they will happen and the impact in the tables below.

Table 1: McCloud remedy scheme service

Status on leaving original scheme	Does it initially count for step 3?	Can it stop or start counting for step 3?
Deferred	Yes	It will stop counting for step 3 on: • transferring it to a pension scheme that is not a McCloud remedy scheme (other than a broadly comparable scheme) • transferring it to a broadly comparable scheme on general terms where the transfer was not because of a local government contracting out transfer / Fair Deal transfer, or • trivially commuting the benefits. If the member transfers it to a different scheme and it continues to count for step 3, you should check to see if the member takes a further transfer or trivially commutes it to see whether it stops counting for step 3.
Pensioner	Yes	It will stop counting for step 3 on trivially commuting the benefits.
Deferred refund	No	It will start counting for step 3 on: • transferring it to a different legacy or reformed McCloud remedy scheme • transferring it to a broadly comparable scheme where the transfer is because of a local government contracting out transfer / Fair Deal transfer (rather than on general terms), or • aggregating it to a later period of membership in the same scheme. The earlier service will only start counting if the member qualifies for benefits for the later service. If the earlier service does start counting, you should consider whether the member takes a further transfer or trivially commutes the benefits to see whether it stops counting for step 3.

Table 2: Broadly comparable scheme service

Status on leaving original scheme	Does it initially count for step 3?	Can it stop or start counting for step 3?
Deferred	Yes	It will stop counting for step 3 on: • transferring it to a pension scheme that is not a McCloud remedy scheme (other than a broadly comparable scheme) • transferring it to a different broadly comparable scheme on general terms where the transfer was not because of a local government contracting out transfer / Fair Deal transfer, or • trivially commuting the benefits. If the member transfers it to a different scheme and it continues to count for step 3, you will need to consider whether the member takes a further transfer or trivially commutes it to see whether it stops counting for step 3.
Pensioner	Yes	It will stop counting for step 3 on trivially commuting the benefits.
Deferred refund	No	It will start counting for step 3 on: • transferring it to a McCloud remedy scheme (including a legacy or reformed scheme) • transferring it to a different broadly comparable scheme where the transfer is because of a local government contracting out transfer / Fair Deal transfer (rather than transferred on general terms), or • aggregating it to a later period of membership in the same scheme. The earlier service will only start counting if the member qualifies for benefits for the later service. If this happens, you should consider whether the member takes a further transfer or trivially commutes the benefits to see whether it stops counting for step 3.

If an earlier period of service could start or stop counting for step 3, you need to:

- check again what has happened to the earlier period of service, and
- advise the member of what situations could change their underpin protection status.

You only need to do this if the underpin protection status could change. You do not need to recheck if, setting aside the earlier period of service, the CARE account would still qualify or not qualify for underpin protection. As examples:

- the earlier period of service is held as a deferred benefit and the CARE account does not qualify for underpin protection
- the earlier period is held as a deferred benefit, the CARE account qualifies for underpin protection and the member would still have no disqualifying break if you ignored the earlier period of service.

FAQs for step 3

What happens if the service that counts for step 2 ends after 31 March 2012 and that service stops counting for step 3?

The service will still count for step 2.

However, when considering whether there has been a disqualifying break for step 3, you need to check if there is a disqualifying gap in service between:

- 1 April 2012 (rather than the date the member left the service you have identified as counting for step 2), and
- the first day of the service you are assessing in the underpin period.

This outcome is illustrated in example 12 and example 16.

When should you recheck whether an earlier period of service counts for step 3?

The 'LGPS McCloud implementation statutory guidance' confirms that you do the final check at the final underpin date for the CARE account.

If any events take place after the final underpin date, you do not need to re-assess the McCloud qualification status again. For example, where a member dies after their final underpin date you do not reassess their qualification status for calculating any survivor benefits or death grants.

If the member dies as a deferred or an active member, they won't have a final underpin date, so the final check is done at death.

If the member has more than one final underpin date for a CARE account, you need to recheck at each final underpin date. If the member's protection status has changed between final underpin dates, this will only impact the calculations at the later final underpin date. It will not impact calculations at the earlier final underpin date because the underpin protection was factually correct at that time. A member may have more than one final underpin date for a CARE account where the member:

- takes tier 3 ill health retirement (not relevant for LGPS Scotland), or
- takes flexible retirement.

Are there any other circumstances when you need to recheck whether an earlier period of service counts for step 3?

Yes. MHCLG and SPPA have confirmed you will need to recheck before doing:

- divorce calculations - where the member is an active member, deferred pensioner member (not relevant in Scotland) or a deferred member. You do not need to recheck for pensioner members, as you will have done the final check on the final underpin date
- interfund adjustment calculations.

Do you need to recheck whether an earlier period of service counts for step 3 before doing an annual benefit statement?

We have confirmed with MHCLG / SPPA that you do not need to recheck the earlier period of service. You should include an appropriate caveat and ask the member to update you if anything has changed regarding the relevant earlier period of service.

Step 4 - does the remediable service qualify for underpin protection?

You only need to complete this step if the pension account contains remediable 'aggregated LGPS service' or 'transferred-in service'. If it does, you need to check if there is a continuous break of more than five years in active membership of any public service pension scheme between:

- the end of that remediable service, and
- the date the member joined the active CARE account to which the service was aggregated/transferred.

You need to look at each period of remediable aggregated LGPS and transferred-in service separately.

If there is a continuous break of more than five years, the remediable service does not qualify for underpin protection and you do not perform underpin calculations for the account.

See example 3 below for an example of when service would be remediable under the PSPJOA but not qualify for underpin protection in the LGPS (ie the service meets steps 1, 2 and 3 but does not meet step 4).

If some or all of the remediable service qualifies ('eligible remediable service'), the CARE account qualifies for underpin protection, but you only include the eligible remediable service in underpin calculations. See example 6 for an example of when this would apply.

Continuous break of more than five years

Unhelpfully the definition of 'continuous break of more than five years' is different to the disqualifying break used in step 3:

For step 4:

- you are only checking to see if the member was an active member of a public service pension scheme – they do not have to have a right to a benefit in that scheme
- where the member opted out and was treated as not having been an active member on that occasion (eg opting out of the LGPS within three months), that service is not counted for step 4
- the definition of public service pension scheme does not include broadly comparable schemes (unless that scheme meets the definition of being a 'public service pension scheme')
- the position doesn't change if the member transfers out or trivially commutes the membership that counted for step 4
- you do not need to recheck what happens to the service that counts for step 4.

Our interpretation relies on the definition of active member in section 109(2) of the PSPJOA.

Worked examples

We worked collaboratively with Terry Edwards of Pentag Ltd on the examples below. We thank Terry for his assistance.

Example 1: member joined after 1 April 2012

Background details

- joined the LGPS (England and Wales) on 1 April 2013
- left on 31 March 2024
- had not been a member of a McCloud remedy scheme before joining the LGPS
- was below their final salary scheme normal retirement age on 31 March 2022.

Results

Step 1: does the account have any of the service types in step 1?
Yes, it has 'LGPS service' from 1 April 2014 to 31 March 2022.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
No. The account does not qualify for underpin protection. The member cannot later gain underpin protection, so there is no need to recheck.

Example 2: previous membership of a different LGPS scheme

Background details

- joined the LGPS (England and Wales) on 1 April 2000 and left with deferred benefits on 31 March 2010
- joined the LGPS (Scotland) on 1 April 2013 and left on 31 March 2024
- transferred the benefits in LGPS (England and Wales) to LGPS (Scotland), which bought a final salary service credit in the 2009 Scheme
- will reach the final salary scheme normal retirement age on 1 April 2028.

Results

Step 1: does the account have any of the service types in step 1?
Yes, it has LGPS (Scotland) service from 1 April 2015 to 31 March 2022.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?

Yes. The member was in pensionable service in the LGPS (England and Wales) until 31 March 2010.

Step 3: is there a disqualifying gap?
There is only one period of service to consider - the 'LGPS (Scotland) service' from 1 April 2015 to 31 March 2022.

The gap between the date the member left the service that qualifies for step 2 and the date the service that falls in the underpin period started is less than five years ie 1 April 2010 to 31 March 2013, so there is no disqualifying gap. The service is remediable.

You will do provisional underpin calculations at the underpin date (31 March 2024) for the CARE account using the LGPS (Scotland) service from 1 April 2015 to 31 March 2022. See section 3 for how to do provisional underpin calculations.

As the member has no aggregated service that relates to the underpin period, step 4 does not need to be considered.

Note: the LGPS (Scotland) service from 1 April 2015 to 31 March 2022 qualifies for protection regardless of whether the deferred benefit with England and Wales was transferred in.

The CARE account cannot lose underpin protection so there is no need to recheck it still qualifies. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer.

Example 3: Aggregation and a disqualifying gap in the underpin period

Background details

- joined the LGPS (England and Wales) on 1 April 2010 and left on 31 March 2016 with deferred benefits (the CARE account qualified for underpin protection)
- re-joined the LGPS (England and Wales) on 1 August 2021 and left on 31 March 2024
- aggregated the periods of membership
- will reach the final salary scheme normal retirement age on 1 August 2028.

Results

Step 1: does the account that started on 1 August 2021 have any of the service types in step 1?
Yes, there are two periods to consider:

- 'LGPS service' from 1 August 2021 to 31 March 2022, and
- 'aggregated LGPS service' from 1 April 2014 to 31 March 2016.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in pensionable service in the LGPS (England and Wales) on 31 March 2012.

Step 3: is there a disqualifying gap?
There are two periods of service to consider:

- 'aggregated LGPS service' from 1 April 2014 to 31 March 2016 - this is continuous with the service counting for step 2 - this service is remediable.
- 'LGPS service' from 1 August 2021 to 31 March 2022 - there is a disqualifying gap between 1 April 2016 and 31 July 2021 – this service is not remediable.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to the 'aggregated LGPS service'.

The 'aggregated LGPS service' from 1 April 2014 to 31 March 2016 does not qualify for underpin protection. This is because the member had a continuous break of more than five years in active membership of any PSPS between 1 April 2016 and 31 July 2021.

The member lost underpin protection for the earlier CARE account on aggregating.

You will not do provisional underpin calculations for the CARE account.

There is no need to recheck whether the CARE account qualifies for underpin protection. The CARE account cannot later gain protection.

Example 4: remediable service in more than one LGPS scheme

Background details

- joined the LGPS (Scotland) on 1 April 2011 and left on 31 March 2016 with deferred benefits. The CARE account qualifies for underpin protection for LGPS service from 1 April 2015 to 31 March 2016

- joined the LGPS (England and Wales) on 1 April 2017 and left on 31 March 2024
- transferred their benefits in the LGPS (Scotland) to the LGPS (England and Wales), which bought:
    - a final salary service credit in the 2008 Scheme for the pre-April 15 membership
    - a CARE transfer in for membership from 1 April 2015 to 31 March 2016
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2017 have any of the service types in step 1?
Yes, it has ‘LGPS service’ from 1 April 2017 to 31 March 2022 and ‘transferred-in service’ from 1 April 2015 to 31 March 2016.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in pensionable service in the LGPS (Scotland) on 31 March 2012.

Step 3: is there a disqualifying gap?
There are two periods of service to consider.

- ‘transferred-in LGPS service’ from 1 April 2015 to 31 March 2016 – this is continuous with the service counting for step 2 - this service is remediable.
- ‘LGPS service’ from 1 August 2017 to 31 March 2022 - there is less than a five-year gap between 1 April 2016 and 31 March 2017 - this service is also remediable. This service automatically qualifies for underpin protection.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to the ‘transferred-in LGPS service.

The ‘transferred-in LGPS service’ from 1 April 2015 to 31 March 2016 also qualifies for underpin protection because there is no continuous break in active membership of more than five years of any public service pensions scheme between:

- the end of that remediable service ie 31 March 2016, and
- the date they joined the active CARE account the service was transferred to ie 1 April 2017.

You will need to do provisional underpin calculations at the underpin date (31 March 2024) for the CARE account. The calculations will include the ‘LGPS service’ from 1 April 2017 to 31 March 2022 and the ‘transferred-in service’ from 1 April 2015 to 31 March 2016. The ‘transferred-in service’ will be included as follows:

- the CARE transfer-in for service from 1 April 2015 to 31 March 2016 is included in the provisional assumed benefits
- the notional final salary service credit for the service from 1 April 2015 to 31 March 2016 is included in the provisional underpin amount.

Note: both periods of service would still have qualified for underpin protection had they been left separate.

There is no need to later recheck whether the CARE account qualifies for underpin protection. The CARE account will not lose the protection. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer, as illustrated in Example 5.

Example 5: disqualifying gap after the underpin period

Background details

- joined the LGPS (Scotland) on 1 April 2011 and left on 31 March 2016 with deferred benefits (the CARE account qualified for underpin protection for the LGPS service from 1 April 2015 to 31 March 2016)
- joined the LGPS (England and Wales) on 1 April 2017 and left on 31 March 2024 with deferred benefits
- transferred their benefits in the LGPS (Scotland) to the LGPS (England and Wales). The CARE account qualified for underpin calculations for the ‘LGPS service’ from 1 April 2017 to 31 March 2022 and the ‘transferred-in service’ from 1 April 2015 to 31 March 2016
- re-joined the LGPS (England and Wales) on 1 April 2030 and left on 31 March 2034
- aggregated the benefits for the membership that ended on 31 March 2024 to the new account.
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2030 have any of the service types in step 1?

Yes, it has ‘aggregated LGPS service’ from 1 April 2017 to 31 March 2022 and ‘transferred-in service’ from 1 April 2015 to 31 March 2016.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in pensionable service in the LGPS (Scotland) on 31 March 2012.

Step 3: is there a disqualifying gap?
There are two periods of service to consider:

- ‘transferred-in service’ from 1 April 2015 to 31 March 2016 - this is continuous with the service counting for step 2 - this service is remediable.
- ‘aggregated LGPS service’ from 1 April 2017 to 31 March 2022 - there is less than a five year gap between 1 April 2016 and 31 March 2017. There is no disqualifying gap - this service is also remediable.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to both the ‘aggregated LGPS service’ and ‘transferred-in service’.

Neither period counts for underpin protection because the member has a continuous break of more than five years in active membership of any PSPS between:

- the date they left the remediable service, and
- the date they joined the active CARE account it was aggregated / transferred to.

The break is from 1 April 2024 to 31 March 2030. The member lost the underpin protection for the earlier CARE account on aggregating.

You will not need to do provisional underpin calculations for the CARE account.

There is no need to recheck whether the CARE account qualifies for underpin protection. The CARE account cannot later gain protection.

Example 6: not all remediable service qualifies for underpin protection

Background details

- joined the LGPS (England and Wales) on 1 April 2011
- left on 31 March 2015 with deferred benefits because their employment was transferred to a private contractor. The CARE account qualified for underpin protection for the ‘LGPS service’ from 1 April 2014 to 31 March 2015

- built up benefits in a broadly comparable scheme from 1 April 2015 to 31 March 2021 and did not transfer their LGPS benefits
- left broadly comparable scheme with deferred benefits
- re-joined the LGPS (England and Wales) on 1 April 2021 and left on 31 March 2024
- aggregated the benefits for the membership that ended on 31 March 2015 to the new account
- the deferred benefits in the broadly comparable scheme have not been transferred out or trivially commuted
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2021 have any of the service types in step 1?
Yes, it has ‘aggregated LGPS service’ from 1 April 2014 to 31 March 2015 and ‘LGPS service’ from 1 April 2021 to 31 March 2022.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in pensionable service in the LGPS on 31 March 2012.

Step 3: is there a disqualifying gap?
There are two periods of service to consider.

- ‘aggregated LGPS service’ from 1 April 2014 to 31 March 2015 - this is continuous with the service counting for step 2 - this service is remediable.
- ‘LGPS service’ from 1 April 2021 to 31 March 2022 – there is no disqualifying gap between 1 April 2015 and 31 March 2021 because of the broadly comparable scheme membership – this service is remediable and qualifies for underpin protection.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to the ‘aggregated LGPS service’.

The ‘aggregated LGPS service’ from 1 April 2014 to 31 March 2015 does not qualify for underpin protection because the member has a continuous break of more than five years in active membership of any public service pension scheme between 1 April 2015 and 31 March 2021.

The member lost the underpin protection for the earlier CARE account on aggregating because, for step 4, service in the broadly comparable scheme does not count as membership of a public service pension scheme.

You will need to do provisional underpin calculations at the underpin date (31 March 2024) for the CARE account. The calculations will include the ‘LGPS service’ from 1 April 2021 to 31 March 2022, but will not include the ‘aggregated LGPS service’ from 1 April 2014 to 31 March 2015.

However, you will need to recheck the CARE account to see whether the ‘LGPS service’ from 1 April 2021 to 31 March 2022 continues to qualify for underpin protection. This is because the deferred benefit held in the broadly comparable scheme may stop counting for step 3 on a transfer out to certain schemes or trivial commutation. If it does, the member will have a disqualifying break.

Example 7: deferred refund aggregated in the LGPS – step 2 not met

Background details

- joined the LGPS (England and Wales) on 1 April 2011 and left on 31 May 2011 with a deferred refund
- re-joined the LGPS (England and Wales) on 1 April 2015 and left on 31 March 2024 and the deferred refund was aggregated and bought CARE benefits
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2015 have any of the service types in step 1?
Yes, it has ‘LGPS service’ from 1 April 2015 to 31 March 2022.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
No. Although the member was in the LGPS before April 2012, they did not qualify for benefits on leaving. The service was subsequently aggregated to the CARE scheme so still did not qualify for benefits as it was not aggregated to the legacy scheme.

The account does not qualify for underpin protection.

As the earlier period of service before April 2012 cannot now start counting for step 2, you do not need to recheck whether the CARE account qualifies for underpin protection.

Note: from 1 April 2014 (2015 in Scotland), all deferred refunds in the LGPS are aggregated to the CARE scheme. This is regardless of whether the service was built up in the final salary scheme. This is different to deferred refunds transferred in from other public service pension schemes.

Example 8: deferred refund aggregated in the LGPS - step 2 met

Background details

- joined the LGPS (England and Wales) on 1 April 2011 and left on 31 May 2011 with a deferred refund
- re-joined the LGPS (England and Wales) on 1 April 2013 and left on 31 March 2024; the deferred refund period of service was aggregated, which increased the pre-April 2014 membership (ie the legacy scheme)
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the CARE account that started on 1 April 2014 have any of the service types in step 1?
Yes, it has 'LGPS service' from 1 April 2014 to 31 March 2022.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. Although the member was only entitled to a deferred refund when they left the earlier period, it became pensionable service because:

- it was aggregated to the later period of service
- it was added to the legacy scheme (ie pre-April 14 membership), and
- the member qualifies for benefits for the later period.

Step 3: is there a disqualifying gap?
There is one period of service to consider.

The 'LGPS service' from 1 April 2014 to 31 March 2022 is remediable service. This is because there is no disqualifying gap between 1 June 2011 and 31 March 2013.

As the member has not aggregated remediable service that relates to the underpin period, step 4 does not need to be considered.

You will need to do provisional underpin calculations at the underpin date (31 March 2024) for the CARE account. The calculations will include the 'LGPS service' from 1 April 2014 to 31 March 2022.

There is no need to later recheck whether the CARE account qualifies for underpin protection. The CARE account will not lose the protection. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer.

Example 9: deferred refund transferred to a different PSPS - step 2 met

Background details

- joined the LGPS (England and Wales) on 1 February 2012 and left on 28 April 2012 with a deferred refund
- joined the NHS pension scheme on 29 April 2012 and left on 30 September 2016 with deferred benefits
- transferred the deferred refund in the LGPS to the NHS, buying final salary benefits in the NHS legacy scheme
- re-joined the LGPS (England and Wales) on 1 October 2016 and left on 31 March 2024
- transferred the NHS benefits to the LGPS
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the CARE account that started on 1 October 2016 have any of the service types in step 1?
Yes, it has ‘LGPS service’ from 1 October 2016 to 31 March 2022 and ‘transferred-in service’ from 1 April 2015 to 30 September 2016.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. Although the member was only entitled to a deferred refund when they left the earlier period, it became pensionable service because:

- it was transferred to the NHS scheme,
- it was added to the legacy scheme (ie pre-April 15 membership), and
- the member qualified for benefits in the NHS.

Step 3: is there a disqualifying gap?
There are two periods of service to consider.

- the ‘LGPS service’ from 1 October 2016 to 31 March 2022 – there is no disqualifying gap between 29 April 2012 and 30 September 2016. This service is remediable and automatically qualifies for underpin protection.
- the ‘transferred-in service’ from 1 April 2015 to 30 September 2016 - this is remediable service. This is because there is no disqualifying gap between the service that counts for step 2 and the NHS service.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to the ‘transferred-in service’ from the NHS. This also qualifies for underpin protection because the member did not have a continuous break in active membership of more than five years of any PSPS between leaving the NHS and re-joining the LGPS.

You will need to do provisional underpin calculations at the underpin date (31 March 2024) for the CARE account. The calculations will include the ‘LGPS service’ from 1 October 2016 to 31 March 2022 and the ‘transferred in service from 1 April 2015 to 30 September 2016.

There is no need to later recheck whether the CARE account qualifies for underpin protection. The CARE account will not lose the protection. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer.

Example 10: deferred refund transferred in from another PSPS - step 2 met

Background details

- joined the Teachers’ Pension Scheme (TPS) on 1 February 2012 and left on 28 April 2012 with a deferred refund
- joined the NHS pension scheme on 29 April 2012 and left on 30 September 2016 with deferred benefits
- joined the LGPS (England and Wales) on 1 October 2016 and left on 31 March 2024
- transferred the deferred refund in the TPS to the LGPS (buying final salary benefits) and transferred the deferred benefits in the NHS to the LGPS
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the CARE account that started on 1 October 2016 have any of the service types in step 1?

Yes, it has ‘LGPS service’ from 1 October 2016 to 31 March 2022 and ‘transferred-in service’ from 1 April 2015 to 30 September 2016.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. Although, the member was only entitled to a deferred refund when they left TPS, it became pensionable service because:

- it was transferred to the LGPS,
- it was added to the legacy scheme (ie pre-April 14 membership), and
- the member qualified for benefits in the LGPS.

Note: deferred refunds from non-LGPS public service pension schemes are added to the LGPS legacy scheme where the service was built up before 1 April 2015 and the member has had no continuous break in active membership of any public service pension scheme of more than five years. This is different to the LGPS. From 1 April 2014 (2015 in Scotland), deferred refunds that are aggregated/transferred within the LGPS are always aggregated to the CARE scheme, regardless of whether the deferred refund was built up in the CARE or final salary scheme.

Step 3: is there a disqualifying gap?
There are two periods of service to consider.

- the ‘LGPS service’ from 1 October 2016 to 31 March 2022 – there is no disqualifying gap between 29 April 2012 and 30 September 2016. This service is remediable and qualifies for underpin protection.
- the ‘transferred-in service’ from 1 April 2015 to 30 September 2016 is remediable service. This is because there is no disqualifying gap between leaving the TPS and joining the NHS pension scheme.

Step 4: does the remediable service qualify for underpin protection?
This step applies because the account has ‘transferred-in service’ from the NHS.

The ‘transferred-in service’ from 1 April 2015 to 30 September 2016 also qualifies for underpin protection because the member did not have a continuous break in active membership of more than five years of any public service pension scheme between leaving the NHS and joining the LGPS.

You will need to do provisional underpin calculations at the underpin date (31 March 2024) for the CARE account. The calculations will include the ‘LGPS service’ from 1 October 2016 to 31 March 2022 and the ‘transferred-in service’ from 1 April 2015 to 30 September 2016.

There is no need to later recheck whether the CARE account qualifies for underpin protection. The CARE account will not lose the protection. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer.

Example 11: deferred refund prevents a break for step 4

Background details

- joined the LGPS (England and Wales) on 1 September 2010 and left on 31 July 2016 with deferred benefits
- joined the NHS pension scheme on 1 August 2020 and left on 31 January 2021 with a deferred refund
- joined the LGPS (England and Wales) on 1 February 2025 and left on 31 March 2027
- transferred the deferred refund in the NHS scheme to the LGPS and also aggregated the earlier LGPS deferred benefits.

The member will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the CARE account that started on 1 February 2025 have any of the service types in step 1?
Yes, it has 'aggregated LGPS service' from 1 April 2014 to 31 July 2016.

As the member left the NHS with a deferred refund, the service from 1 August 2020 to 31 January 2021 does not count for step 1.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in pensionable service in the LGPS on 31 March 2012.

Step 3: is there a disqualifying gap?
There is one period of service to consider. The 'aggregated LGPS service' from 1 April 2014 to 31 July 2016. This is remediable service because it is continuous with the service counting for step 2.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to the 'aggregated LGPS service'.

There is no continuous break in active membership of more than five years of any public service pension scheme between 1 August 2016 and 31 January 2025. Although the member left the NHS with a deferred refund, it still counts as active membership in a public service pension scheme.

You will need to do provisional underpin calculations at the underpin date (31 March 2027) for the CARE account. The calculations will include the 'aggregated LGPS service' from 1 April 2014 to 31 July 2016.

There is no need to later recheck whether the CARE account qualifies for underpin protection. The CARE account will not lose the protection. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer.

Example 12 : Impact of transferring out on step 2

Background details:

- joined the NHS scheme on 1 April 2009 and left with deferred benefits on 31 March 2013
- transferred the NHS scheme deferred benefits to a private sector scheme on 1 December 2022
- joined the LGPS (England and Wales) on 1 October 2013 and left on 31 January 2020 with deferred benefits
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2019 have any of the service types in step 1?
Yes, it has 'LGPS service' from 1 April 2014 to 31 January 2020.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in the NHS scheme on 31 March 2012.

Step 3: is there a disqualifying gap?
There is one period of service to consider – 'LGPS service' from 1 April 2014 to 31 January 2020. There is less than a five-year gap between 1 April 2013 and 30 September 2013 - this service is remediable and automatically qualifies for underpin protection.

You will need to do provisional underpin calculations at the underpin date (31 January 2020) for the CARE account. The calculations will include the 'LGPS service' from 1 April 2014 to 31 January 2020.

There is no need to later recheck whether the CARE account qualifies for underpin protection. Although the member transfers out their NHS service after the underpin date, this has no impact on step 2. The NHS service stopped counting for step 3 on the transfer to a private sector scheme, but there is still no disqualifying break in the period from 1 April 2012 to 30 September 2013 for step 3. See FAQ 'What happens if the service that counts for step 2 ends after 31 March 2012 and that service stops counting for step 3?'.

Example 13: impact of transferring out on step 3

Background details

- joined the LGPS (England and Wales) on 1 October 2011 and left on 31 January 2014 with deferred benefits
- joined the LGPS (Scotland) on 1 April 2016 and left on 31 March 2021 with deferred benefits. The CARE account qualified for underpin protection
- joined the LGPS (England and Wales) on 1 April 2021 and left on 30 June 2026 with deferred benefits
- transferred the deferred benefit with LGPS (Scotland) to a private sector scheme on 1 April 2024
- did not aggregate earlier LGPS (England and Wales) membership
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2021 have any of the service types in step 1?
Yes, it has 'LGPS service' from 1 April 2021 to 31 March 2022.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in LGPS (England and Wales) on 31 March 2012.

Step 3: is there a disqualifying gap?
There is one period of service to consider – 'LGPS service' from 1 April 2021 to 31 March 2022.

Initially the service is remediable because there is no disqualifying gap between:

- the date the member left the service that counts for step 2 ie 31 January 2014, and
- the first day of the service you are assessing in the underpin period ie 1 April 2021.

The LGPS (Scotland) service from 1 April 2016 to 31 March 2021 prevents a disqualifying gap. However, when the member transfers the LGPS Scotland membership to a private sector scheme on 1 April 2024, a disqualifying break is created. The member no longer has remediable service and does not qualify for underpin protection.

There is no need to follow step 4 as the CARE account doesn't have any 'aggregated LGPS service' or 'transferred-in LGPS service'.

There is no need to recheck whether the CARE account qualifies for underpin protection. The CARE account cannot later gain protection.

Example 14: impact of transferring out on step 4

Background details

- joined the LGPS (England and Wales) on 1 October 2011 and left on 31 March 2016 with deferred benefits. The CARE account qualified for underpin protection
- joined the LGPS (Scotland) on 1 April 2016 and left on 31 March 2018 with deferred benefits. The CARE account qualified for underpin protection
- joined the LGPS (England and Wales) on 1 April 2022 and left on 30 June 2026 with deferred benefits
- aggregated the benefits for the membership that ended on 31 March 2016 to the new account
- transferred the deferred benefit with LGPS (Scotland) to a private sector scheme on 1 April 2027
- will reach their final salary scheme normal retirement age on 1 April 2038.

Results

Step 1: does the account that started on 1 April 2022 have any of the service types in step 1?
Yes, it has 'aggregated LGPS service' from 1 April 2014 to 31 March 2016.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in LGPS (England and Wales) on 31 March 2012.

Step 3: is there a disqualifying gap?
There is one period of service to consider – 'aggregated LGPS service' from 1 April 2014 to 31 March 2016. This is remediable service because it is continuous with the service counting for step 2.

Step 4: does the remediable service qualify for underpin protection?
Step 4 applies to the 'aggregated LGPS service' from 1 April 2014 to 31 March 2016.

The remediable service qualifies for underpin protection as there is no continuous break of more than five years in active membership of any public service pension scheme between:

- the end of that remediable service ie 31 March 2016, and
- the date the member joined the active CARE account to which the service was aggregated/transferred ie 1 April 2022.

The LGPS (Scotland) service from 1 April 2016 to 31 March 2018 prevents a disqualifying gap.

You will need to do provisional underpin calculations at the underpin date (30 June 2026) for the CARE account. The calculations will include the 'aggregated LGPS service' from 1 April 2014 to 31 March 2016.

Underpin protection is not lost when the member subsequently transfers out their LGPS (Scotland) service to a private sector scheme on 1 April 2027. Protection is not lost if the member transfers out or trivially commutes the membership that counted for step 4.

There is no need to recheck whether the CARE account qualifies for underpin protection. The CARE account cannot later lose protection. However, if the member later transfers out the CARE account to a different McCloud remedy scheme or aggregates it to a different period of LGPS membership, the benefits may not be protected after the aggregation / transfer.

Example 15: protection status changes after the final underpin date

Background details

- joined the NHS Pension Scheme on 1 September 2000 and left on 31 August 2014 with deferred benefits
- joined the LGPS (England and Wales) on 1 September 2018 and left on 31 March 2021 with immediate entitlement to a pension
- did not transfer the deferred benefits in the NHS Pension Scheme to the LGPS and, on 1 August 2022, transferred the deferred benefits to a private sector scheme
- died on 1 August 2025
- would have reached their final salary scheme normal retirement age on 1 April 2030.

Results

Step 1: does the CARE account that started on 1 September 2018 have any of the service types in step 1?
Yes, it has ‘LGPS service’ from 1 September 2018 to 31 March 2021.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in the NHS Pension Scheme on 31 March 2012.

Step 3: is there a disqualifying gap?
There is one period of service to consider, the ‘LGPS service’ from 1 September 2018 to 31 March 2021.

This is remediable service because there is no disqualifying gap between 1 September 2014 and 31 August 2018.

As the service is LGPS service, there is no need to consider step 4. The CARE account qualifies for underpin protection.

You will recalculate the member’s pension in the McCloud implementation period. You will calculate provisional and final assumed benefits and underpin amounts and pay the member any arrears of pension if a final guarantee amount is payable.

Although, the NHS Pension Scheme membership stopped counting for step 3 on the transfer to a private sector scheme, this is ignored when considering step 3 because the transfer took place after the final underpin date ie 31 March 2021.

When doing underpin calculations at the date of death, you use the member's underpin protection status as at the final underpin date (ie CARE account qualifies for underpin protection).

Had the member transferred the NHS Pension Scheme benefits before 31 March 2021, step 3 would not have been met and the CARE account would not have qualified for underpin protection at the final underpin date.

Example 16: member loses protection before date of death (no final underpin date)

Background details

- joined the NHS Pension Scheme on 1 September 2000 and left on 31 August 2014 with deferred benefits
- joined the LGPS (Scotland) on 1 September 2018 and left on 31 March 2021 with deferred benefits
- did not transfer the deferred benefits in the NHS Pension Scheme to the LGPS and, on 1 August 2022, transferred the NHS deferred benefits to a private sector scheme
- died on 1 August 2025
- would have reached their final salary scheme normal retirement age on 1 April 2030.

Results

Step 1: does the CARE account that started on 1 September 2018 have any of the service types in step 1?
Yes, it has 'LGPS service' from 1 September 2018 to 31 March 2021.

Step 2: was the member in pensionable service in a McCloud remedy scheme on or before 31 March 2012?
Yes. The member was in the NHS Pension Scheme on 31 March 2012.

The NHS Pension Scheme membership did not stop counting for step 2 on the transfer to the private sector scheme.

Step 3: is there a disqualifying gap?
There is one period of service to consider, the 'LGPS service' from 1 September 2018 to 31 March 2021.

This is initially remediable service because there was no disqualifying gap between 1 September 2014 and 31 August 2018.

As the member died as a deferred member, there is no final underpin date and the final check is done as at the date of death. At the date of death, the CARE account no longer meets step 3 because the NHS Pension scheme membership was transferred to a private sector scheme.

There is now a disqualifying gap of more than five years in the period from 1 April 2012 to 31 August 2018 (see FAQ ‘What happens if the service that counts for step 2 ends after 31 March 2012 and that service stops counting for step 3?’)

The membership in the NHS Pension Scheme stopped counting for step 3 on the transfer to the private sector scheme.

The CARE account therefore does not qualify for underpin protection.

Supplementary information

Relevant rules

- sections 1, 39, 77, 78 and 109(2) of the Public Service Pensions and Judicial Offices Act 2022
- section 1 and 192(2) of the Pension Schemes Act 1993
- regulations 4Q and 9(1ZB) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
- regulations 4O and 9(1B) of the Local Government Pension Scheme (Transitional Provisions and Savings) (Scotland) Regulations 2014.

3. Provisional underpin calculations at the underpin date

Overview

The underpin calculation is now a two-step process. You calculate the provisional underpin at the underpin date and a final underpin when benefits are paid.

For each pension account that qualifies for underpin protection you need to calculate:

- provisional assumed benefits: based on CARE pension, and
- provisional underpin amount: based on notional final salary benefits.

You need to calculate these provisional amounts at the underpin date.

Before you can calculate these amounts:

- you will need to have collected and verified the McCloud data for the account (see section 1: McCloud data)
- you may also need to revisit:
  - past transfers in (see section 7: transfers in)
  - past aggregation cases (see section 7: aggregations).

If the member opts out within three months and is treated as never having joined, you do not need to calculate provisional amounts.

We have added worked examples at the end of the section.

When to calculate provisional amounts ('the underpin date')

You calculate provisional assumed benefits and underpin amount for a pension account at the underpin date. This is the earliest of:

- the last day the member was an active member for that account
- the date the member reached the final salary scheme normal retirement age
- if the member took flexible retirement, the day before the reduction in hours / grade begins.

Flexible retirement and underpin dates

If the member reduced their hours / grade for flexible retirement during the underpin period, you may need to do more provisional calculations for that account.

This applies if the member has further eligible remediable service in the account for the period between the flexible retirement date and the end of the underpin period. If they do, you will need to calculate new provisional amounts at the next underpin date. The underpin period for this calculation begins on the date of the reduction in hours / grade. This avoids double counting.

How to calculate provisional assumed benefits

To calculate provisional assumed benefits, you need to work out the CARE balance for the LGPS service and aggregated LGPS service you have identified as qualifying for underpin protection. This is calculated at the underpin date.

The provisional assumed benefits is the amount of pension the member would have built up in the CARE scheme if:

- you ignore any LGPS service that does not qualify for underpin protection
- you assume the member was in the main section for all of the service that qualifies for underpin protection
- you ignore any annual allowance offsets or divorce debits
- you ignore any added extra pension awarded by the employer or from paying additional pension contributions
- you ignore any extra pension due to a transfer in from a different scheme or from aggregating final salary LGPS benefits (where final salary benefits are converted to CARE).

You may need to add in the following elements in the CARE balance:

- added lost pension if the member was on unpaid leave during the remediable service (see below section: 'including added lost pension to cover unpaid leave')
- CARE transfer in for any remediable service transferred in from a different account that qualifies to be included in underpin calculations (see below section: 'including transferred in remediable service')
- if the member retired before 1 April 2022, tier 1 or 2 ill health enhancements (see below section: 'ill health enhancements').

See above section: 'flexible retirement and underpin dates' if calculating the provisional amounts for a period of service after the member took flexible retirement.

What pay is included?

You include the pay in the calculation based on when the member received it (or, for assumed pensionable pay, was treated as receiving it). It is not based on when the member earned the pay.

If the:

- underpin date was the date the member left the Scheme
- underpin date was before 1 April 2022, and
- member received some pay after they left the Scheme

treat the pay as if the member received it on their last day in the Scheme to work out the provisional assumed benefits.

Including added pension to cover unpaid leave

If the member was on unpaid leave during the service, the pay for that part of the service is:

- the assumed pensionable pay if the leave qualified for it
- the pay they would have got if they were not on leave if that applies (only possible in Scotland)
- otherwise, £0.

If a member elected to buy back the whole of the lost pension for a period of authorised unpaid leave (including strike) where they received no pay, you may be able to include the lost pension bought in the provisional assumed benefits. If the member elected to buy back part of the lost pension, you can't include any of it in the provisional assumed benefits.

The full added pension is included in the provisional assumed benefits if:

- the member paid all the required APCs (even if they paid them after the underpin period), or
- the member did not do so because they left with a tier 1 or 2 ill health pension or died as an active member.

If the member did not pay all the required APCs for any other reason, only part of the added pension is included. This equals the added pension credited to the member's actual CARE account.

If the underpin date was the final salary scheme normal retirement age and the member was still paying the additional pension contributions, you will only be able to finalise the provisional calculation when you know whether the member will complete the contract, or, if they don't, the reason why not.

You include the added pension in the provisional assumed benefits as if it was credited to the CARE account on the earliest of:

- 31 March in the Scheme year in which the leave ended
- 31 March 2022
- the underpin date.

You include the added pension all at once, even if the member paid the APCs as regular payments. You do not spread it over different Scheme years.

If the member was in the 50/50 section during the leave, the added pension you include is more than they actually bought. This is because, for this purpose, the added pension is based on what they would have got had they instead been in the main section.

If the leave continued after the underpin period, you only include the added pension for the unpaid leave before the end of the underpin period.

If the leave continued after the underpin period and the member did not finish paying the APCs, see section 9 of the McCloud implementation guidance for how to treat these cases. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

Including transferred in remediable service

If the pension account contains remediable service transferred in from a different McCloud remedy scheme that qualifies for underpin protection, you include the transferred in CARE pension in the provisional assumed benefits.

This also applies for transfers completed after the underpin period and after the underpin date.

You do not include transfers in for other periods of service. If a transfer in includes both remediable service and non-remediable service, you will need to calculate and show the transfer in amounts separately for each part. See the transfer in information in section 6.

Including ill health enhancements

You add ill health enhancements to the notional CARE balance if:

- on the underpin date, the member left with an entitlement to tier 1 or 2 benefits, and
- the member left before the end of the underpin period.

The enhancement is usually the same as for the actual CARE benefits. This is not the case if the membership you use to calculate the enhancement for the actual CARE benefits is more than the period between:

- the underpin date, and
- the end of the underpin period.

If this applies, for a tier 1 case, you calculate the enhancement as follows:

> membership between the underpin date and the end of the underpin period × assumed pensionable pay ÷ 49.

For tier 2 cases, you divide the result by 4.

Use the same assumed pensionable pay figure you used to calculate the ill health enhancement on the actual CARE pension.

You include the enhancement in the provisional assumed benefits on the underpin date.

If the member is not entitled to any enhancement on their actual CARE benefits because of a previous ill health retirement, you do not add an enhancement to the provisional assumed benefits.

Revaluing the CARE balance

The pension used to work out the provisional assumed benefits is revalued in the same way as an active CARE pension account.

In cases where the pension account includes more than one period of LGPS remediable service due to aggregation, you apply the normal rules to determine whether to apply revaluation adjustment or pensions increase during the gap. You apply revaluation adjustment during the gap if it does not exceed five years, but pensions increase if the gap is more than five years.

If the balance includes a CARE pension for transferred in remediable service and this was transferred in under Club arrangements, you revalue this part of the notional CARE balance in line with the rate used by the sending scheme.

Certificates of protection (Scotland only)

If the member elects to use their certificate of protection to calculate their actual CARE benefits for the account and the reduction / restriction took place during the underpin period, you adjust the notional CARE balance in the same way that you adjust the actual benefits.

See technical query 3 if the underpin date is when the member attains the final salary scheme normal retirement age. In the meantime, you will need to take a local decision on how to proceed.

How to calculate provisional underpin amounts

Provisional underpin amounts are generally based on the notional final salary benefits the member would have built up during the underpin period if the 2008 Scheme (2009 Scheme for Scotland) had continued. You calculate it at the underpin date using the formula:

Membership × final pay ÷ 60.

You ignore any annual allowance offsets and divorce debits.

See above section: 'flexible retirement and underpin dates' if you are calculating the provisional underpin amount for a period of service after the member took flexible retirement.

Membership

The membership you use in the calculation is the LGPS service in the account that qualifies for underpin protection in section 2.

If the member worked part-time for some of the service, you use the part-time fraction for that period (though see below section: 'ignoring reductions in hours (England and Wales only)')

You do not count any:

- service before or after the underpin period
- added years
- service breaks.

If the account has any transferred in remediable service from a different scheme that qualifies for underpin protection, you add the notional service credit to the membership. This is the service credit the member would have got if that service had been transferred to the 2008 Scheme (2009 Scheme for Scotland), instead of the CARE scheme. You do not add transfers for other service periods. See the transfer in information in section 6.

You may also need to add extra membership for ill health cases (see below section: 'tier 1 or 2 ill health enhancements').

Service breaks

If the member took unauthorised unpaid leave during the service, you always treat this as a service break.

If the member took authorised unpaid leave during the service and was not treated as receiving:

- assumed pensionable pay, or
- the pay they would have got if they were not on leave (only possible in Scotland),

you treat that leave as a service break too.

However, if the member elected to cover the whole period of any authorised leave (including strike) by paying additional pension contributions (APC), you include the full period of leave as membership if the member:

- paid all the required APCs (even if they paid them after the underpin period), or
- did not pay all the required APCs because they left with a tier 1 or 2 ill health pension or died as an active member.

If the member did not pay all the required APCs for any other reason, you count part of the leave as membership and part as a service break. This is based on the APCs paid and the total due. If the member elected to buy back part of the lost pension, you cannot include any of the leave as membership.

If the underpin date was the final salary scheme normal retirement age and the member was still paying APCs on that date, you will only be able to finalise the provisional calculation when you know whether the member completes the contract, or, if they don't, the reason why not.

If the leave continued after the underpin period, you only look at the part before the end of the underpin period. If the member did not finish paying the APCs, see section 9 of the McCloud implementation guidance for information on how to treat these cases. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

Ignoring reductions in hours (England and Wales only)

When calculating the membership to use in the provisional underpin amount calculation, you ignore relevant reductions in hours if:

- the member left active membership with an entitlement to ill health benefits, and
- the certificate from the independent registered medical practitioner says that, in their opinion, the member is in part-time service wholly or partly as a result of the condition that caused the ill health retirement.

This only applies to reductions in hours that occurred before the underpin date (or if earlier, before the end of the underpin period).

You ignore the reduction in hours for the period:

- from the date of the reduction (or the beginning of the underpin period, if later)
- to the underpin date (or the end of the underpin period, if earlier).

If applicable, you also ignore the reduction in hours when calculating tier 1 or 2 enhancements. See next sub-section.

Tier 1 and 2 enhancements

You add extra membership if:

- on the underpin date, the member left with an entitlement to tier 1 or 2 benefits under the CARE scheme, and
- the member left before the end of the underpin period.

The extra membership is what you would have added if the 2008 Scheme (2009 Scheme for Scotland) had continued.

For this purpose, if the member qualifies for tier 1 benefits under the CARE scheme, you treat them as if they qualified for tier 1 benefits under the earlier scheme. The same applies for tier 2 benefits. This means that the employer does not need to assess them under the ill health conditions of the earlier scheme as well.

For tier 1 cases, the extra membership is what they would have built up in the period:

- from the day after the underpin date
- to the final salary scheme normal retirement age (or, if earlier, to 31 March 2022).

If they were in part-time service at the underpin date, you treat them as if they continued working those same hours. For tier 2 cases, you use 25 per cent of the tier 1 extra membership.

Final pay

You work out the final pay using the usual rules in the 2008 Scheme (2009 Scheme for Scotland), as if the underpin date was the last day of active membership.

For example:

- you only use pensionable pay within the 2008 Scheme (2009 Scheme for Scotland) definition
- the pay you use is based on when it was earned
- if the member worked part-time, you use the full-time pay
- you automatically use the 'best of the last three years' calculation.

You take any service breaks into account in the calculation (see the service breaks section above). If the member paid the required additional pension contributions for the leave, you use the pay they would have earned for that period if they were not on leave.

If the member can and chooses to use 'the best of the last 13 years' rule (England and Wales only) or their certificate of protection, you use that protection to calculate the final pay for this purpose. If the underpin date is when the member attains the final salary scheme normal retirement age, see technical query 3. In the meantime, you will need to take a local decision as to how to proceed.

If you use a pay period before the final year, you do not add pensions increase to the amount. You add the increase when you do the final underpin calculation.

In Scotland, for councillor members, instead of using the final pay, you use the 'career average pay'. You calculate this using the usual rules in the 2009 Scheme, as if the underpin date was the last day of active membership.

Adjusting provisional amounts because of aggregation

This explains how to deal with provisional assumed benefits and underpin amount values for a pension account when you aggregate it to another pension account.

See technical query 4 where the pension account being aggregated contains provisional benefits that were previously used for partial flexible retirement.

There are two types of aggregation: non-concurrent (consecutive) and concurrent.

Consecutive aggregation

You need to check if there is a continuous break of more than five years in active membership of any public service pension scheme between the end of the earlier account and the start of the new account. For more information on this test, see step 4 in section 2.

No continuous break

If the member has not reached the final salary scheme normal retirement age before the start of the new account:

- extinguish the provisional assumed benefits and underpin amount calculated for the earlier account
- include the aggregated eligible remediable service (alongside any other eligible remediable service included in the new account) when calculating the provisional amounts at the underpin date for that new account.

If the member has reached the final salary scheme normal retirement age before the start of the new account:

- do not extinguish the provisional assumed benefits and underpin amount values calculated for the earlier account
- use those provisional amounts as the provisional amounts for the new account.

Section 8 of the McCloud implementation statutory guidance sets out how you deal with cases where the member has reached the final salary scheme normal retirement age before the start of the new account and is aggregating to it more than one CARE account that qualifies for underpin protection. The guidance is available from the Administrator guides and documents pages of www.lgpsregs.org.uk (England and Wales) and www.scotlgpsregs.org (Scotland).

Continuous break

If there is a continuous break of more than five years in active membership of any public service pension scheme between the earlier and new accounts:

- extinguish the provisional assumed benefits and underpin amount values calculated for the earlier account
- the aggregated service no longer qualifies for underpin protection
- if the new account includes other service that qualifies for underpin protection, do not include the aggregated service when calculating the provisional amounts for the new account.

Concurrent aggregation

There cannot be a continuous break of more than five years in active membership of any public service pension scheme between the ceased account and the continuing account.

If the member has not reached the final salary scheme normal retirement age before the end of the ceased account:

- extinguish the provisional assumed benefits and underpin amount values calculated for the ceased account
- include the aggregated eligible remediable service (alongside any other eligible remediable service included in the continuing account) when calculating the provisional amounts at the underpin date for the continuing account
- when calculating the membership to use for the provisional underpin amount for the continuing account, adjust the aggregated eligible remediable service according to the normal concurrent rules of the 2008 Scheme (2009 Scheme for Scotland).

If the member has reached the final salary scheme normal retirement age before the end of the ceased account:

- do not extinguish the provisional assumed benefits and underpin amount calculated for the ceased account

- use those provisional amounts as the provisional amounts for the continuing account. If the member's continuing pension account already qualified for underpin protection and began before their final salary scheme normal retirement age, they will already have provisional amounts calculated on the underpin date for the continuing account. Both sets of figures continue to operate.

Section 8 of the McCloud implementation statutory guidance sets out how you deal with cases where the member has reached the final salary scheme normal retirement age before the end of the ceased account and is aggregating more than one CARE account that qualifies for underpin protection to the continuing CARE account. The guidance is available from the Administrator guides and documents pages of www.lgpsregs.org.uk (England and Wales) and www.scotlgpsregs.org (Scotland).

Worked examples

In these examples:

- figures have been rounded to the nearest £1
- the member is under their final salary scheme normal retirement age on the underpin date, unless the text indicates otherwise.

Example 17: Leaver in the underpin period with a pay rise

- left 30 April 2018 – this is the underpin date
- pay rise in final year of membership
- in the main section throughout
- no extra contributions paid and no transfers in
- worked full time with no service breaks.

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£22,000	1/49	£449	£449	1.012	£454
2015/16	£454	£22,500	1/49	£459	£913	0.999	£912
2016/17	£912	£23,000	1/49	£469	£1,381	1.01	£1,395
2017/18	£1,395	£32,400	1/49	£661	£2,056	1.03	£2,118
2018/19	£2,118	£2,700	1/49	£55	£2,173	n/a	£2,173

Notional final salary benefits on 30 April 2018:
4 years 30 days ÷ 60 × £32,400 (final pay) = **£2,204**

Provisional assumed benefits on 30 April 2018: £2,173
Provisional underpin amount on 30 April 2018: £2,204

The provisional figures indicate that the notional final salary pension exceeds the career average pension built up in the underpin period by £31. In most cases, any final guarantee amount will be a different amount. This will depend on the inflationary increases between the underpin date and the final underpin date, and any age-related actuarial adjustments that apply when the member takes their pension.

Example 18: Leaver after the underpin period, average pay used

- leaver on 15 February 2024 – this is the underpin date
- drop in salary from 1 April 2015
- final pay based on average pay for the three years ending on 31 March 2015 - £52,900
- worked full time with no service breaks.

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£53,000	1/49	£1,082	£1,082	1.012	£1,095
2015/16	£1,095	£41,500	1/49	£847	£1,942	0.999	£1,940
2016/17	£1,940	£42,500	1/49	£867	£2,807	1.01	£2,835
2017/18	£2,835	£42,800	1/49	£873	£3,708	1.03	£3,819
2018/19	£3,819	£43,100	1/49	£880	£4,699	1.024	£4,812
2019/20	£4,812	£44,000	1/49	£898	£5,710	1.017	£5,807
2020/21	£5,807	£44,800	1/49	£914	£6,721	1.005	£6,755
2021/22	£6,755	£45,100	1/49	£920	£7,675	1.031	£7,913
2022/23	£7,913	n/a			£7,913	1.101	£8,712
2023/24	£8,712	n/a			£8,712	n/a	£8,712

Notional final salary benefits on 15 February 2024:
8 years ÷ 60 × £52,900 (final pay) = **£7,053**

Provisional assumed benefits on 15 February 2024: £8,712
Provisional underpin amount on 15 February 2024: £7,053

Based on the provisional figures, the career average pension is higher. However, when calculating the final underpin amount, pensions increase will be added to the provisional underpin amount. This will be higher than any inflationary increase that applies to the assumed benefits because the final pay period ends in 2015. The provisional underpin amount plus pensions increase since 1 April 2015 is slightly higher than the provisional assumed benefits:

£7,053 × 1.2359 = £8,717

Example 19: Future underpin date

- leaver on 31 October 2045 – this is the underpin date
- assume revaluation of 2% each April
- pay rise of 2.5% each year from 2023/24 onwards
- worked full time with no service breaks.

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£20,000	1/49	£408	£408	1.012	£413
2015/16	£413	£20,500	1/49	£418	£831	0.999	£830
2016/17	£830	£21,013	1/49	£429	£1,259	1.01	£1,272
2017/18	£1,272	£21,538	1/49	£440	£1,712	1.03	£1,763
2018/19	£1,763	£22,076	1/49	£451	£2,214	1.024	£2,267
2019/20	£2,267	£22,628	1/49	£462	£2,729	1.017	£2,775
2020/21	£2,775	£23,194	1/49	£473	£3,248	1.005	£3,264
2021/22	£3,264	£23,774	1/49	£485	£3,749	1.031	£3,865

Plus revaluation 10.1% on 6 April 2023	£4,255
Plus revaluation 54.6% for the period to April 2045	**£6,578**

Notional final salary benefits on 31 October 2045:
8 years ÷ 60 × £40,929 (final pay) = **£5,457**

Provisional assumed benefits on 31 October 2045: £6,578
Provisional underpin amount on 31 October 2045: £5,457

Based on the provisional figures, the career average pension is higher, even though the member's pay has gone up by more than CPI from 2023 to their leaving date in 2045. An accurate check will be performed on the member's final underpin date.

Example 20: Tier 1 ill health retirement in the underpin period

- awarded tier 1 ill health retirement on 28 January 2019 – this is the underpin date (and the final underpin date)
- age 57 on the underpin date, State Pension age is in 2029
- annual assumed pensionable pay for the ill health enhancement is £40,574
- worked full time with no service breaks.

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£37,000	1/49	£755	£755	1.012	£764
2015/16	£764	£37,925	1/49	£774	£1,538	0.999	£1,536
2016/17	£1,536	£38,873	1/49	£793	£2,329	1.01	£2,352
2017/18	£2,352	£39,845	1/49	£813	£3,165	1.03	£3,260
2018/19	£3,260	£33,904	1/49	£692	£3,952	n/a	£3,952

Ill health enhancement for the period 29 January 2019 to 31 March 2022:
3 years 62 days × £40,574 ÷ 49 = **£2,625**

Notional final salary benefits on 28 January 2019:
8 years ÷ 60 × £40,440 (final pay) = **£5,392**

Note that the whole 8 year underpin period is included in the calculation. The individual was an active member from 1 April 2014 to 28 January 2019. The tier 1 enhancement up to 31 March 2022 is also included in the notional final salary benefits.

Provisional assumed benefits on 28 January 2019: (£3,952 + £2,625) £6,577
Provisional underpin amount on 28 January 2019: £5,392

The career average pension is higher. As this is an ill health retirement from active status and the member is under 65, there is no actuarial adjustment for early or late retirement and no pensions increase or revaluation to apply. In this example, the provisional figures are the same as the final assumed benefits and final underpin amount. No final guarantee amount is payable.

Example 21: Tier 2 ill health retirement in the underpin period

- awarded tier 2 ill health retirement on 31 December 2016 – this is the underpin date (and the final underpin date)
- date of birth 1 December 1956

- State Pension age is 66
- annual assumed pensionable pay £68,907
- worked full time with no service breaks.

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£62,500	1/49	£1,276	£1,276	1.012	£1,291
2015/16	£1,291	£65,625	1/49	£1,339	£2,630	0.999	£2,627
2016/17	£2,627	£51,916	1/49	£1,060	£3,687	n/a	£3,687

Ill health enhancement for the period 1 January 2017 to 30 November 2021:
4 years 334 days × £68,907 ÷ 49 ÷ 4 = **£1,728**

The total ill health enhancement covers the period up to age 66, but only the part relating to the period up to age 65 is included in the calculation of the provisional assumed benefits.

Notional final salary benefits on 31 December 2016:
1 April 2014 to 31 December 2016: 2 years 275 days ÷ 60 × £67,571 (final pay) = **£3,101**

Enhancement 1 January 2017 to 30 November 2021 (up to age 65):
4 years 334 days ÷ 60 × £67,571 (final pay) ÷ 4 = **£1,384**

Provisional assumed benefits on 31 December 2016: (£3,687 + £1,728) £5,415
Provisional underpin amount on 31 December 2016: (£3,101 + £1,384) £4,485

The career average pension is higher. As this is an ill health retirement from active status and the member is under 65, there is no actuarial adjustment for early or late retirement and no pensions increase or revaluation to apply. In this example, the provisional figures will be the same as the final assumed benefits and final underpin amount. No final guarantee amount is payable.

Example 22: Tier 1 ill health retirement with hours reduction

- awarded tier 1 ill health retirement in LGPS (England and Wales) on 30 September 2022 – this is the underpin date (and the final underpin date)
- full time up to 31 March 2017
- reduced to 40% of full time from 1 April 2017

- independent registered medical practitioner certified that the reduction in hours was “wholly or partly as a result of the condition that caused or contributed to the member's ill health retirement”
- annual pay at leaving £12,600, full time equivalent for final year £31,500.

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£27,500	1/49	£561	£561	1.012	£568
2015/16	£568	£28,000	1/49	£571	£1,139	0.999	£1,138
2016/17	£1,138	£28,500	1/49	£582	£1,720	1.01	£1,737
2017/18	£1,737	£11,628	1/49	£237	£1,974	1.03	£2,033
2018/19	£2,033	£11,861	1/49	£242	£2,275	1.024	£2,330
2019/20	£2,330	£12,098	1/49	£247	£2,577	1.017	£2,621
2020/21	£2,621	£12,340	1/49	£252	£2,873	1.005	£2,887
2021/22	£2,887	£12,587	1/49	£257	£3,144	1.031	£3,241

The ill health retirement date is after 31 March 2022, so no enhancement is included in the provisional assumed benefits or underpin amount.

The reduction in hours to 40% from 1 April 2017 is ignored when working out the notional final salary benefits:
8 years ÷ 60 × £31,500 (final pay) = **£4,200**

Provisional assumed benefits on 30 September 2022: £3,241
Provisional underpin amount on 30 September 2022: £4,200

The final salary pension is higher because the hours reduction is ignored. As this is an ill health retirement from active status and the member is under 65, there is no actuarial adjustment for early or late retirement and no pensions increase or revaluation to apply. In this example, the provisional figures will be the same as the final assumed benefits and final underpin amount. A final guarantee amount of £959 is payable (£4,200 - £3,241).

Example 23: Part payment for unpaid leave

- joined the LGPS on 1 April 2017. The member has underpin protection as a result of earlier public service scheme membership that ended in 2015 that has been kept separate
- 48% of full time throughout
- unpaid additional maternity leave 9 February 2019 to 8 May 2019

- 'lost' pay during unpaid period £3,528
- APC arrangement set up to buy back the lost pension of £72 over one year August 2019 to July 2020
- member left 31 May 2020 – this is the underpin date
- contract to buy back the lost pension is not complete. 10 of the 12 payments were made, meaning added pension of £60 is credited to the pension account
- for the purpose of calculating the provisional assumed benefits, the added pension (AP) is credited to the account on 31 March 2020.

Year	**B/f**	**Pay**	**Accrual**	**In year**	**Plus AP**	**Plus B/f**	**Inflation adj.**	**Pension**
2017/18		£12,150	1/49	£248		£248	1.03	£255
2018/19	£255	£10,710	1/49	£219		£474	1.024	£485
2019/20	£485	£11,818	1/49	£241	£60	£786	1.017	£799
2020/21	£799	£2,213	1/49	£45		£844	n/a	£844

Only part of the unpaid period is included when working out the provisional underpin amount:
10 ÷ 12 × 89 days = 74 days (so 15 days excluded)
1 April 2017 to 31 May 2020 = 3 years 61 days – 15 days = 3 years 46 days
3.126 years × 48% = 1.5 years = 1 year 183 days reckonable service

Notional final salary benefits on 31 May 2020:
1 year 183 days ÷ 60 × £26,830 (final pay) = **£671**

Provisional assumed benefits on 31 May 2020: £844
Provisional underpin amount on 31 May 2020: £671

The career average pension is higher at leaving. An accurate check will be performed on the member's final underpin date.

Example 24: Membership of the 50/50 section

- joined the LGPS 1 April 2015 (protected due to earlier membership and no disqualifying gap)
- joined the 50/50 section from 1 August 2016
- re-joined the main section from 1 November 2018
- left 31 May 2019 – this is the underpin date

- worked full time without a service break.

The table below shows the member's actual pension account:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2015/16		£90,000	1/49	£1,837	£1,837	0.999	£1,835
2016/17	£1,835	£30,300 £61,000 £91,300	1/49 1/98	£618 £622 £1,240	£3,075	1.01	£3,106
2017/18	£3,106	£94,000	1/98	£959	£4,065	1.03	£4,187
2018/19	£4,187	£55,700 £39,800 £95,500	1/98 1/49	£568 £812 £1,380	£5,567	1.024	£5,701
2019/20	£5,701	£16,200	1/49	£331	£6,032	n/a	£6,032

Membership of the 50/50 section is ignored when working out the provisional assumed benefits:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2015/16		£90,000	1/49	£1,837	£1,837	0.999	£1,835
2016/17	£1,835	£91,300	1/49	£1,863	£3,698	1.01	£3,735
2017/18	£3,735	£94,000	1/49	£1,918	£5,653	1.03	£5,823
2018/19	£5,823	£95,500	1/49	£1,949	£7,772	1.024	£7,959
2019/20	£7,959	£16,200	1/49	£331	£8,290	n/a	£8,290

Provisional assumed benefits on 31 May 2019: £8,290.

Example 25: Club transfer in, joined LGPS after the underpin period

- Teachers' Pension Scheme (TPS) member 2004 to 17 October 2020
- remediable service 1 April 2015 to 17 October 2020 (5 years 200 days, full time)
- joined LGPS 1 October 2022
- Club transfer calculation date is in February 2023:
    - inner Club credit for remediable service: £4,200 includes TPS in-service revaluation to April 2022

    - notional final salary credit for remediable service: 5 years 225 days, based on pay in the transferring scheme £38,250 which includes appropriate inflationary increases

- member leaves on 24 June 2024 – this is the underpin date
- final pay is £56,000.

Revaluation of the transferred in CARE pension mirrors the increase that applies in the TPS – HM Treasury Order plus 1.6%:

Starting value February 2023:	£4,200
April 2023 increase:	10.1% +1.6% = 11.7%
April 2024 increase:	6.7% + 1.6% = 8.3%
Value on leaving:	**£5,081**

Notional final salary benefits on 24 June 2024:
5 years 225 days ÷ 60 × £56,000 (final pay) = **£5,242**

Provisional assumed benefits on 24 June 2024: £5,081
Provisional underpin amount on 24 June 2024: £5,242

The provisional figures indicate that, in respect of the remediable service transferred in, the notional final salary pension exceeds the career average pension by £161. This is due to the final pay being higher than the salary used in the notional final salary transfer in calculation. In most cases, any final guarantee amount will be a different amount. This will depend on the inflationary increases between the underpin date and the final underpin date, and any age-related actuarial adjustments that apply when the member takes their pension.

Example 26: Club transfer in, joined LGPS in the underpin period

- NHS Pension Scheme (NHSPS) member from 2001 to 12 February 2018
- remediable service 1 April 2015 to 12 February 2018 (2 years 318 days, 50% of full time, so reckonable service in the NHS of 1 year 159 days)
- joined LGPS 13 February 2018
- Club transfer in calculation date is in October 2018:
    - Inner Club credit for remediable service: £1,053, includes NHSPS in-service revaluation to April 2018

    - notional final salary credit for remediable service: 1 year 171 days, based on pay in the transferring scheme £28,300 which includes appropriate inflationary increases
- the member left on 31 December 2022 – this is the underpin date.

The transferred in CARE credit must be revalued at the sending scheme's rate.

LGPS CARE pension account:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2017/18		£4,380	1/49	£89	£89	1.03	£92
2018/19	£92	£34,800	1/49	£710	£802	1.024	£821
2019/20	£821	£36,100	1/49	£737	£1,558	1.017	£1,584
2020/21	£1,584	£36,800	1/49	£751	£2,335	1.005	£2,347
2021/22	£2,347	£37,900	1/49	£773	£3,120	1.031	£3,217

Revaluation of the transferred in CARE pension mirrors the increase that applies in the NHSPS – HM Treasury Order plus 1.5%:

Starting value October 2018:	£1,053
April 2019 increase:	2.4% + 1.5% = 3.9%
April 2020 increase:	1.7% + 1.5% = 3.2%
April 2021 increase:	0.5% + 1.5% = 2.0%
April 2022 increase:	3.1% + 1.5% = 4.6%
Value on leaving:	**£1,205**

Notional final salary benefits on 31 December 2022:
5 years 218 days* ÷ 60 × £37,600 (final pay) = **£3,508**
* transferred in service 1 year 171 days plus LGPS membership 4 years 47 days

Provisional assumed benefits on 31 December 2022: £4,422 (£3,217 + £1,205)
Provisional underpin amount on 31 December 2022: £3,508

The career average pension is higher at leaving. An accurate check will be performed on the member's final underpin date.

Supplementary information

Relevant rules

- regulations 1(5), 4A, 4C, 4G, 4I, 4J and 4Q of the LGPS (Transitional Provisionals, Savings and Amendment) Regulation 2014
- regulations 22(9), 23(4), 23(7) and 23(10) of the LGPS Regulations 2013
- regulation 20(12)(b) of the LGPS (Benefits, Membership and Contributions) Regulations 2007
- regulations 16 and 87 of the LGPS (Administration) Regulations 2008
- regulations 11(5), 22(9), 23(4), 23(7), 23(10) and 90 of the LGPS (Scotland) Regulations 2018
- regulations 4A, 4C, 4G, 4I, 4J, 4O and 26 of the LGPS (Transitional Provisionals and Savings) (Scotland) Regulation 2014
- regulations 14 and 82 of the LGPS (Administration) (Scotland) Regulations 2008.

4. Final underpin calculations at the final underpin date

Overview

For any CARE accounts that qualify for underpin protection, you do a final underpin calculation at the final underpin date.

For some CARE accounts, you may need to check again to see whether the account still qualifies (or has started qualifying) for underpin protection (see section 2).

You use the provisional assumed benefits and underpin amount you calculated at the underpin date for the account. See section 3 for how to calculate these.

Depending on the reason for the final underpin date, the calculation could change:

- the amount of retirement benefits payable
- the amount of lump sum payable if the member trivially commutes
- the transfer payment - if the member transfers to a different scheme
- the amount of death grant payable.

You may also need to do a final underpin calculation for the account when the member dies. See section 5 for more details.

If the member aggregates the benefits in the account with a different account before the final underpin date, see section 3: 'adjusting provisional amounts because of aggregation'.

Final underpin dates

The final underpin date for a pension account is the earliest of the dates in Table 3.

The final underpin date will be either the same date as the underpin date for the account, or later.

Usually, there is only one final underpin date for a pension account; however, in some circumstances there can be more. This can happen for flexible retirement and tier 3 ill health retirement (not possible in Scotland). Also, there may be no final underpin date. This will happen if the member dies as an active or deferred member.

See section 5 for how to calculate the underpin when the member dies.

Table 3 – final underpin dates

Number	Scenario	Final underpin date
1	The member takes voluntary retirement. This includes active to pensioner, deferred to pensioner and deferred pensioner to pensioner cases. Deferred pensioner to pensioner cases are not possible in Scotland.	For active to pensioner cases, the last day of active membership. For other cases, the day before the pension begins.
2	The member takes their pension at age 75. This includes active to pensioner, deferred to pensioner and deferred pensioner to pensioner cases. Deferred pensioner to pensioner cases are not possible in Scotland.	The day before the member's 75th birthday.
3	The member receives their benefits from the account on leaving on redundancy / business efficiency	The last day of active membership.
4	The member takes their pension due to ill health retirement (active to pensioner).	The last day of active membership.
5	The member takes their pension early due to ill health. This includes deferred to pensioner and deferred pensioner to pensioner cases. Deferred pensioner to pensioner cases are not possible in Scotland.	For England and Wales, the day before the former employer agrees to the member's request for early payment on ill health. For Scotland, the day before the date of the member's request for early payment on ill health.

Number	Scenario	Final underpin date
6	The member flexibly retires.	The day before the reduction in working hours / grade starts.
7	The member trivially commutes uncrystallised benefits.	The day before the date used to calculate the lump sum.
8	The member transfers the benefits to a different pension scheme (not under bulk transfer rules). This does not include cash transfer sums.	The date used to calculate the transfer value paid.
9	The member's benefits in the account are transferred to a different pension scheme under bulk transfer rules.	The date used to calculate the value of the transfer payment.

Final underpin calculation for 'full' retirement (scenarios 1 to 5)

If the account's final underpin date is the day before the member retires fully from active, deferred or deferred pensioner status (scenarios 1 to 5):

- adjust both provisional amounts (see below section: 'adjusting provisional amounts'). The adjusted figures are the 'final assumed benefits' and the 'final underpin amount'
- compare the final assumed benefits with the final underpin amount
- if the final underpin amount is more than the final assumed benefits, add the excess to the retirement pension account. The excess is the 'final guarantee amount'. Add this to the account on the day after the final underpin date
- do not actuarially adjust the final guarantee amount, even if you need to actuarially adjust other elements of the CARE pension. You consider actuarial adjustments in the underpin calculation when adjusting the provisional amounts
- revalue the final guarantee amount in the same way as you revalue the rest of the balance in the account. For the purposes of the Pensions (Increase)

Act 1971, the beginning date for the guarantee amount is the same as for the rest of the CARE balance - the day after last day of active membership.

For deferred / deferred pensioner to pensioner member cases, when calculating the pension payable at the pension start date, the final guarantee amount may already include the latest PI Order that took effect on or before the final underpin date. If so, the final guarantee amount should only be included for subsequent PI order calculations.

Where the member is entitled to tier 3 ill health benefits, see below section: 'tier 3 ill health cases' - this is not relevant for Scotland.

Adjusting the provisional amounts

You may need to adjust the provisional amounts for:

- revaluation / pensions increase
- actuarial increases
- actuarial reductions.

Revaluation / pensions increase

Provisional assumed benefits

If the underpin date is not the same as the final underpin date, you apply the relevant revaluation adjustment and pensions increase to the provisional assumed benefits.

To do this, you treat the provisional assumed benefits as if it was a deferred pension built up in the CARE scheme with a leaving date of the underpin date. You then add the relevant revaluation adjustment / pensions increase that you would have made in the period from then up to the final underpin date.

Provisional underpin amount

Add pensions increase to the provisional underpin amount (if any).

Treat the provisional underpin amount as if it was a pension to which the Pensions (Increase) Act 1971 applied. The beginning date is the day after the last day of the period you used to calculate the final pay (or, in Scotland, for councillors, career average pay). You include the latest PI Order that took effect on or before the final underpin date.

Actuarial increases

Provisional assumed benefits

If the member starts to receive their actual CARE benefits after the CARE Scheme NPA, you need to apply actuarial increases to both the actual CARE benefits and the provisional assumed benefits in accordance with GAD guidance.

In England and Wales, the late retirement GAD guidance was updated on 24 January 2024. In Scotland, it was updated on 14 May 2024. The updated guidance explains how to work out the actuarial increase on the provisional assumed benefits. You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

Provisional underpin amount

If the member starts to receive their actual CARE benefits after 65, you need to apply actuarial increases to the provisional underpin amount in accordance with GAD guidance.

In England and Wales, the late retirement GAD guidance was updated on 24 January 2024. In Scotland, it was updated on 14 May 2024. The updated guidance explains how to work out the actuarial increase on the provisional underpin amount. You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

If a member's final underpin date is between age 65 and their CARE Scheme NPA, you will need to increase the provisional underpin amount but not the provisional assumed benefits. In some cases, you will need to reduce the provisional assumed benefits.

Actuarial reductions

Provisional assumed benefits

You may need to actuarially reduce the provisional assumed benefits if the member starts to receive their actual CARE benefits before the CARE Scheme NPA and either of the following applies:

- scenario 1 - voluntary retirement
- scenario 6 - flexible retirement.

You also need to reduce the provisional assumed benefits if:

- the member starts to receive their actual CARE benefits before the CARE Scheme NPA

- scenario 3 - redundancy or business efficiency retirement – applies, and
- the provisional assumed benefits include added pension bought to buy back lost pension.

You only reduce the part for the added pension.

In England and Wales, the early retirement GAD guidance was updated on 24 January 2024. In Scotland, it was updated on 14 May 2024. The updated guidance explains when and how to work out the actuarial reduction on the provisional assumed benefits. You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

When working out the reduction, you consider any rule of 85 protection. This means that for group 1 and 2 members in England and Wales and group 1 members in Scotland, you need to split the provisional assumed benefits into the relevant tranches.

If the employer switches on the rule of 85 or waives any of the actuarial reductions, the same reductions should apply to the provisional assumed benefits.

Provisional underpin amount

You may need to reduce the provisional underpin amount if the member starts to receive their actual CARE benefits before age 65 and either of the following applies:

- scenario 1 (voluntary retirement)
- scenario 6 (flexible retirement).

In England and Wales, the early retirement GAD guidance was updated on 24 January 2024. In Scotland, it was updated on 14 May 2024. The updated guidance explains when and how to work out the actuarial reduction on the provisional underpin amount. You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

When working out the reduction, you consider any rule of 85 protection. This means that for group 1 and 2 members in England and Wales and group 1 members in Scotland, you need to split the provisional underpin amount into the relevant tranches.

The GAD guidance confirms that if the employer has waived a reduction on the actual CARE benefits in whole or in part, the same percentage waiver should be applied to the corresponding part of the provisional underpin amount.

See technical query 6 for more on a drafting issue in the relevant rules for Scotland cases.

Final underpin calculation for scenario 6 – flexible retirement

When you process the retirement, you calculate the full actual CARE pension the member can elect to receive immediate payment of. This may include elements of the CARE pension which you did not include in the provisional calculations.

If the member takes all the CARE pension on flexible retirement, you use the same rules as for scenarios 1 to 5 to do the final underpin calculation. If the member took flexible retirement during the underpin period, see below section: 'multiple provisional amounts for a pension account'.

MHCLG issued updated GAD guidance on flexible retirement on 16 August 2024 that reflects the underpin for LGPS England and Wales. SPPA will issue updated equivalent guidance for LGPS Scotland shortly. The guidance is available on the Actuarial guidance page of www.lgpsregs.org (England and Wales).

Partial flexible retirement

Where the member does not take all the CARE pension on flexible retirement ('partial flexible retirement'), the rules apply slightly differently:

- there will be a final underpin date for the original flexible retirement
- there will also be a subsequent final underpin date for the account when the member takes the rest of their pension
- if the member takes partial flexible retirement again, there will be more final underpin dates
- at each final underpin date, you use the same provisional amounts you calculated on the original underpin date. This is the day before the reduction in hours / grade (or, if earlier, the date the member reached the final salary scheme normal retirement age)
- using the same provisional amounts, you adjust them at each final underpin date. This means that for subsequent final underpin dates:
    - as the underpin date and the subsequent final underpin date will be different, you always need to revalue the provisional assumed benefits

(unless the subsequent final underpin date occurs within the same Scheme year), and

    - when considering whether actuarial increases or reductions apply, you look at when and why the member is receiving the new CARE benefits on the subsequent final underpin date

- even though the provisional amounts are the same for each final underpin date, the final amounts are different
- if the final underpin amount exceeds the final assumed benefits at the relevant final underpin date, you add a percentage of the excess to the retirement pension account relevant for the final underpin date. This is the percentage of the full CARE pension the member could have taken on their original flexible retirement date that they are taking on the relevant final underpin date (see example 33).
- if on the subsequent final underpin date, the member receives a tier 3 ill health pension (not relevant for Scotland), see the Tier 3 ill health cases (England and Wales only). If the tier 3 pension is suspended:
    - cease payment of any final guarantee amount added to the retirement pension account for the tier 3 ill health pension. This does not affect any final guarantee amount that you added on the original final underpin date to the flexible retirement pension account
    - when the pension starts again, you treat the final underpin date for the tier 3 ill health pension as if it did not happen and instead do a new final underpin calculation using the final underpin date when the benefits start again.

The final underpin calculation works as follows:

Final underpin date 1 – flexible retirement

- the ‘relevant percentage for final underpin date 1’ is the percentage of their CARE pension that the member chooses to take on flexible retirement
- adjust the provisional amounts to find the final assumed benefits and final underpin amount (see above section: ‘adjusting the provisional amounts’)
- compare the final assumed benefits with the final underpin amount
- if the final underpin amount is more than the final assumed benefits, multiply the difference by the ‘relevant percentage for final underpin date 1’. Add the result to the flexible retirement pension account on the day after the final underpin date. This is the ‘final guarantee amount’

- do not actuarially adjust the amount added, even if you need to actuarially adjust other elements of the CARE pension. You consider actuarial adjustments in the underpin calculation when adjusting the provisional amounts
- revalue the final guarantee amount in the same way as you revalue the rest of the balance in the account. For the purposes of the Pensions (Increase) Act 1971, the beginning date for the guarantee amount is the same as for the rest of the CARE balance (ie day the reduced hours / grade post began).

Final underpin date 2

If the next occurring final underpin date (‘final underpin date 2’) is the day before the member retires (scenarios 1 to 6), you do the further final underpin calculation at this date:

- calculate the ‘relevant percentage for final underpin date 2’. Unless the member is taking partial flexible retirement again, this will be 100% less the ‘relevant percentage for final underpin date 1’
- adjust the provisional amounts to find the final assumed benefits and final underpin amount (see above section: 'adjusting the provisional amounts')
- compare the final assumed benefits with the final underpin amount
- if the final underpin amount is more than the final assumed benefits, multiply the difference by the ‘relevant percentage for final underpin date 2’. Add the result to the retirement pension account on the day after final underpin date 2. This is the ‘final guarantee amount’
- do not actuarially adjust any final guarantee amount added, even if you need to actuarially adjust other elements of the CARE pension. You consider actuarial adjustments in the underpin calculation when adjusting the provisional amounts
- revalue the final guarantee amount in the same way as you revalue the rest of the balance in the account. For the purposes of the Pensions (Increase) Act 1971, the beginning date for the guarantee amount is the same as for the rest of the CARE balance (ie day after last day of active membership).

If the member takes partial flexible retirement again on final underpin date 2, the ‘relevant percentage for final underpin date 2’ is the percentage of the original CARE pension the member could have taken at final underpin date 1 that they are taking at final underpin date 2.

If, across final underpin dates 1 and 2, the member has not taken 100 per cent of the original CARE pension, there will be a further final underpin date related to the provisional amounts calculated on the original underpin date.

Multiple provisional amounts for a pension account

A member may have more than one set of provisional amounts for a CARE account. This will be the case if:

- the member reduced their hours / grade for flexible retirement during the underpin period, and
- the member has further eligible remediable service in the account for the period between the reduction and the end of the underpin period.

You need to calculate two sets of provisional assumed benefits and underpin amounts for the account separately:

- Calculate the first set of provisional amounts on the day before the reduction in hours / grade first. This is the first underpin date.
- Calculate the second set of provisional amounts at the next occurring underpin date. This is the second underpin date. For this calculation, only use the service from the day after the first underpin date. Do not include any service that was already used for the first set of provisional amounts.

See section 3 for more on how to calculate provisional amounts.

When performing the final underpin calculation at the final underpin date, you will also do this separately for each set of provisional amounts. This means:

- Final underpin date 1 (flexible retirement): you do the final underpin calculation using only the first set (see above section: 'final underpin calculation for scenario 6 – flexible retirement').
- Final underpin date 2: you do the final underpin calculation using the second set. Follow the relevant sub-section depending on the final underpin date scenario.

If the member did not take 100 per cent of their CARE benefits on final underpin date 1, you will also need to perform a separate final underpin calculation on the first set at final underpin date 2 (as set out in the above section: 'partial flexible retirement').

It is possible that you may need to add two final guarantee amounts on the day after final underpin date 2 to the relevant retirement pension account.

Tier 3 ill health cases (England and Wales only)

If a member qualifies for tier 3 ill health benefits, the underpin date for that account is their last day of active membership, or when they reached their final salary scheme normal retirement age, if this was earlier. You may have added a final guarantee amount to their pension account when the tier 3 pension was paid.

You will need to do more underpin calculations if the tier 3 pension later stops or is uplifted to tier 2.

You will not need to do this if the member reaches the CARE Scheme NPA while receiving the tier 3 benefits. These benefits will remain payable and are not reviewed again. Any final guarantee amount you added to the tier 3 benefits remains payable.

If tier 3 benefits stop

If you added a final guarantee amount to the tier 3 benefits, the member is no longer entitled to any further payments of that amount from the date the benefits stop. When you calculate the balance in the deferred pensioner member account, you do not include the final guarantee amount, any revaluation adjustment nor pensions increase added because of that amount.

You will then do a new final underpin calculation on the final underpin date for the deferred pensioner member account ('new final underpin date'). Follow the steps described in the Final underpin calculation for 'full' retirement above, disregarding the underpin calculations you did when the tier 3 pension was first paid. If you need to add a final guarantee amount to the pension account, you add this on the day after the new final underpin date. A final guarantee amount could be payable following the new final underpin date even if none was added to the tier 3 pension.

If tier 3 benefits are uplifted to tier 2

If the former employer decides to uplift the benefits to tier 2, there will not be a new final underpin date. You will need to recalculate the final underpin calculation as at the original final underpin date.

If you added a final guarantee amount to the tier 3 benefits, the member is no longer entitled to any further payments of that amount (including any revaluation adjustment and pensions increase added because of it) from the start of the date the former employer decided to uplift the benefits.

You will need to recalculate the final underpin calculation as at the original final underpin date.

First recalculate the provisional amounts as at the underpin date (see section 3). This time, you will need to assume that the member left active membership with tier 2 ill health benefits.

This means that, if the member left before the end of the underpin period, you may need to include tier 2 enhancements.

If the member elected to cover a period of unpaid leave during the underpin period by paying additional pension contributions, and did not complete the payments because of the ill health retirement, you will need to change the added pension / service that you included in the provisional amounts. For the original calculation, you only included part of the added pension in the provisional assumed benefits and part of the service in the provisional underpin amount. You will instead need to include the full added pension in the provisional assumed benefits and the full service in the provisional underpin amount.

After you have recalculated the provisional amounts:

- adjust both provisional amounts (see above section: 'adjusting the provisional amounts'). The adjusted figures are the ‘final assumed benefits’ and the ‘final underpin amount’
- compare the final assumed benefits with the final underpin amount
- if the final underpin amount is more than the final assumed benefits, add the excess to the pension account. The excess is the ‘final guarantee amount’. You add this to the relevant retirement pension account on the day the former employer decided to uplift the benefits. You also add on this date the revaluation adjustment and pensions increase that would be payable on that final guarantee amount if you had instead added it on the day after the member left active membership
- revalue the final guarantee amount (and the relevant revaluation adjustment and pensions increase on it) in the same way as you revalue the rest of the CARE balance in the account. For the purposes of the Pensions (Increase) Act 1971, the beginning date for the guarantee amount is the same as for the rest of the CARE balance (ie day after last day of active membership).

Worked examples

In the examples in this section, we have assumed pensions increase of 2% applies in April 2025 and all future years.

Example 27: Retirement between age 65 and CARE Scheme NPA (England and Wales)

The member from Example 17 retires voluntarily at age 65 and 100 days on 10 July 2023 – this is the final underpin date. Her CARE scheme NPA is 66 and she has no rule of 85 protection.

Underpin date: 30 April 2018
Provisional assumed benefits: £2,173
Revaluation / pensions increase multiplier up to 10 April 2023: 1.1880
Early payment reduction: 3.558% (265 days early)
Final assumed benefits: **£2,490**

Provisional underpin amount: £2,204
Pensions increase multiplier to 10 April 2023: 1.1857
Late retirement increase: 1% (100 days at 0.01% per day)
Final underpin amount: **£2,639**

The final guarantee amount is £149. This is added to the retirement pension account from 11 July 2023.

Example 28: Group 1 member – early retirement (England and Wales)

Any protections the member has under the rule of 85 should be reflected in the underpin calculations. For certain members, this will mean that more information than the provisional figures are needed to calculate final assumed benefits and final underpin amount.

- female member born 6 August 1955
- voluntarily retires from active status with a last day of service of 5 August 2018 – age 63
- CARE scheme NPA is 66
- critical retirement age (CRA) is 64 years 91 days
- final pay is £33,253.

Benefits in the underpin period with CRA 64 years 91 days:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2014/15		£32,000	1/49	£653	£653	1.012	£661
2015/16	£661	£32,500	1/49	£663	£1,324	0.999	£1,323
2016/17	£1,323	n/a	n/a	£0	£1,323	1.01	£1,336
2017/18	£1,336	n/a	n/a	£0	£1,336	1.03	£1,376

Benefits built up in the underpin period with NPA 66:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2016/17		£33,000	1/49	£673	£673	1.01	£680
2017/18	£680	£32,894	1/49	£671	£1,351	1.03	£1,392
2018/19	£1,392	£33,552	1/49	£685	£2,077	n/a	£2,077

When working out the provisional figures on the underpin date, the total can be used. No distinction is needed between the benefits built up before and after 1 April 2016.

Notional final salary benefits on 5 August 2018:
4 years 127 days ÷ 60 × £33,253 (final pay) = **£2,410**

Provisional assumed benefits on 5 August 2018: £3,453
Provisional underpin amount on 5 August 2018: £2,410

The member retired from active status and pay for the final year was used to work out their final salary benefits. The underpin date and the final underpin date are the same date. No inflationary increases apply to the provisional figures to work out the final figures. Actuarial adjustments do apply. The benefits built up before and after 1 April 2016 must be considered separately, as the early payment reduction that applies to each ‘tranche’ of benefits is different.

Provisional assumed benefits built up before 1 April 2016: £1,376
Early payment reduction: 6.422% (1 year 91 days early)
Final assumed benefits built up before 1 April 2016: £1,288

Provisional assumed benefits built up from 1 April 2016: £2,077
Early payment reduction: 14.6% (3 years early)
Final assumed benefits built up from 1 April 2016: £1,774

Total final assumed benefits: £3,062

Provisional underpin amount built up before 1 April 2016:
2 years ÷ 60 × £33,253 = £1,108
Early payment reduction: 6.422% (1 year 91 days early)
Final underpin amount built up before 1 April 2016: £1,037

Provisional underpin amount built up from 1 April 2016:
2 years 127 days ÷ 60 × £33,253 = £1,301
Early payment reduction: 10.1% (2 years early)
Final underpin amount built up from 1 April 2016: £1,170

Total final underpin amount: £2,207

The CARE pension is higher. No final guarantee amount is paid.

Example 29: the effect of actuarial adjustment for early payment (England and Wales)

- underpin date 1 November 2023
- member's date of birth 29 August 1964
- CARE Scheme NPA 67
- no rule of 85 protection.

Provisional assumed benefits on 1 November 2023: £9,423
Provisional underpin amount on 1 November 2023: £8,771

If this was a redundancy retirement, there would be no actuarial adjustment and no inflationary increases to apply. The CARE pension is higher and no final guarantee amount is paid.

If this was a voluntary retirement, actuarial adjustments would apply:

Underpin date/final underpin date: 1 November 2023
Provisional assumed benefits: £9,423
Early payment reduction: 29.7836% (7 years 300 days early)
Final assumed benefits: **£6,616**

Provisional underpin amount: £8,771
Early payment reduction: 23.6945% (5 years 300 days early)
Final underpin amount: **£6,693**

The final guarantee amount is £77. This is added to the retirement pension account from 2 November 2023.

Example 30: Late retirement from deferred status (England and Wales)

- date of birth 10 October 1954
- CARE Scheme NPA 66
- date left 17 May 2019 – this is the underpin date
- retires from deferred status on 15 January 2024 (pension starts on 16 January 2024).

Underpin date: 17 May 2019
Provisional assumed benefits: £5,841
Revaluation / pensions increase multiplier up to 10 April 2023: 1.1602
Late retirement increase: 12.6065% (3 years 98 days late)
Final assumed benefits: £7,631

Provisional underpin amount: £5,664
Pensions increase multiplier to 10 April 2023: 1.1586
Late retirement increase: 17.1219% (4 years 98 days late)
Final underpin amount: £7,686

The final guarantee amount is £55. This is added to the retirement pension account from 16 January 2024. The difference in the late retirement increase that applies to CARE and final salary pensions has made the difference in this example.

Example 31: redundancy with added pension (England and Wales)

The member from Example 23 retired on redundancy grounds at age 56. Their CARE Scheme NPA is 67.

No actuarial adjustment applies to their ‘main’ benefits, but the added pension included in the provisional assumed benefits must be reduced for early payment.

Underpin date/final underpin date: 31 May 2020
Provisional assumed benefits: £844
Includes added pension: £61 (£60 plus 1.7% revaluation)
Early payment reduction: 41.6% (11 years)
Final assumed benefits: **£819** (£783 excluding added pension plus reduced added pension £36)

Provisional underpin amount: £671
No adjustment
Final underpin amount: **£671**

The CARE pension is higher. No final guarantee amount is paid.

Example 32: Flexible retirement in the underpin period (England and Wales)

- date of birth 20 April 1961
- CARE Scheme NPA 67
- flexible retirement at age 60 – reduced grade started 20 April 2021. The underpin date is the day before - 19 April 2021.

Underpin date/final underpin date (1): 19 April 2021
Provisional assumed benefits (1): £4,826
Early payment reduction: 29% (7 years early)
Final assumed benefits (1): **£3,426**

Provisional underpin amount (1): £4,677
Early payment reduction: 22.2% (5 years early)
Final underpin amount (1): **£3,639**

The final salary pension is higher by £213. The member chooses to take all the benefits they have built up in the CARE scheme on flexible retirement. The full amount of £213 – the final guarantee amount - is added to the flexible retirement pension account from 20 April 2021.

The member retires fully on 31 December 2023. This is the second underpin date. A further underpin check is performed on the benefits built up from 20 April 2021 to 31 March 2022 – after the first flexible retirement up to the end of the underpin period.

Underpin date/final underpin date (2): 31 December 2023 (age 62 years 256 days)
Provisional assumed benefits (2): £817
Early payment reduction: 18.4548% (4 years 110 days early)
Final assumed benefits (2): **£666**

Provisional underpin amount (2): £681
Early payment reduction: 10.5542% (2 years 109 days early)
Final underpin amount (2): **£609**

The CARE pension is higher. No further final guarantee amount is added to the pension account after the second final underpin date. This does not affect the final guarantee amount added after the initial flexible retirement.

Example 33: Partial flexible retirement (England and Wales)

- date of birth 21 January 1960
- CARE Scheme NPA 66

- no rule of 85 protection
- flexible retirement on 15 August 2023 – this is the underpin date. Reduced hours post started 16 August 2023.

Underpin date/final underpin date (1): 15 August 2023 (age 63 years 208 days)
Provisional assumed benefits (1): £2,408
Early payment reduction: 11.1181% (2 years 158 days early)
Final assumed benefits (1): **£2,140**

Provisional underpin amount (1): £2,354
Early payment reduction: 6.8047% (1 years 158 days early)
Final underpin amount (1): **£2,194**

The final salary pension is higher by £54. The member chooses to take 40% of her CARE pension on flexible retirement. £22 (£54 × 40%) is added to the flexible retirement pension account on 16 August 2023.

The member is made redundant on 31 October 2024. No benefits built up after flexible retirement are protected by the underpin because the flexible retirement happened after the end of the underpin period. The remaining benefits not taken in 2023 do have to be considered.

Final underpin date (2): 31 October 2024
Provisional assumed benefits: £2,408
Revaluation / pensions increase multiplier up to 8 April 2024 (not confirmed): 1.067
No actuarial adjustment
Final assumed benefits (2): **£2,569**

Provisional underpin amount: £2,354
Pensions increase multiplier up to 8 April 2024 (not confirmed): 1.0447
No actuarial adjustment
Final underpin amount (2): **£2,459**

The CARE pension is higher. There is no addition to the pension account after the second final underpin date. This does not affect the final guarantee amount that was added to the pension account after the initial flexible retirement.

Example 34: Early retirement (Scotland)

- date of birth 18 November 1960
- CARE Scheme NPA 66 years 8 months – 18 July 2027

- voluntary early retirement from active status on 31 July 2023 – this is the underpin date.

Underpin date/final underpin date: 31 July 2023
Provisional assumed benefits: £5,867
Early payment reduction: 17.8466% (3 years 351 days early)
Final assumed benefits: £4,820

Provisional underpin amount: £5,504
Early payment reduction: 10.9841% (2 years 109 days early)
Final underpin amount: £4,899

The final guarantee amount is £79. This is added to the retirement pension account on 1 August 2023.

Example 35: retirement from deferred status after 65 (Scotland)

- date of birth 22 January 1956
- CARE Scheme NPA 66
- left LGPS 27 June 2019
- retired from deferred status 31 August 2021 (age 65 222 days)
- no rule of 85 protection.

Underpin date: 27 June 2019
Provisional assumed benefits: £2,903
Revaluation / pensions increase multiplier up to 12 April 2021: 1.0221
Early payment reduction: 2.1156% (143 days early)
Final assumed benefits: £2,904

Provisional underpin amount: £2,875
Pensions increase multiplier up to 12 April 2021: 1.0179
Late retirement increase: 2.22% (222 days late)
Final underpin amount: £2,991

The final guarantee amount is £87. This is added to the retirement pension account on 1 September 2021.

Example 36: Early retirement with rule of 85 protection (Scotland)

Any protections the member has under the rule of 85 should be reflected in the underpin calculations. For certain members, this will mean that more information than the provisional figures are needed to calculate the final assumed benefits and final underpin amount.

- date of birth 14 November 1959
- CARE Scheme NPA 66
- critical retirement age (CRA) 63 years and 109 days (2 March 2023)
- voluntary early retirement from active status 31 July 2022
- final pay is £49,883.

Benefits in the underpin period with CRA 63 years 108 days:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2015/16		£35,500	1/49	£724	£724	0.999	£723
2016/17	£723	£36,500	1/49	£745	£1,468	1.01	£1,483
2017/18	£1,483	£37,450	1/49	£764	£2,247	1.03	£2,314
2018/19	£2,314	£38,775	1/49	£791	£3,105	1.024	£3,180
2019/20	£3,180	£40,050	1/49	£817	£3,997	1.017	£4,065
2020/21	£4,065	n/a	n/a	n/a	£4,065	1.005	£4,085
2021/22	£4,085	n/a	n/a	n/a	£4,085	1.031	£4,212

Benefits built up in the underpin period with NPA 66:

Year	B/f	Pay	Accrual	In year	Plus B/f	Inflation adjustment	Pension
2020/21		£47,250	1/49	£964	£964	1.005	£969
2021/22	£969	£49,660	1/49	£1,013	£1,982	1.031	£2,043

When working out the provisional figures on the underpin date, the total can be used. No distinction is needed between the benefits built up before and after 1 April 2020.

Notional final salary benefits in the underpin period:
7 ÷ 60 × £49,883 = £5,820

Provisional assumed benefits on 31 July 2022: £6,255 (£4,212 + £2,043)
Provisional underpin amount on 31 July 2022: £5,820

The member retired from active status and pay for the final year was used to work out their final salary benefits. The underpin date and the final underpin date are the same date. No inflationary increases apply to the provisional figures to work out the final figures. Actuarial adjustments do apply. The benefits built up before and after 1 April 2020 must be considered separately, as the early payment reduction that applies to each ‘tranche’ of benefits is different.

Provisional assumed benefits built up before 1 April 2020: £4,212
Early payment reduction: 3.1512% (213 days early)
Final assumed benefits built up before 1 April 2020: £4,079

Provisional assumed benefits built up from 1 April 2020: £2,043
Early payment reduction: 16.1370% (3 years 105 days early)
Final assumed benefits built up from 1 April 2020: £1,713

Total final assumed benefits: £5,792

Provisional underpin amount built up before 1 April 2020:
5 years ÷ 60 × £49,883 = £4,157
Early payment reduction: 3.1512% (213 days early)
Final underpin amount built up before 1 April 2020: £4,026

Provisional underpin amount built up from 1 April 2020:
2 years ÷ 60 × £49,883 = £1,663
Early payment reduction: 11.6945% (2 years 105 days early)
Final underpin amount built up from 1 April 2020: £1,469

Total final underpin amount: £5,495

The CARE pension is higher. No final guarantee amount is paid.

Example 37: partial flexible retirement in the underpin period (Scotland)

- date of birth 21 September 1962
- CARE Scheme NPA 67
- flexible retirement on 20 September 2019 – this is the underpin date. The reduced hours post started from 21 September 2019 – 50% of full time.

Underpin date / final underpin date (1): 20 September 2019
Provisional assumed benefits (1): £5,312
Early payment reduction: 39% (10 years early)
Final assumed benefits(1): £3,240

Provisional underpin amount (1): £4,931
Early payment reduction: 33.3% (8 years early)
Final underpin amount (1): £3,289

The final salary pension is higher by £49. The member takes 70% of the benefits built up in the CARE scheme when they flexibly retire. A final guarantee amount of £34 (£49 × 70%) is added to the flexible retirement pension account from 21 September 2019.

The member fully retires on 31 January 2024. Two further underpin calculations are required – one based on the benefits built up before the initial flexible retirement (2A), and one for the benefits built up after the initial flexible retirement and before the end of the underpin period (2B).

Final underpin date (2A): 31 January 2024
Provisional assumed benefits (2A): £5,312
Revaluation / pensions increase multiplier to 10 April 2023: 1.1602
Early payment reduction: 23.7611% (5 years 232 days early)
Final assumed benefits (2A): £4,699

Provisional underpin amount (2A): £4,931
Pensions increase multiplier to 10 April 2023: 1.1521
Early payment reduction: 16.5425% (3 years 232 days)
Final underpin amount (2A): £4,741

The final salary pension is higher by £42. A final guarantee amount of £13 (£42 × 30%) is added to the retirement pension account from 1 February 2024.

The final calculation is based on the pension built up in the reduced hours post between 21 September 2019 and 31 March 2022.

Final underpin date (2B): 31 January 2024
Provisional assumed benefits (2B): £1,491
Early payment reduction: 23.7611% (5 years 232 days)
Final assumed benefits (2B): £1,137

Provisional underpin amount (2B): £1,310
Early payment reduction: 16.5425% (3 years 232 days)
Final underpin amount (2B): £1,093

The CARE pension is higher. No guarantee amount is added to the retirement pension account as a result of the benefits built up since the initial flexible retirement. The underpin calculations operate independently. This calculation (2B) does not affect the final guarantee amount added to the pension account on 21 September 2019 (calculation 1), nor does it affect the final guarantee amount added on 1 February 2024 (calculation 2A).

Example 38: Tier 3 retirement (England and Wales)

- date of birth 7 January 1964
- CARE Scheme NPA 67
- awarded tier 3 retirement on 17 May 2022 – this is the underpin date.

Underpin date / final underpin date (1): 17 May 2022
Provisional assumed benefits: £3,265
Final assumed benefits: £3,265 – no revaluation, pensions increase or actuarial adjustment applies.

Provisional underpin amount: £3,064
Final underpin amount: £3,064

The CARE pension is higher. No final guarantee amount is added to the tier 3 pension account.

The tier 3 pension stops at the 18 month review – 17 November 2023. The member chooses to have the deferred pension paid from age 60 – 7 January 2024.

Final underpin date (2): 6 January 2024
Provisional assumed benefits: £3,265
Revaluation / pensions increase multiplier to 10 April 2023: 1.101%
Early payment reduction: 27.4% (7 years early)
Final assumed benefits (2): £2,610

Provisional underpin amount: £3,064
Pensions increase multiplier to 10 April 2023: 1.0926
Early payment reduction: 20.9% (5 years early)
Final underpin amount: £2,648

The final guarantee amount is £38. This is added to the retirement pension account from 7 January 2024.

Example 39: Tier 3 pension uplifted to tier 2 (England and Wales)

- date of birth 12 April 1971
- worked full time – no hours reduction due to the member's ill health
- tier 3 ill health pension awarded 15 March 2021 – this is the underpin date.

Underpin date / final underpin date (1): 15 March 2021
Provisional assumed benefits (1): £6,458
Final assumed benefits (1): £6,458

Provisional underpin amount (1): £6,504
Final underpin amount (1): £6,504

The final salary pension is higher. A final guarantee amount of £46 is added to the retirement pension account from 16 March 2021.

At the 18 month review, the employer decides to award tier 2 benefits. In this instance, the provisional figures are re-calculated to include the ill health enhancement that falls within the underpin period. As the member was below age 65 on 31 March 2022, the relevant enhancement covers the period from 16 March 2021 to 31 March 2022 – 1 year 16 days. Annual assumed pensionable pay (APP) is £56,250, final pay is £56,100.

Underpin date (2): 15 March 2021
Provisional assumed benefits (2): £6,758 (accrued pension of £6,458 plus tier 2 ill health enhancement based on 1 year 16 days and APP of £56,250 = £300)
Final assumed benefits: £6,758

Provisional underpin amount: £6,750 (7 years 80 days ÷ 60 × £56,100 final pay)
Final underpin amount: £6,750

The final salary pension is lower. The final guarantee amount of £46 (plus revaluation and pensions increase paid as a result of the final guarantee amount) paid from 16 March 2021 stops when the tier 2 pension starts from 16 September 2022.

Final underpin calculation for lump sum payments (scenarios 7-10)

Scenario 7 - trivial commutation of uncrystallised benefits

This applies to both trivial commutation lump sums and small pot payments.

If the member trivially commutes their uncrystallised benefits, the final underpin date is the day before the date you use to calculate the commutation lump sum. If the member trivially commutes their crystallised benefits, the final underpin date will have occurred at retirement.

You calculate the commutation lump sum using GAD guidance. In England and Wales, the trivial commutation GAD guidance was updated on 17 June 2024. In

Scotland, it was updated on 24 July 2024. The updated guidance explains how you take the underpin into account when calculating the lump sum:

- **commutation of member pension**: the member pension element includes any final guarantee amount payable (or, for uncrystallised cases, would be payable) and the dependant's pension element includes the relevant proportion of the survivor guarantee amount that would be payable assuming the member died as a pensioner member on the calculation date (see section 5 for more details on survivor guarantee amounts)
- **commutation of dependant's pension**: the dependant's pension element includes any survivor guarantee amount payable
- **commutation of child's pension**: the child's pension element includes any survivor guarantee amount payable.

You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

Scenario 8 - transfers out

If the member transfers the benefits in the account to another scheme, the final underpin date is the date you use to calculate the transfer value paid.

This applies to Club and non-Club transfers of deferred benefits. See the next sub-section for bulk transfers.

This does not apply to transfers relating to deferred refund CARE accounts. As the member does not qualify for benefits in the LGPS, the member cannot qualify for underpin protection.

The final underpin calculation is part of determining the transfer amount.

Non-Club transfers

When calculating the transfer amount, you must use GAD guidance, taking into account the provisional assumed benefits and the provisional underpin amount.

In England and Wales, the transfer GAD guidance was updated on 24 January 2024. In Scotland, it was updated on 5 March 2024. The updated guidance explains how you take into account the provisional amounts when calculating the transfer value. You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

We have produced a spreadsheet you can use to calculate the additional value for the underpin. The spreadsheet for relevant dates between 8 April 2024 and 31 March 2025 is available on the administrator guides and documents page of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland). The spreadsheet for relevant dates in scheme year 2023/24 is also available (use the filter to find the 'Old' status documents).

Club transfers

You must follow the Club Memorandum for Club transfers. The Cabinet Office has recently changed the Memorandum. You can find the new version on the 'Other Government documents' pages of www.lgpsregs.org and www.scotlgpsregs.org.

The Memorandum doesn't tell you everything you need to know to be able to calculate Club transfers. The transfer GAD guidance complements the Memorandum.

The rules depend on whether the receiving scheme:

- is 'another McCloud remedy scheme'
- only offers outer Club transfers, or
- is based in the Channel Islands.

In summary, for a transfer to another McCloud remedy scheme**,** you may need to provide up to four calculations for a Club transfer out for a member protected by the underpin:

- **Amount A - pre April 2014 (2015 in Scotland)**: outer Club transfer value
- **Amount B - provisional underpin amount**: outer Club transfer value (multiply this amount by 60/160 to get the survivor pension element)
- **Amount C - provisional assumed benefits***: inner Club transfer value (multiply this amount by 49/160 to get the survivor pension element)
- **Amount D - other 2014 Scheme (2015 Scheme in Scotland) benefits (for example, post March 2022 CARE benefits)**: inner Club transfer value.

All amounts should be revalued to the guarantee date.

*You use the provisional assumed benefits you calculated as at the underpin date as the member pension element for Amount C if:

- it did not include added pension for lost pension, and / or

- the member was not in the 50/50 section during the underpin period.

Otherwise, you will need to recalculate it to use for **this purpose only** as follows:

- if the provisional assumed benefits included added pension, recalculate the benefits ignoring the added pension. The added pension for lost pension is included in Amount D in Scotland. In England and Wales, it is included in a separate non-Club value.
- if the member was in the 50/50 section, recalculate the provisional assumed benefits and do not treat the member as if they were in the main section.

The Club transfer value you pay is the greater of:

- Amount A + Amount B + Amount D, or
- Amount A + Amount C + Amount D.

Regardless of which value is higher, you must provide the receiving scheme with the relevant information for amounts A, B, C and D.

Scenario 9 (bulk transfers out)

If the member transfers the benefits in the account to another scheme under the bulk transfer rules, the final underpin date is the date used to calculate the transfer payment.

The final underpin calculation is part of determining the amount of the bulk transfer payment. The actuary you appointed to calculate the transfer payment must take the provisional assumed benefits and provisional underpin amount into account.

Supplementary information

Relevant rules

- regulations 4B, 4C, 4D, 4E, 4F, 4H, 4I, 4J, 4K, 4L, 4M and 4N of the LGPS (Transitional Provisionals, Savings and Amendment) Regulation 2014
- regulations 28, 30(12B), 34, 37, 96 and 98 of the LGPS Regulations 2013
- regulation 20 of the LGPS (Benefits, Membership and Contributions) Regulations 2007
- regulations 4B, 4C, 4D, 4E, 4F, 4H, 4I 4K, 4L and 4J of the LGPS (Transitional Provisionals and Savings) (Scotland) Regulation 2014
- regulations 29(15), 33, 37, 91 and 93 of the LGPS (Scotland) Regulations 2018

- Club Memorandum.

5. Final underpin calculations at the member's death

Overview

For a CARE account that qualifies for underpin protection, you may need to do a final underpin calculation when the member dies. You need to do this whether or not you had to do a final underpin calculation at the final underpin date.

You may need to check again to see whether the account has started qualifying (or has stopped qualifying) for underpin protection if the member died as a deferred or deferred pensioner member (see section 2).

You need to do a final underpin calculation as part of the survivor pension calculation.

If the member died as a deferred member or a deferred pensioner member (not relevant for Scotland) in respect of the account, you need to do a final underpin calculation as part of the death grant calculation.

You use the same provisional assumed benefits and underpin amount you calculated at the underpin date. See section 3 for how to do this.

If the member aggregated the benefits in the account with a different account before the date of death, see section 3: 'adjusting provisional amounts because of aggregation'.

If the member retired before 1 October 2023, first recalculate the member's pension before you can calculate the death benefits. See section 7 (revisiting past cases).

Calculating the actual survivor pension

You calculate this as normal, but you ignore:

- any final guarantee amount you added to the pension account if the member died as a pensioner member
- if the member died as an active member, deferred member or deferred pensioner member (not relevant in Scotland), any final guarantee amount you would have added had the member been paid their pension on the date of death.

These amounts are ignored because they would take actuarial adjustments into account which do not apply to a survivor pension.

Final underpin calculation – survivor pension

If the member died as an active member and the underpin date and the date of death are the same, calculate the provisional amounts (see section 3). Where the underpin date has already occurred (ie pensioner member, deferred member, deferred pensioner member (not relevant in Scotland) or an active member beyond their final salary scheme normal retirement age), use the provisional amounts you already calculated. You then:

- adjust both provisional amounts (see below section: 'adjusting provisional amounts'). The adjusted figures are the ‘adjusted assumed benefits’ and the ‘adjusted underpin amount’
- compare the adjusted assumed benefits with the adjusted underpin amount
- if the adjusted underpin amount is more than the adjusted assumed benefits, add ‘the relevant proportion’ of the excess to the survivor member’s pension account. The excess is the ‘survivor guarantee amount’. Add this to the account on the day after the member’s death
- revalue the amount added to the account in the same way as you revalue the rest of the CARE balance in the account. For the purposes of the Pensions (Increase) Act 1971, the beginning date for the guarantee amount is the same as for the rest of the CARE balance (ie day after last day of active membership).

Other than for death in service cases, when calculating the survivor pension payable at the start date, the relevant proportion of the survivor guarantee amount may already include the latest PI Order that took effect on or before the date of death. If so, the survivor guarantee amount should only be included for subsequent PI order calculations.

For England and Wales cases, where the member became entitled to a tier 3 ill health pension which was later uplifted to tier 2, you use the recalculated provisional amounts for this purpose.

If the survivor commutes their pension for a trivial commutation lump sum death benefit, include the relevant proportion of the survivor guarantee amount (and any revaluation adjustment / pensions increase added to it) in the pension element of the lump sum calculation.

Adjusting provisional amounts

Enhancements

Provisional assumed benefits

If the member died as an active member before the end of the underpin period, you enhance the provisional assumed benefits.

You calculate the enhancement as follows:

> membership between the end of the date of death and the end of the underpin period × assumed pensionable pay ÷ 49.

You use the same assumed pensionable pay (APP) you used to calculate the enhancements to the actual survivor pension. This means that if you ignored a reduction in hours to work out the APP for the actual survivor pension, you also ignore it to work out the APP for the provisional assumed benefits.

Provisional underpin amount

If the member died as an active member before the end of the underpin period, you recalculate the provisional underpin amount, including extra membership. The extra membership is what you would have added under the 2008 Scheme (2009 Scheme for Scotland) if the member had instead left with a tier 1 ill health pension. But you limit the extra membership to 31 March 2022. So, the extra membership is the period:

- from the end of the date of death
- to the end of the underpin period.

If the member was working part-time when they died, pro rata the extra membership assuming the member continued to work the same hours.

Ignoring reductions in hours (England and Wales only)

Provisional underpin amount

You may need to adjust the provisional underpin amount if the member died as an active member and previously reduced their hours because of ill health.

The specific test is whether, in the administering authority's opinion, the member was in part-time service at the date of death wholly or partly as a result of the condition that caused or contributed to the death.

If they were, you must recalculate the provisional underpin amount, ignoring any reduction in hours before the end of the underpin period due to the condition. You must also ignore the reduction in hours when calculating the extra membership.

Revaluation / pensions increase

Provisional assumed benefits

If the underpin date is not the same as the date of death, you apply the relevant revaluation adjustment and pensions increase to the provisional assumed benefits.

To do this, you treat the provisional assumed benefits as if it was a CARE balance added to a deferred pension account the day after the underpin date. You then add the relevant revaluation adjustment / pensions increase that you would have made in the period from then up to the date of death.

Provisional underpin amount

Add pensions increase to the provisional underpin amount (if any).

To do this, you treat the provisional underpin amount as if it was a pension to which the Pensions (Increase) Act 1971 applied. The beginning date for this purpose is the day after the last day of the period you used to calculate the final pay (or, in Scotland, for councillors, career average pay). You include up to the latest PI Order that took effect on or before the date of death.

What survivor pension account you add the amount to

You add the relevant proportion of the survivor guarantee amount to the survivor member pension account relevant to the provisional amounts.

For example, if you calculate the provisional amounts for an active CARE account, then:

- if the member dies as an active member, you add the survivor guarantee amount to the survivor pension account(s) linked to the active account
- if the member became a deferred member and then dies, you add the survivor guarantee amount to the survivor pension account(s) linked to the deferred account

and so on.

If the member took flexible retirement during the underpin period, they may have more than one set of provisional amounts for the active CARE account (see section 3: 'flexible retirement and underpin dates'). If a survivor pension is payable, you do the final underpin calculation separately for each set. If you need to add an extra amount in respect of either or both of those sets of provisional amounts:

- assuming the member did not take partial flexible retirement for the first set, add the extra amount for the first set to the survivor pension account(s) linked to the flexible retirement pension account
- assuming the member did not take partial flexible retirement for the second set, add the extra amount for the second set to the survivor pension account(s) linked to the relevant member account (this depends on the member's status at death for the second set).

If the member took partial flexible retirement, it is unclear which survivor pension account to add any extra to. This is because the provisional amounts you calculated at the underpin date (day before the reduction in hours / grade, or earlier, the final salary scheme normal retirement age) will relate to multiple member accounts. For example, the amounts relate to the flexible retirement pension account and at least one of the following:

- an active account
- a deferred account
- a retirement pension account
- a flexible retirement pension account
- a deferred pensioner account (England and Wales only).

Though it won't impact the amount payable to the survivor, it would be helpful if the regulations could specify (see technical query 7).

If the member took partial flexible retirement and died as an active member during the underpin period, you do not enhance the provisional amounts. This is because the underpin date for the provisional amounts will not be the same as the date of death. If the member has a second set of provisional amounts for the period after flexible retirement, you may need to enhance the second set.

Relevant proportion

If the adjusted underpin amount is greater than the adjusted assumed benefits, a proportion of the difference is added to the survivor pension account. 'The relevant proportion' for different types of survivors is shown in Table 4.

Table 4 – the relevant proportion

Type of survivor pension	England and Wales	Scotland
Surviving partner's pension	49/160	60/160
Eligible child's pension where – • there is one eligible child, and • a surviving partner's pension is payable	49/320	60/320
Eligible child's pension where – • there is more than one eligible child, and • a surviving partner's pension is payable	49/160	60/160
Eligible child's pension where – • there is one eligible child, and • no surviving partner's pension is payable	49/240	60/240
Eligible child's pension where – • there is more than one eligible child, and • no surviving partner's pension is payable	49/120	60/120

Death grants

Death of a deferred member / deferred pensioner member

If the member died as a deferred member or a deferred pensioner member, you need to do a final underpin calculation for the death grant calculation. The deferred pensioner member status is not relevant in Scotland.

The deferred death grant calculation for the CARE benefits is:

> CARE pension the member would have been entitled to receive × 5.

To work out the CARE pension, you:

- ignore any final guarantee amount you would have added had the member been paid the pension on the date of death
- include the 'deferred guarantee amount' (if any).

To calculate the deferred guarantee amount:

- adjust both the provisional assumed benefits and underpin amount (see below). These are the amounts for the account you have already calculated (see section 3). The adjusted figures are the ‘deferred assumed benefits’ and the ‘deferred underpin amount’
- compare the deferred assumed benefits with the deferred underpin amount
- if the deferred underpin amount is more than the deferred assumed benefits, include the excess in the death grant calculation. The excess is the ‘deferred guarantee amount’.

When calculating the PI due on the death grant, the deferred guarantee amount may already include the latest PI Order that took effect on or before the date of death. If so, when calculating the PI due on the death grant for the period up to the April immediately before death, exclude the deferred guarantee amount.

If the member took partial flexible retirement and then later died as a deferred member (as well as a pensioner member), see technical query 8.

To adjust the provisional amounts:

Provisional assumed benefits

Apply the relevant revaluation adjustment and pensions increase to the provisional assumed benefits.

Treat the provisional assumed benefits as if it was a CARE balance added to a deferred pension account on the day after the underpin date. You then add the relevant revaluation adjustment / pensions increase that you would have made in the period from then up to the end of the date of death.

Provisional underpin amount

Add pensions increase to the provisional underpin amount (if any).

Treat the provisional underpin amount as if it was a pension to which the Pensions (Increase) Act 1971 applied. The beginning date for this purpose is the day after the last day of the period you used to calculate the final pay (or, for councillors in Scotland, career average pay). You include up to the latest PI Order that took effect on or before the date of death.

Death of an active member

You do not do a final underpin calculation for the active member death grant calculation. You continue to calculate this by multiplying the assumed pensionable pay by three.

Death of a pensioner member

You do not do a final underpin calculation for the pensioner death grant calculation. However, if you added any final guarantee amount to the pension account at the [final underpin date](#), you include that amount when calculating the death grant.

Worked examples

Example 40: death of a pensioner member (survivor pension underpin calculation)

- the member from Example 29 died as a pensioner on 19 December 2023
- the final guarantee amount added to the pension account is ignored when calculating the survivor pension.

No revaluation, pensions increase or actuarial adjustment applies to the provisional figures to find the adjusted assumed benefits and the adjusted underpin amount.

Adjusted assumed benefits: £9,423
Adjusted underpin amount: £8,771

The CARE pension is higher. No survivor guarantee amount is payable.

This example shows that the survivor pension underpin calculation is not affected by the actuarial adjustment made to the member's pension. The adjusted figures are the same whether the member voluntarily retired with reduced benefits or was made redundant and received unreduced benefits. The fact a member received a final guarantee amount when they took their pension does not mean that a survivor guarantee amount will be payable.

Example 41: death of an active member in the underpin period (Scotland) (survivor pension underpin calculation)

- active member died on 17 June 2021
- date of birth 10 December 1957
- CARE Scheme NPA 66 – 10 December 2023
- the member worked full time
- assumed pensionable pay £32,565
- final pay: £32,401.

Provisional assumed benefits: £3,170
Plus enhancement: (18 June 2021 to 31 March 2022) 287/365 days ÷ 49 × £32,565

= £523
Adjusted assumed benefits: £3,693

Provisional underpin amount: £3,355
Plus enhancement: 287/365 days ÷ 60 × £32,401 = £425
Adjusted underpin amount: £3,780

The final salary pension is higher. The survivor guarantee amount is £87. A proportion of this amount is added to any dependant's pension from 18 June 2021. For example, if pensions were paid to a surviving civil partner and a child:

- £33 is added to the survivor pension account (£87 × 60/160)
- £16 is added to the child's pension (£87 × 60/320).

Example 42: death of an active member, hours reduction (England and Wales) (survivor pension underpin calculation)

- active member died on 10 January 2024
- reduced hours from full time to 60% on 19 October 2020. The Scheme Manager's opinion is that the hours reduction was wholly or partly due to the condition that caused or contributed to the member's death
- final pay £31,875.

Provisional assumed benefits: £4,122
No revaluation or pensions increase adjustment applies. As the member died after the end of the underpin period, no enhancement is included.
Adjusted assumed benefits: £4,122

Provisional underpin amount: £3,941
No pensions increase applies and no enhancement is included. However, the reduction in working hours should be ignored. The adjusted assumed benefits are based on the hours worked before the hours reduction, in this case full time.
Adjusted underpin amount: £4,250 (8 ÷ 60 × £31,875).

The final salary pension is higher. The survivor guarantee amount is £128. A proportion of this amount is added to any dependant's pension from 11 January 2024. For example, if pensions were paid to a surviving spouse and three children:

- £39 is added to the survivor pension account (£128 × 49/160)
- £39 is added to the children's pension and shared equally between the three children (£128 × 49/160).

Example 43: death of a deferred member (Scotland) (survivor pension underpin calculation)

- leaving date 31 October 2019
- died as a deferred member 6 May 2023.

Provisional assumed benefits on 31 October 2019: £7,408
Revaluation / pensions increase multiplier: 1.1602
Adjusted assumed benefits: £8,595

Provisional underpin amount on 31 October 2019: £7,487
Pensions increase multiplier: 1.1489
Adjusted underpin amount: £8,602

The final salary pension is higher. The survivor guarantee amount is £7. A proportion of this is added to any dependant's pension from 7 May 2023. For example, if no partner pension was paid but there are four eligible children, £4 (£7 × 60/120) would be paid, split equally between the eligible children.

Example 44: death of a deferred member, previous year's pay (England and Wales) (survivor pension underpin calculation)

- leaving date 29 June 2021
- died as a deferred member 9 November 2024
- final pay based on average pay in the three years ending on 31 March 2012.

Provisional assumed benefits on 29 June 2021: £2,959
Revaluation / pensions increase multiplier: 1.2112
Adjusted assumed benefits: £3,584

Provisional underpin amount on 29 June 2021: £2,711
Pensions increase multiplier: 1.4007
Adjusted underpin amount: £3,797

The final salary pension is higher. The survivor guarantee amount is £213. A proportion of this is added to any dependant's pension from 10 November 2024. For example, if no partner's pension was paid, but there was one eligible child, £43 (£213 × 49/240) would be added to the child's pension.

Example 45: deferred member death grant (Scotland)

A death grant is also payable following the death of the member in example 43. Revaluation and pensions increase are added to the provisional figures to find the deferred assumed benefits and the deferred underpin amount. These are the same increases that applied to find the adjusted assumed benefits and the adjusted underpin amount and so the result is the same.

Provisional assumed benefits on 31 October 2019: £7,408
Revaluation / pensions increase multiplier: 1.1602
Deferred assumed benefits: £8,595

Provisional underpin amount on 31 October 2019: £7,487
Pensions increase multiplier: 1.1489
Deferred underpin amount: £8,602

The deferred guarantee amount is £7. This is included in the 'retirement pension' used to calculate the death grant.

Example 46: deferred pensioner member death grant (England and Wales)

- date of birth 1 November 1954
- CARE Scheme NPA 66
- tier 3 ill health retirement awarded 19 November 2017 – this is the underpin date
- tier 3 pension stopped at the 18 month review on 19 May 2019
- member died on 24 September 2022 (age 67).

Provisional assumed benefits on 19 November 2017: £714
Revaluation / pensions increase multiplier: 1.1114
Deferred assumed benefits: £794

Provisional underpin amount: £754
Pensions increase multiplier: 1.0925
Deferred underpin amount: £824

The member was over their CARE scheme NPA when they died. Actuarial increases for late retirement are not included in the death grant calculation.

The deferred guarantee amount is £30. This is included in the 'retirement pension' used to work out the death grant.

The final underpin calculations performed when the member took their pension are ignored when working out any deferred guarantee amount. However, any final guarantee amount paid is included when the death grant is reduced by the amount of pension already paid to the member.

Supplementary information

Relevant rules

- regulations 4O and 4P of the LGPS (Transitional Provisionals, Savings and Amendment) Regulation 2014
- regulations 34, 41, 42, 43, 44, 45, 47 and 48 of the LGPS Regulations 2013
- regulations 4M and 4P of the LGPS (Transitional Provisionals and Savings) (Scotland) Regulation 2014
- regulations 39, 40, 41, 42, 43, 45 and 46 of the LGPS (Scotland) Regulations 2018.

6. Other calculations impacted by underpin

Introduction

This section covers how the underpin changes affect other calculations and processes. It explains:

- how to calculate interfund adjustment payments and what information the sending authority should give to the receiving authority
- the impact for members who are transferring in from a different McCloud remedy scheme
- whether you include the underpin in annual allowance calculations
- how the underpin affects individual protection 2016 calculations
- how the underpin affects fixed protection 2016
- how the underpin affects calculations for divorce or civil partnership dissolution
- whether you can abate the final guarantee amount on re-employment.

Interfund adjustments

This section explains how you calculate the interfund adjustment for a CARE account that qualifies for underpin protection. It also tells you what information to give the receiving authority.

Calculating the interfund adjustment

Unless you are doing interfund adjustments for 10 or more members ie a bulk transfer, you must use the interfund GAD guidance to work out the transfer value payment. You must calculate the adjustment as an outgoing non-Club transfer.

England and Wales

The transfer GAD guidance was updated to reflect the underpin on 24 January 2024.

In accordance with the interfund addendum MHCLG published in January 2024, use the updated transfer GAD guidance to calculate interfund adjustment payments where the relevant date is on or after 25 March 2024. This means that, like non-Club transfers, you take the provisional underpin figures into account in the transfer value.

If the relevant date was before then, use the previous version of the guidance. For these cases, the sending authority will not have taken the underpin into account, and MHCLG has confirmed that these are not recalculated.

You can access the guidance and the interfund addendum on the [actuarial guidance](#) page of [www.lgpsregs.org](#).

Scotland

The transfer GAD guidance was updated to reflect the underpin on 5 March 2024.

In accordance with the interfund addendum SPPA published on 5 March 2024, use the updated transfer GAD guidance to calculate interfund adjustment payments where the relevant date is on or after 30 April 2024. This means that, like non-Club transfers, you take the provisional underpin figures into account in the transfer value.

If the relevant date was before then, use the previous version of the guidance. For these cases, the sending authority will not have taken the underpin into account, and SPPA has confirmed that these are not recalculated.

You can access the guidance and the interfund addendum on the [actuarial guidance](#) page of [www.scotlgpsregs.org](#).

Do you still take the provisional underpin figures into account if the member loses underpin protection on the aggregation?

Yes.

The interfund GAD guidance requires interfund adjustment payments to be calculated as non-Club transfer outs. The transfer GAD guidance requires the provisional underpin figures to be taken into account when calculating non-Club transfer values for CARE accounts that qualify for underpin protection. Neither guidance changes this outcome for members who have had a continuous break of over five years of active membership of any public service pension scheme between leaving and rejoining.

We understand that GAD, MHCLG and SPPA are content with the outcome for the following reasons:

- regardless of whether the provisional underpin figures are taken into account, there is no impact on what the member is awarded
- the outcome is simpler to administer (ie there is no need for the sending authority to confirm whether the member will retain underpin protection)

- though authorities may pay too much in these cases, they will also receive too much in similar incoming cases.

Information the sending administering authority should provide

The sending authority must decide if the CARE account being aggregated ('old account') qualifies for underpin protection and tell the receiving authority. Follow the steps in section 2 to work out if an account qualifies.

If the account qualifies, the sending authority must give the receiving authority enough information to work out the underpin for the new account accurately. We recommend doing this in all cases where the old account qualifies. The sending authority should send the following information for the old account, along with the usual interfund information:

For members who are under the final salary scheme normal retirement age at the start date of the new account (or, for concurrent aggregation cases, the end date of the old account):

- the dates of LGPS service that qualifies for underpin protection
- the transferred in service that qualifies for underpin protection (for example, the CARE transfer in credit, the notional 2008 Scheme (2009 Scheme) service credit, type of transfer in and service dates)
- the added pension to include in the provisional assumed benefits (the amount of added pension, dates of leave, date credited to the provisional assumed benefits and, if the member was in the 50/50 section during the leave, the notional added pension)
- the service history for the LGPS service qualifying for underpin protection (including part-time hours and service breaks)
- for Scotland cases, any certificate of protection applied to the deferred benefits (for example, the date of the relevant reduction / restriction)
- if the aggregation from the 'old account' to the 'new account' is a concurrent aggregation case, the whole-time annual rate of pay in the ceased employment as at the last day of that employment
- if underpin protection needs to be reassessed, details of the relevant past service (see section 2 for more details on reassessing underpin protection).

Note: the process above should be followed for all accounts that qualify – the process is not dependent on whether a provisional underpin addition is present on leaving.

For members who have reached the final salary scheme normal retirement age at the date the new account starts (or, for concurrent aggregation cases, the date the old account ends):

- the underpin date
- the provisional assumed benefits and provisional underpin amount
- if the member has rule of 85 protection and is a group 1 or 2 member (England and Wales) or a group 1 member (Scotland), the provisional amounts for each tranche
- the pension increase date for the pay used to work out the provisional underpin amount (that is, the day after the last day of the period used to calculate the final pay (or, in Scotland, for councillors, career average pay))
- if the provisional assumed benefits included an inner Club transfer in, information to help the receiving authority work out the final in-service revaluation for the provisional assumed benefits
- if underpin protection needs to be reassessed, details of the relevant past service (see section 2 for more details on reassessing underpin protection).

Where the relevant date is on or after 25 March 2024 (or 30 April 2024 for Scotland), the sending administering authority will need to have collected and validated the underpin information. It should not be necessary for the receiving authority to carry out further checks on this data. This is because the sending authority will have had to take the underpin into account when calculating the interfund adjustment. For example, to be able to calculate the interfund adjustment correctly, the sending authority will have had to:

- check if the old account qualifies for underpin protection (including, where necessary, reassessing the protection at the time of the interfund)
- make sure that transfers to the old account have been treated correctly (see information on transfers in below)
- get the relevant data on part-time hours and service breaks from the former employer and validate this (see McCloud data information in section 1)
- make sure that added pension and past aggregations (including interfunds) have been treated correctly in the old account
- if the member has reached the final salary scheme normal retirement age at the date the new account starts (or, for concurrent aggregation cases, the

date the old account ends), make sure the provisional assumed benefits and provisional underpin amount are correct.

If the sending authority has not been able to collect or validate the relevant part time hours / service break data, it must decide what service to use in the provisional underpin amount calculation (see McCloud data information in section 1). The sending authority must tell the receiving authority about the issue and how they have resolved it.

Sending authorities will need to revisit past interfund cases for CARE accounts that qualified for underpin protection. They will not need to revisit the amount paid, but they will need to revisit the information they sent to the receiving authority. When doing so, the sending authority should collect and validate the underpin information. The receiving authority should not need to undertake any further validation of the data.

Transfers in

This explains the impact for members who are transferring in from a different McCloud remedy scheme.

The tables below show what benefits the transfer buys and whether those benefits are included in underpin calculations. The outcomes are split out into different tranches based on:

- whether the transfer in is done under Club arrangements
- the type of benefit in the sending scheme
- whether the service is remediable service
- whether there has been a continuous break of more than five years in active membership of any public service pension scheme in the period beginning with the end of the transferred service and the start of the CARE account (for more information on this test – see step 4 in section 2).

If the service was transferred in from a McCloud remedy scheme (other than an LGPS scheme) and the member did not qualify for deferred benefits on leaving that scheme, the service cannot be remediable service.

The tables apply to transfers where you received the payment after 30 September 2023. If you received the payment before then and it includes payments for tranche 4 (non-Club) or tranche 3 (Club) (see below tables), you will need to revisit the transfer to make sure it matches the tables. This will involve asking the sending scheme for more information and, if needed, an extra transfer amount. For more information see section 7.

You calculate the transfer (including the notional service credit in the 2008 scheme (2009 Scheme in Scotland)) using the transfer GAD guidance. In England and Wales, the guidance was updated on 25 January 2024. In Scotland, it was updated on 5 March 2024. You can find the updated guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland). If the transfer is a Club transfer, you also follow the Club Memorandum, which has been updated and can be found on the ‘Other Government documents’ pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

If the transfer has more than one tranche, you calculate each tranche separately.

If the transfer will be included in underpin calculations, you need to calculate a notional service credit in the 2008 Scheme (2009 Scheme in Scotland). You use the service credit when you calculate the provisional underpin amount. You do not use it for anything else.

Where the member transfers in remediable service from a McCloud remedy scheme (other than the LGPS), the tables assume that the member has not made their deferred choice in that scheme. In the unlikely event that the member has, the transferred-in benefits should be based on their deferred choice.

Table 5 – Non-Club transfers in from a McCloud remedy scheme

Tranche	Type of benefits in sending scheme	Is the service remediable service?	Is there a 'continuous break in active membership of any public service scheme'?	Transfer in buys	Include in underpin calculations?
1	final salary	no	no	final salary service credit in the 2008 Scheme (2009 Scheme in Scotland)	do not include service credit in underpin calculations
2	final salary	no	yes	CARE credit in the 2014 Scheme (2015 Scheme in Scotland)	do not include the CARE credit in underpin calculations
3	CARE	no	yes and no	CARE credit in the 2014 Scheme (2015 Scheme in Scotland)	do not include the CARE credit in underpin calculations

Tranche	Type of benefits in sending scheme	Is the service remediable service?	Is there a ‘continuous break in active membership of any public service scheme’?	Transfer in buys	Include in underpin calculations?
4	Final salary or CARE	yes	no	CARE pension credit in the 2014 Scheme (2015 Scheme in Scotland) See technical query 13.	include the CARE pension credit in the provisional assumed benefits include the notional service credit in the 2008 Scheme (2009 Scheme in Scotland) in the provisional underpin amount
5	Final salary or CARE	yes	yes	CARE pension credit in the 2014 Scheme (2015 Scheme in Scotland)	do not include the CARE pension credit in underpin calculations there is no need to calculate and store a notional service credit.

Table 6 – Club transfers in from a McCloud remedy scheme

Tranche	Type of benefits in sending scheme	Is the service remediable service?	Transfer in buys	Include in underpin calculations?
1	final salary	no	an outer Club final salary service credit in the 2008 Scheme (2009 Scheme in Scotland)	do not include the service credit in the underpin calculations
2	CARE	no	Inner Club CARE credit in the 2014 Scheme (2015 Scheme in Scotland)	do not include the CARE credit in underpin calculations
3	final salary or CARE	yes	Inner Club CARE credit in the 2014 Scheme (2015 Scheme in Scotland)	include the inner Club credit in the provisional assumed benefits include the notional outer Club service credit in the 2008 Scheme (2009 Scheme for Scotland) in the provisional underpin amount

Annual allowance

This section sets out how to do annual allowance calculations on a CARE account with underpin protection.

Background

You use certain assumptions to work out the opening and closing values of the pension benefits for annual allowance. The closing value is based on the benefits the member would have got if they had retired at the end of the pension input period.

If the member became entitled to the benefits in that pension input period, you use the actual benefits instead for the closing value.

Annual allowance calculations for members with underpin protection

For CARE accounts with underpin protection, you do not include the underpin in the annual allowance calculations. This means that you ignore:

- any 'notional' final guarantee amount that would have been added to the account if the member had retired at the end of the pension input period
- for the pension input period when the member retired, any final guarantee amount added to the account.

If you included underpin additions in previous annual allowance calculations, you need to recalculate these ignoring the underpin (see section 7 for more details). We understand that administering authorities did not include 'notional' underpin additions, but they did include actual additions.

Individual protection 2016

This section explains how you calculate individual protection 2016 (IP 2016) figures for members with underpin protection.

Background

To apply for IP 2016, a member must calculate the value of their pension savings as at 5 April 2016. The value is the total of four amounts:

- Amount A - any pension that the member started to receive before 6 April 2006
- Amount B - any benefit crystallisation events (BCE) that occurred between 6 April 2006 and 5 April 2016

- Amount C - any uncrystallised benefits as at 5 April 2016
- Amount D - pension savings that the member has not yet taken from certain overseas pension schemes.

Members could ask pension schemes for information to help them work out these amounts. If the scheme received the request before 6 April 2020, it had to provide the information within three months.

If the member qualifies for IP 2016, their lifetime allowance (LTA) is the sum of amounts A, B, C and D (up to £1.25 million). This amount may go down if the member's benefits become subject to a pension debit after 5 April 2016.

IP 2016 information for a member who qualifies for underpin protection

When calculating amounts B and C, you must treat the 'new' underpin (as set out in this guide) as if it had applied at the relevant earlier date.

Amount B is for BCEs that occurred between 6 April 2006 and 5 April 2016. If the BCE is for a CARE account that qualifies for the new underpin (see section 2), for this purpose only, you need to recalculate the amount crystallised on the earlier BCE as if the new underpin had applied then. Any increase in benefits forms part of the original BCE. If you are revisiting past events for the underpin for any other purpose, you do not revisit the previous BCE calculation.

When calculating Amount C for CARE accounts that qualify for the new underpin, you calculate the amount at 5 April 2016 using the new underpin as if it had applied then.

If a member with remediable service makes a written request for IP 2016 information, you must give the information within three months of receiving the request. The 6 April 2020 deadline does not apply.

You should also revisit past IP 2016 calculations. If the amount changes, you should tell the member. The member would then need to contact HMRC to update their IP 2016 protection.

Fixed protection 2016

This explains how the underpin affects fixed protection 2016 (FP 2016).

Background

A member with FP 2016 loses it if a ‘protection-cessation event’ (PCE) happens after 5 April 2016. The protection is lost for benefit crystallisation events that happen on or after the PCE.

A member who successfully applied for FP 2016 before 15 March 2023 cannot have a PCE after 5 April 2023. But they may have lost FP 2016 when a PCE happened before 6 April 2023.

A PCE happens is if there is ‘benefit accrual’ for an arrangement under a registered pension scheme. Generally, for a defined benefit arrangement, there is benefit accrual if the member’s prospective benefits under the arrangement increase by more than the ‘relevant percentage’ (generally pensions increase) at any time after 5 April 2016.

A member who has a PCE must tell HMRC within 90 days of the first day they could reasonably have known the PCE happened.

Benefit accrual for a CARE account with underpin protection

If benefit accrual has happened only because of the underpin, this will not count as a PCE and the member will keep FP 2016. So, for benefit accrual purposes, do not include the underpin when calculating the prospective benefits.

This also applies to benefit accrual that happened before 1 October 2023. A member who lost FP 2016 only because of the underpin can apply to HMRC to reinstate it. For more details, the member should see the guidance on reinstating lifetime allowance protections due to McCloud. You should try and identify any affected members and update them accordingly.

Pension sharing

When performing valuations for pension sharing for CARE accounts that qualify for underpin protection, you must take into account the underpin.

MHCLG issued updated guidance for LGPS England and Wales: ‘Pension Sharing Following Divorce’, effective from 3 July 2024. The guidance sets out how you take the underpin into account in the valuation (SPPA will issue equivalent updated guidance in Scotland shortly). In summary:

- **Pensioner members**:

    - include any final guarantee amount payable in the member pension element
    - include the relevant proportion of any notional survivor guarantee amount in the survivor pension element that would be payable had the member died on the calculation date (see section 5 for more information on survivor guarantee amounts).

- **Active / deferred members**:
    - include the underpin in the same way as you would include it for non-Club transfer values (ie following paragraphs 4.5 to 4.15 of the transfer GAD guidance – 'the underpin bolt-on') for all cases
    - if the active / deferred member could have voluntarily retired with unreduced benefits for all or some of their benefits on the calculation date, use the pensioner cash equivalent valuation methodology for that part of the benefits using the notional member pension (assuming the member retired on the day before the calculation date) and the notional survivor pension (assuming the member died on the calculation date). When calculating these notional amounts, ignore any final guarantee amount or survivor guarantee amount that would be payable (the underpin is exclusively dealt with by the 'underpin bolt-on' calculation)
    - to perform the 'underpin bolt on' calculation, use the provisional assumed benefits and the provisional underpin amounts. Where the member is a deferred member or an active member who has attained the final salary scheme normal retirement age, you will already have calculated these. If the member is an active member under final salary scheme normal retirement age, you need to calculate notional amounts.

MHCLG also issued updated guidance on pension debits for LGPS England and Wales, effective from 3 July 2024. If the cash equivalent valuation was increased due to the underpin, the updated guidance sets out how to calculate pension debits in respect of underpin amounts. SPPA will issue equivalent updated guidance for LGPS Scotland shortly.

There was no need to update the GAD guidance on pension credits for the underpin.

The GAD guidance is available on the Actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

If a pension sharing order took effect between 1 April 2014 (1 April 2015 Scotland) and 30 September 2023 (inclusive), you must revisit those cases (see section 7).

Abatement

You can choose to abate pensions in payment for membership before April 2014 (2015 for Scotland) on re-employment. This is subject to certain conditions.

You cannot abate a CARE pension under the 2014 Scheme (2015 Scheme for Scotland). This includes any ‘final guarantee amount’, which is part of the CARE pension.

Supplementary information

Relevant rules

- regulations 3(13), 4I(1)(d), 4J(1)(d), 4R and 9 of the LGPS (Transitional Provisionals, Savings and Amendment) Regulation 2014
- regulation 101 of the LGPS Regulations 2013
- regulations 9 and 12 of the LGPS (Amendment) (No 3) Regulations 2023
- regulations 14, 38, 39 and 41 of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2014
- regulations 3(11), 4I(1)(d), 4J(1)(d), 4P and 9 of the LGPS (Transitional Provisionals and Savings) (Scotland) Regulation 2014
- regulations 9 and 12 of The LGPS (Remediable Service) (Scotland) Regulations 2023
- The Pensions on Divorce etc (Provision of Information) Regulations 2000
- Sections 29 and 31 of the Welfare Reform and Pensions Act 1999
- Club Memorandum
- Transfers, Divorce, pension credit and pension debit GAD guidance.

7. Revisiting past calculations

Introduction

This section details the past calculations that need revisiting for CARE accounts that qualify for underpin protection. This includes:

- retirement calculations where the final underpin date was before 1 October 2023
- trivial commutation payments (including small pot payments) where the calculation date was before 1 October 2023
- past transfer payments where the calculation date was before 1 October 2023
- death grants where the member died before 1 October 2023 as a deferred pensioner member (not relevant in Scotland), pensioner member or deferred member
- survivor pensions where the member died before 30 September 2023
- trivial commutation lump sum death benefits where the calculation date was before 1 October 2023.

The section also details other past cases that need revisiting, such as:

- cases with an underpin date before 1 October 2023
- aggregations
- transfers in from a McCloud remedy scheme which included payment for remediable service which was received before 1 October 2023
- annual allowance calculations for pension input periods 2014/15 (2015/16 for Scotland) to 2022/23 where the old underpin was included in the closing value.

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. SPPA issued equivalent guidance for LGPS Scotland, effective from 30 August 2024.

What happens for cases that need revisiting where the original calculation was not done before 1 October 2023?

The calculation must be done in two parts:

Part 1: calculate the benefits based on the LGPS rules as at 30 September 2023 (ie exclude the new underpin), applying the normal LGPS interest rules to those benefits where relevant. The information in this section below does not apply to this part.

Part 2: recalculate the part 1 benefits using the information in this section, applying the special interest rules to any extra benefits payable where relevant.

What happens for cases where some events occurred before 1 October 2023 and some on or after then?

For example, the member retired before 1 October 2023 and died after that date.

In this example, the annual pension must first be revisited using the rules set out in this section. If the original annual pension calculation was done after 30 September 2023, refer to the previous question.

Any death grant and survivor pension calculations are done using the rules set out in section 5 of this guide with the normal LGPS interest rules applying. The information in this section is not relevant.

Member payments

Annual pension

What cases to revisit

You must revisit CARE accounts which qualify for underpin protection if the final underpin date was before 1 October 2023 and one of the following scenarios applies:

- voluntary retirement
- payment at 75
- payment on redundancy / business efficiency
- ill health retirement from active
- early payment due to ill health
- flexible retirement.

This includes revisiting:

- CARE accounts that also qualified for the original underpin
- cases where the member has since died

- cases where the member subsequently trivially commuted the pension
- cases where the tier 3 ill health pension has subsequently ceased or been uplifted to tier 2 (not relevant in Scotland).

Flexible retirement cases

Usually, a CARE account has one final underpin date.

But for flexible retirement, there may be more than one final underpin date. This happens if:

- the member took partial flexible retirement, and / or
- the member took flexible retirement during the underpin period and built up further benefits in that period.

For each final underpin date before 1 October 2023, you should follow this section in chronological order. This section is not relevant for any final underpin date on or after 1 October 2023.

Tier 3 ill health pensions (England and Wales only)

If the member took tier 3 ill health retirement before 1 October 2023, you must revisit the original tier 3 calculation.

You must also revisit the following calculations:

- the calculations done when a suspended tier 3 ill health pension was put back into payment if the final underpin date for the resumption of payment was before 1 October 2023, and
- the calculations done on uplifting a tier 3 ill health pension to a tier 2 ill health pension if the former employer decided to uplift it before 1 October 2023.

If the final underpin date for the tier 3 ill health retirement was before 1 October 2023, but the final underpin date for the resumption of the suspended tier 3 ill health pension or the date the former employer decided to uplift to tier 2 was after 30 September 2023, this section is only relevant for the calculations done at the original tier 3 ill health retirement.

For example, the final underpin date was on 1 June 2019. The pension was suspended on 31 May 2022 and the member elected to bring it back into payment from 1 April 2024. You will revisit the calculations done for the original tier 3 retirement from 1 June 2019 using this section (including the special interest rules set out below). However, this section does not apply for the calculations done on 1 April 2024 - the special interest rules set out below don't apply.

How do you do the recalculation?

You apply underpin protection to the CARE account as if the underpin changes had taken effect from 1 April 2014 (2015 in Scotland) and the old underpin had never applied.

To do this, calculate the provisional underpin amounts at the underpin date (see section 3). Before you do so, you may need to do other recalculations, such as:

- transfers in (see below section on transfers in)
- past aggregation cases to make sure that you have all the required information (see below sections on aggregation).

You then do the final underpin calculations at the final underpin date (see section 4).

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. This sets out how to calculate actuarial adjustments, including what version of the factors to use. SPPA issued equivalent guidance for LGPS Scotland, effective from 30 August 2024. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (LGPS Scotland).

Usually, the final underpin amount will be less than the final assumed benefits and you do not change the member's annual pension.

If the final underpin amount is more than the final assumed benefits, you recalculate and amend the member's annual pension, adding the final guarantee amount to the relevant pension account on the day after the final underpin date (see section 4).

If you need to change the annual pension and it is still being paid, you correct the rate of the annual pension payable and pay arrears. If the pension has stopped, you pay the arrears for the period from the day after the final underpin date to the earliest of:

- the date of death
- date of trivial commutation, or
- date the tier 3 ill health pension ceased (not relevant in Scotland).

If the account originally had an addition for the old underpin, you treat the old underpin as if it never applied. You treat any payments made for the old underpin as if they were for the final guarantee amount. The arrears are the difference between what should have been paid and what was actually paid (gross pay). If the old underpin addition was reduced for commutation, you deduct the amount of the commuted underpin from the final guarantee amount.

You must correct the pension (if applicable) and pay the arrears without undue delay. If the member died before 1 October 2023, you must pay the arrears to their personal representatives.

You do not recalculate the amount crystallised on the original benefit crystallisation event (BCE) for the purposes of the lifetime allowance. If the member can and does commute some extra pension for lump sum, payment of the lump sum will be an RBCE.

Can the member commute some of the extra pension for lump sum?

If the pension is still payable, the member can elect to commute some of the extra pension for tax free lump sum (12:1). The lump sum is classified as a 'pension commencement lump sum'.

The relevant benefit crystallisation event (RBCE) for the lump sum is the date the member becomes actually entitled to the extra pension. This will be a current date and will be later than the original BCE for the pension account.

The lump sum must not be more than the normal HMRC limits. You use the lump sum amount and the rate of the extra pension as at the RBCE to check the limits.

The extra lump sum will use up some of the member's lump sum allowance and death benefit and lump sum allowance. See our guide on the Abolition of the LTA for more information. You can access this on the Administrator guides and documents pages of www.lgpsregs.org. and www.scotlgpsregs.org.

If the pension is still payable and it relates to a pension account for a suspended tier 3 pension (not relevant in Scotland) that was brought back into payment, the member cannot elect to commute.

What are the interest rules?

Arrears of pension

Special interest rules apply to the pension arrears as set out here. The normal LGPS interest rules do not apply.

You pay the interest to the member. If the member has died, you pay the interest to the personal representatives instead.

The arrears cover the extra pension due until you correct the account or until it stopped, whichever is sooner. This could include some arrears after 30 September 2023.

You calculate simple interest on the total arrears from the 'relevant date' to the date you pay them. Do not calculate the interest for each instalment of extra pension separately.

For the interest rate:

- LGPS England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- LGPS Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they change again, and you have to use two rates to calculate the interest, you may apply such median or average of those rates as seems appropriate to you in the interests of simplicity.

The 'relevant date' is the date that falls halfway through the period beginning with the day after the final underpin date and ending with the date you pay the arrears. If there is no day that falls halfway through the period, use the first day of the second half of the period.

For example, if the final underpin date was 31 March 2019 and you pay the arrears on 31 January 2025, the relevant date would be 2 March 2022. This is because there are 2,133 days from 1 April 2019 to 31 January 2025, and 2 March 2022 falls halfway through this (1 April 2019 to 1 March 2022 = 1066 days, 3 March 2022 to 31 January 2025 = 1066 days).

If the final underpin date was 30 March 2019, the relevant date would still be 2 March 2022. This is because there are 2,134 days from 31 March 2019 to 31 January 2025 and there is no date that falls halfway through this. 2 March 2022 is the first day of the second half of the period (31 March 2019 to 1 March 2022 = 1,067 days, and 2 March 2022 to 31 January 2025 = 1,067 days).

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on 'McCloud remedy' section). GAD will publish an equivalent version for LGPS Scotland shortly.

HMRC has published member guidance for tax on interest. The guidance was included as an Appendix to the September 2024 Public service pensions remedy newsletter. HMRC will publish the guidance on www.gov.uk shortly. You may wish to signpost people receiving interest to the guidance.

Extra lump sum

Special interest rules also apply to any extra tax-free lump sum for LGPS England and Wales cases.

You calculate simple interest on this amount from the 'relevant date' to the date you pay it.

For the interest rate, use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year).

This rate last changed before April 2014. If it does change, and you have to use two rates to calculate the interest, you may apply such median or average of those rates as seems appropriate to you in the interests of simplicity.

The 'relevant date' is the earliest day you could have paid the lump sum. In our view, this will be the relevant benefit crystallisation event (RBCE) for the extra lump sum.

You must pay interest on the lump sum, even if you pay it within 1 month of the RBCE.

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on 'McCloud remedy tab').

The regulations for LGPS Scotland are silent on how to calculate interest on the extra lump sum. SPPA is currently consulting on regulation changes to align with the rules for England and Wales as set out above. The consultation closes on 28 October 2024. The consultation documents are available on the Scheme consultations page of www.scotlgpsregs.org.

Are there special tax rules for the interest?

Interest on arrears of pension / extra lump sum

Treat this in the normal way you treat interest on late payment of pension instalments / late payment of lump sums.

This means that you classify the interest as a 'scheme administration member payment' (SAMP).

Note that interest qualifies as a SAMP only if it is no more than a reasonable commercial rate of interest. In this context, the 8 per cent interest rate raised questions about its eligibility as a SAMP. However, HMRC confirmed in Newsletter 159 that it will qualify in its entirety "due to the specific circumstances of the public service pensions remedy."

HMRC has published member guidance for tax on interest. The guidance was included as an Appendix to the September 2024 Public service pensions remedy newsletter. HMRC will publish the guidance on www.gov.uk shortly. You may wish to signpost people receiving interest to the guidance.

Are there special tax rules for the arrears?

If the pension is still payable and you pay the arrears to the member, use the normal rules on arrears. See PTM142000 for more information.

If the member has died, regulation 23 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 sets special rules on the arrears. The arrears are an authorised payment. You tax them as pension income accruing in the tax year you pay them.

Commutation payments

What cases to revisit

You must revisit previous trivial commutation payments (including small pot payments) for CARE accounts that qualify for underpin protection. This applies where the date you used to calculate the commutation lump sum is before 1 October 2023.

This also includes CARE accounts that qualified for the original underpin.

How do you do the recalculation?

If the member commuted crystallised benefits, before you can do the recalculation, you first need to revisit the member pension (see previous section on revisiting member pensions).

If the member commuted uncrystallised benefits, before you can do the recalculation, you will need to calculate:

- the provisional underpin amounts at the underpin date (see section 3). Before you do so, you may need to do other recalculations, such as: transfers in (see below section on transfers in) and past aggregation cases to make sure that you have all the required information (see below section on aggregation), then
- the notional final underpin amounts (see section 4).

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. The guidance sets out how to recalculate the commutation payment, including what factors to use. SPPA issued equivalent guidance for LGPS Scotland, effective from 30 August 2024. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (LGPS Scotland).

If the recalculated payment exceeds the original payment, you must pay a top-up payment to the member (or their personal representatives if deceased) without undue delay.

What are the interest rules?

Special interest rules apply to the top-up payment.

You calculate simple interest that accrues daily from the 'relevant date' to the date you pay it.

For the interest rate:

- England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they change again and you need to use two rates, you may apply such median or average of those rates as seems appropriate to you in the interests of simplicity.

For LGPS England and Wales, the 'relevant date' is the day on which you paid the original commutation payment.

In Scotland, the ‘relevant date’ does not align with that in England and Wales. The current wording of regulations in Scotland says that the ‘relevant date’ is the date that falls halfway through the period beginning with the day on which you paid the original commutation payment and ending with the date you pay the top-up payment / interest. If there is no day that falls halfway through the period, use the first day of the second half of the period. However, SPPA is currently consulting on regulations changes to align with the rules for England and Wales. The consultation closes on 28 October 2024. The consultation documents are available on the Scheme consultations page of www.scotlgpsregs.org.

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on ‘McCloud remedy’ section). GAD will publish an equivalent version for LGPS Scotland shortly.

Are there special tax rules for the interest?

Treat this in the normal way you treat interest on late payment of trivial commutation lump sums.

This means that you classify the interest as a ‘scheme administration member payment’ (SAMP).

Note that interest qualifies as a SAMP only if it is no more than a reasonable commercial rate of interest. In this context, the 8 per cent interest rate raised questions about its eligibility as a SAMP. However, HMRC confirmed in Newsletter 159 that it will qualify in its entirety “due to the specific circumstances of the public service pensions remedy.”

HMRC has published member guidance for tax on interest. The guidance was included as an Appendix to the September 2024 Public service pensions remedy newsletter. HMRC will publish the guidance on www.gov.uk shortly. You may wish to signpost people receiving interest to the guidance.

Are there special tax rules for the top-up payment?

Small pot payments

This applies where the original payment was classified as a small pot payment and was paid before 1 October 2023.

The top-up payment does not make the original payment unauthorised. It continues to be authorised as a small pot payment.

You classify and tax the top-up payment as a new small pot payment, if it meets the conditions in either regulation 11 or 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (or, where the member has died, would have met those conditions if you had paid it to the member while they were alive).

HMRC has confirmed to us that the top-up payment always relates to 'uncrystallised rights'. This is because the member's only right in respect of the underpin is to the top-up payment. This means that 25 per cent of the top-up payment is tax-free. This seems fair as the member is unable to commute any of the underpin (or extra underpin) for a pension commencement lump sum.

If arrears of member pension are also due, you should pay the arrears before you pay the top-up payment.

Trivial commutation lump sum

This applies where the original payment was classified as a 'trivial commutation lump sum' under the Finance Act 2004 and was paid before 1 October 2023.

The top-up payment does not make the original payment unauthorised. It continues to be authorised as a trivial commutation lump sum.

You classify and tax the top-up payment as a new trivial commutation lump sum provided:

- the top-up payment does not exceed £10,000 or
- if the top-up payment does exceed £10,000, the aggregate of the top-up payment and the value of the member's rights on the nominated date (for the original payment) does not exceed £30,000, and
- on paying the top-up payment:
    - it extinguishes all rights to non-AVC benefits in the LGPS (England or Wales) or, as the case may be, LGPS (Scotland), excluding survivor benefits,
    - the member has all or part of their lump sum allowance available, and
    - the member has attained the normal minimum pension age (currently 55) or the ill health condition (as defined in paragraph 1 of schedule 28 to the Finance Act 2004) is met.

HMRC has confirmed to us that the top-up payment always relates to 'uncrystallised rights'. This is because the member's only right in respect of the underpin is to the top-up payment. This means that 25 per cent of the top-up payment is tax-free. This seems fair as the member is unable to commute any of the underpin (or extra underpin) for a pension commencement lump sum.

If arrears of member pension are also due, you should pay the arrears before you pay the top-up payment.

Transfer out payments

What cases to revisit

You must revisit past transfer payments to different pension schemes for CARE accounts that qualify for underpin protection. This applies where:

- **for bulk transfers**, both the date used to calculate the payment and the payment date were before 1 October 2023
- **for transfers (non-Club and Club)**, the date used to calculate the payment was before 1 October 2023, regardless of whether the payment was also made before then.

How do you do the recalculation?

Calculate the provisional amounts at the underpin date (see section 3). Before this, you may need to perform additional recalculations, which include:

- transfers in: see below section on transfers in
- past aggregation cases: ensure you have all the required information and have correctly recorded the past service (see below section on aggregation).

Non-Club transfers

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. The guidance sets out how to do the recalculation, including what version of the factors to use. SPPA issued equivalent guidance for LGPS Scotland, effective from 30 August 2024. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (LGPS Scotland).

If the recalculated transfer exceeds the original transfer, you must take reasonable steps to pay the difference (‘top-up transfer payment’) to the scheme that received the original transfer.

Club transfers

You recalculate the transfer using the current version of the Club Memorandum, which has been updated for the McCloud remedy. Specific guidance can be found in:

- paragraph 4.41: for transfers to other McCloud remedy schemes
- paragraph 6.10: for transfers to Channel Island schemes
- paragraph 7.24d: for transfers to schemes that do not participate in the inner Club.

The Memorandum is available on the 'Other Government documents' pages of www.lgpsregs.org and www.scotlgpsregs.org.

You should also read the Transfer GAD guidance. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org and www.scotlgpsregs.org.

If the recalculated transfer exceeds the original transfer, you must take reasonable steps to pay the difference ('top-up transfer payment') to the scheme that received the original transfer.

If the guarantee date was before 1 October 2023 and you paid the transfer on or after then, you should have recalculated the transfer in accordance with the latest version of the Club Memorandum before you paid the original payment. Therefore, you should have paid the original transfer and the top-up payment at the same time.

Whether or not you are required to pay a top-up transfer payment, you will need to provide additional information. See sections 4.7b and 4.7c of the Club Memorandum.

Bulk transfers

An actuary you appointed and an actuary appointed by the other scheme must seek to agree whether you should make an additional payment to reflect the members' underpin rights.

If an additional payment should be made, you should make it without undue delay to the other scheme for the benefit of the relevant members.

What are the interest rules?

Non-Club transfers

When a top-up transfer payment is payable, special interest rules apply. You must take reasonable steps to pay the interest to the scheme that received the original transfer. You calculate simple interest that accrues daily from the ‘relevant date’ to the date you pay it.

For the interest rate:

- England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they change again and you need to use two rates, you may, if you consider it appropriate in the interests of simplicity, apply such median or average of those rates as seems to you appropriate.

In England and Wales, the ‘relevant date’ is the day on which you paid the original transfer.

In Scotland, the ‘relevant date’ does not align with that in England and Wales. The current wording of regulations in Scotland says that the ‘relevant date’ is the date that falls halfway through the period beginning with the day on which you paid the original transfer and ending with the date you pay the top-up transfer payment / interest. If there is no day that falls halfway through the period, use the first day of the second half of the period. However, SPPA is currently consulting on regulation changes to align with the rules for England and Wales. The consultation closes on 28 October 2024. The consultation documents are available on the Scheme consultations page of www.scotlgpsregs.org.

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on ‘McCloud remedy’ section). GAD will publish an equivalent version for LGPS Scotland shortly.

Club transfers to McCloud remedy schemes

If the guarantee date was before 1 October 2023 and you also paid the original transfer before then, you pay the top-up payment separately. You calculate the top-up payment using the guarantee date for the original transfer. You do not add interest to the top-up payment. This means that the receiving scheme will not be compensated for the late payment of the top-up. This is on a ‘knock for knock’ basis, as the LGPS will not be compensated on Club transfers in.

If the guarantee date was before 1 October 2023 and you paid the original transfer on or after then, you should have paid the original transfer and the top-up payment at the same time. Normal Club rules on late payment apply to the whole transfer – ie recalculate at payment date if not paid within six months of the guarantee date. Interest should not be added.

Note that regulation 14 of the LGPS (Amendment) (No 3) Regulations 2023 (the LGPS (Remediable Service) (Scotland) Regulations 2023) says that special interest rules apply to the top-up payment for these Club transfers. This is inconsistent with the wording of the Club Memorandum. MHCLG / SPPA has confirmed in paragraph 65 of the 'McCloud implementation statutory guidance' that they will amend the LGPS regulations to align with the Club Memorandum.

Club transfers to non-McCloud remedy schemes

If the guarantee date was before 1 October 2023 and you also paid the original transfer before then, you will pay the top-up payment separately. You calculate the top-up payment using the guarantee date for the original transfer. You must also pay interest on the top-up payment.

If the guarantee date was before 1 October 2023 and you paid the original transfer on or after then, you should have paid the original transfer and the top-up payment at the same time. Normal Club rules on late payment apply to the whole transfer – ie recalculate at payment date if not paid within six months of the guarantee date. Interest should not be added.

If interest is payable, you must take reasonable steps to pay the interest to the scheme that received the original transfer.

You calculate simple interest that accrues daily from the 'relevant date' to the date you pay it.

For the interest rate:

- England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they change again and you need to use two rates, you may, if you consider it appropriate in the interests of simplicity, apply such median or average of those rates as seems to you appropriate.

For LGPS England and Wales, the 'relevant date' is the day on which you paid the original transfer.

In Scotland, the ‘relevant date’ does not align with that in England and Wales. The current wording of regulations in Scotland says that the ‘relevant date’ is the date that falls halfway through the period beginning with the day on which you paid the original transfer and ending with the date you pay the top-up transfer payment and interest. If there is no day that falls halfway through the period, use the first day of the second half of the period. However, SPPA is currently consulting on regulation changes to align with the rules for England and Wales. The consultation closes on 28 October 2024. The consultation documents are available on the Scheme consultations page of www.scotlgpsregs.org.

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on ‘McCloud remedy’ section). GAD will publish an equivalent version for LGPS Scotland shortly.

Bulk transfers

The regulations make no provision for interest if an additional payment should be made.

Other considerations

The red / amber flag rules under the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 do not apply to paying top-up transfer payments. Nonetheless, you should take reasonable due diligence to ensure that any top-up transfer payment is a ‘recognised transfer’ under the Finance Act 2004 and the receiving arrangement is not operating pension scams.

MHCLG / SPPA has also published guidance on revisiting transfers in the ‘McCloud implementation statutory guidance’ (see section 7 of that guidance). This includes:

- guidance on what to do if you are unable to pay the top-up transfer payment to the receiving scheme or where the member is in a worse position than they would have been had the original transfer taken into account the underpin
- information on whether the top-up payment counts towards the £30,000 advice threshold.

Death grants

What cases to revisit

You must revisit past death grants for CARE accounts that qualify for underpin protection if the member died before 1 October 2023:

- as a deferred member
- as a deferred pensioner member (not relevant in Scotland)
- as a pensioner member.

If the member also had an active member CARE account at death and only one death grant was payable under the CARE scheme, do not recalculate the death grant for the deferred / deferred pensioner / pensioner account if the original death grant was equal to three times assumed pensionable pay.

See technical query 9 if the member died before 1 October 2023 and you calculated the original death grant on or after then.

How do you do the recalculation?

Pensioner members

First, revisit the member pension (see previous section on revisiting member pensions).

If the member was entitled to a final guarantee amount, recalculate the death grant. When doing so:

- include the final guarantee amount when calculating the annual pension you multiply by 10
- exclude any additions in that annual pension for the old underpin
- include the arrears paid for the final guarantee amount when deducting the pension paid to the member.

If the recalculated death grant exceeds the original death grant, pay a top-up death grant to the recipient of the original death grant without undue delay. If there were multiple recipients, pay the top-up death grant in the same proportions as the original death grant.

If the recipient has died, section 10 of the McCloud implementation statutory guidance confirms that you should pay the top-up death grant to the recipient's personal representatives. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

If interest was paid on the original death grant, in line with the Technical Group's recommendation in 2011, you will have classified the interest as being part of the original death grant for the purposes of the Finance Act 2004. When comparing the original death grant to the recalculated death grant, ignore the interest.

Deferred members

First calculate the provisional amounts at the underpin date (see section 3). Prior to this, you may need to do additional recalculations for:

- transfers in: see below section on transfers in
- past aggregation cases: ensure you have all necessary information and have correctly recorded the past service (see below section on aggregation).

Next, calculate whether a deferred guarantee amount is payable (see death grant – section 5). If so, recalculate the death grant to include the deferred guarantee amount.

If the recalculated death grant exceeds the original death grant, pay a top-up death grant to the recipient of the original death grant without undue delay. If there were multiple recipients, pay the top-up death grant in the same proportions as the original death grant.

If the recipient has died, section 10 of the McCloud implementation statutory guidance confirms that you should pay the top-up death grant to the recipient's personal representatives. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

If interest was paid on the original death grant, in line with the Technical Group's recommendation in 2011, you will have classified the interest as part of the original death grant for the purposes of the Finance Act 2004. When comparing the original death grant to the recalculated death grant, ignore interest.

Deferred pensioner members (not relevant in Scotland)

You first need to revisit the member pension (see previous section on revisiting member pensions).

Next, calculate whether a deferred guarantee amount is payable (see death grant – section 5). If so, recalculate the death grant. When doing so:

- include the deferred guarantee amount when calculating the annual pension you multiply by 5
- exclude any additions in that annual pension for the old underpin

- include the arrears paid for the final guarantee amount when deducting the pension paid to the member.

If this exceeds the original death grant, pay a top-up death grant to the recipient of the original death grant without undue delay. If there were multiple recipients, pay the top-up death grant in the same proportions as the original death grant.

If the recipient has died, section 10 of the McCloud implementation statutory guidance confirms that you should pay the top-up death grant to the recipient's personal representatives. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

If interest was paid on the original death grant, in line with the Technical Group's recommendation in 2011, you will have classified the interest as being part of the original death grant for the purposes of the Finance Act 2004. When comparing the original death grant to the recalculated death grant, ignore interest.

What are the interest rules?

Special interest rules apply to the top-up death grant.

You calculate simple interest that accrues daily from the 'relevant date' to the date you pay it.

For the interest rate:

- England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they change again and you need to use two rates, you may, if you consider it appropriate in the interests of simplicity, apply such median or average of those rates as seems to you appropriate.

For LGPS England and Wales, the 'relevant date' is the day on which you paid the original death grant.

In Scotland, the 'relevant date' does not align with that in England and Wales. The current wording of regulations in Scotland says that the 'relevant date' is the date that falls halfway through the period beginning with the day on which you paid the original death grant and ending with the date you pay the top-up payment / interest. If there is no day that falls halfway through the period, use the first day of the second half of the period. However, SPPA is currently consulting on regulation changes to align with the rules for England and Wales. The consultation closes on 28 October 2024. The consultation documents are available on the Scheme consultations page of www.scotlgpsregs.org.

For the purposes of the Finance Act 2004, include the interest as part of the top-up death grant. This means that you tax the interest in the same way as the top-up death grant.

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance pages of www.lgpsregs.org (click on 'McCloud remedy' section). GAD will publish an equivalent version for LGPS Scotland shortly.

Are there special tax rules?

The top-up death grant is classified as a new 'defined benefit lump sum death benefit' for the purposes of the Finance Act 2004.

Whether the top-up death grant is taxable will depend on whether it is paid within the 'relevant two-year period'. This period begins on the earlier of:

- the day on which the administering authority first knew of the death; and
- the day on which the administering authority could first reasonably be expected to have known of it.

If you paid the original death grant within the relevant two-year period, you also treat the top-up death grant as meeting this condition.

This outcome was delivered by regulation 31 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023. However, because of changes made when abolishing the lifetime allowance from 6 April 2024, regulation 31 no longer delivers the policy intent. HMRC will amend regulation 31 accordingly.

We have raised a query with HMRC as to whether paragraph 131 of schedule 9 to the Finance Act 2024 can apply to top-up death grants and if so in what circumstances. Paragraph 131 provides that death grants that are paid in respect of rights that crystallised before 6 April 2024 do not use up the deceased member's lump sum and death benefit allowance.

Survivor payments

Survivor pensions

What cases to revisit

You must revisit survivor pensions linked to CARE accounts that qualify for underpin protection if the member died before 30 September 2023. This includes:

- pensions for surviving partners and eligible children
- survivor pensions that are no longer payable (for example, because the survivor trivially commuted it, died or ceased to be an eligible child).

See technical query 10 if the member died on 30 September 2023.

How do you do the recalculation?

If you have not already done so, calculate the provisional amounts at the underpin date (see section 3). Before this, you may need to do additional recalculations for:

- transfers in: see below section on transfers in
- past aggregation cases: ensure you have all necessary information and have correctly recorded the past service (see below section on aggregation).

Then, calculate whether a survivor guarantee amount is payable (see section 5). If it is, recalculate the survivor pension adding the relevant proportion of the survivor guarantee amount to the survivor member CARE account on the day following the date of death.

If the survivor account originally had an addition for the old underpin, disregard the old underpin. Treat any payments made for the old underpin as if they were for the survivor guarantee amount. Arrears should be calculated as the difference between what should have been paid and what was actually paid (gross pay).

If the survivor pension needs to be adjusted and remains payable, correct the rate payable and pay arrears. If it is no longer payable, only pay arrears. You need to do this without undue delay.

If the recipient has died, section 10 of the McCloud implementation statutory guidance confirms that you should pay the survivor pension arrears to the recipient's personal representatives. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

What are the interest rules?

Special interest rules apply to the arrears as set out here. The normal LGPS interest rules do not apply. You pay the interest to the survivor.

The arrears cover the extra pension due until you correct the account or it stopped, whichever is sooner. This could include some arrears after 30 September 2023.

You calculate simple interest on the total arrears from the ‘relevant date’ to the date you pay them. Do not calculate the interest for each instalment of extra pension separately.

For the interest rate:

- LGPS England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- LGPS Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they subsequently change, and you have to use two rates to calculate the interest, you may, if you consider it appropriate in the interests of simplicity, apply such median or average of those rates as seems to you appropriate.

The ‘relevant date’ is the date that falls halfway through the period beginning with the day after the date of death and ending with the date you pay the arrears. If there is no day that falls halfway through the period, use the first day of the second half of the period.

For example, if the date of death was 31 March 2019 and you pay the arrears on 31 January 2025, the relevant date would be 2 March 2022. This is because there are 2,133 days from 1 April 2019 to 31 January 2025, and 2 March 2022 falls halfway through this (1 April 2019 to 1 March 2022 = 1066 days, 3 March 2022 to 31 January 2025 = 1066 days).

If the date of death was instead 30 March 2019, the relevant date would still be 2 March 2022. This is because there are 2,134 days from 31 March 2019 to 31 January 2025 and there is no date that falls halfway through this. 2 March 2022 is the first day of the second half of the period (31 March 2019 to 1 March 2022 = 1,067 days, and 2 March 2022 to 31 January 2025 = 1,067 days).

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on 'McCloud remedy tab'). GAD will publish an equivalent version for LGPS Scotland shortly.

Are there special tax rules for the interest?

Treat this in the normal way you treat interest on late payment of pension instalments.

This means that you classify the interest as a 'scheme administration member payment' (SAMP).

Note that interest qualifies as a SAMP only if it is no more than a reasonable commercial rate of interest. In this context, the 8 per cent interest rate raised questions about its eligibility as a SAMP. However, HMRC confirmed in Newsletter 159 that it will qualify in its entirety "due to the specific circumstances of the public service pensions remedy."

HMRC has published member guidance for tax on interest. The guidance was included as an Appendix to the September 2024 Public service pensions remedy newsletter. HMRC will publish the guidance on www.gov.uk shortly. You may wish to signpost people receiving interest to the guidance.

Are there special tax rules for the arrears?

Survivor partners

If the partner is still alive, classify and tax the arrears in the same way as normal.

If the partner is deceased, regulation 11 of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No.2) Regulations 2023 provides that the arrears:

- are an authorised payment
- are treated as pension income
- for tax purposes, are treated as accruing in the tax year they are paid.

Eligible children

If the person is still alive and meets any of the following conditions when you pay the arrears, classify and tax the arrears in the same way as normal.

The person is

- under age 23, or

- 23 or above and, in the opinion of the administering authority, was at the date of the member's death, dependent on the member because of physical or mental impairment.

If the person is deceased, regulation 11 of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No.2) Regulations 2023 provides that the arrears:

- are an authorised payment
- are treated as pension income
- for tax purposes, are treated as accruing in the tax year they are paid.

If the person is alive but does not meet any of the conditions set out in the list under the first paragraph when you pay the arrears, regulation 11 of The Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No.2) Regulations 2023 provides that the arrears:

- are an authorised payment
- are treated as pension income
- for tax purposes, are treated as accruing in the tax year they should have been paid.

Commutation lump sum death payments

What cases to revisit

You must revisit previous trivial commutation lump sum death benefits paid to survivors (including eligible children) in respect of members whose CARE accounts qualified for underpin protection. This applies where the date you used to calculate the commutation lump sum was before 1 October 2023.

How do you do the recalculation?

If you have not already done so, recalculate the relevant survivor pension. See above section on survivor pensions.

If a survivor guarantee amount is to be included in the survivor pension, recalculate the original commutation payment using GAD guidance.

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. The guidance sets out how to recalculate the commutation payment, including what version of factors to use. SPPA issued equivalent guidance for LGPS Scotland, effective from 30

August 2024. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (LGPS Scotland).

If the recalculated payment exceeds the original payment, you pay a top-up payment to the survivor (or their personal representatives if deceased) without undue delay.

If the survivor is also due arrears of survivor pension and / or a top-up death grant in respect of the deceased member, pay those payments before you pay the top-up payment.

What are the interest rules?

Special interest rules apply to the top-up payment as set out here. The normal LGPS interest rules do not apply.

You pay the interest to the survivor.

You calculate simple interest that accrues daily from the ‘relevant date’ to the date you pay it.

For the interest rate:

- England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they subsequently change, and you have to use two rates to calculate the interest, you may, if you consider it appropriate in the interests of simplicity, apply such median or average of those rates as seems to you appropriate.

For LGPS England and Wales, the ‘relevant date’ is the day on which you paid the original commutation lump sum.

In Scotland, the ‘relevant date’ does not align with that in England and Wales. The current wording of regulations in Scotland says that the ‘relevant date’ is the date that falls halfway through the period beginning with the day on which you paid the original commutation lump sum and ending with the date you pay the top-up payment / interest. If there is no day that falls halfway through the period, use the first day of the second half of the period. However, SPPA is currently consulting on regulation changes to align with the rules for England and Wales. The consultation closes on 28 October 2024. The consultation documents are available on the Scheme consultations page of www.scotlgpsregs.org.

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on 'McCloud remedy' section). GAD will publish an equivalent version for LGPS Scotland shortly.

Are there special tax rules for the interest?

Treat this in the normal way you treat interest on late payment of commutation payments.

This means that you classify the interest as a 'scheme administration member payment' (SAMP).

Note that interest qualifies as a SAMP only if it is no more than a reasonable commercial rate of interest. In this context, the 8 per cent interest rate raised questions about its eligibility as a SAMP. However, HMRC confirmed in Newsletter 159 that it will qualify in its entirety "due to the specific circumstances of the public service pensions remedy."

HMRC has published member guidance for tax on interest. The guidance was included as an Appendix to the September 2024 Public service pensions remedy newsletter. HMRC will publish the guidance on www.gov.uk shortly. You may wish to signpost people receiving interest to the guidance.

Are there special tax rules for the top-up payment?

Providing the top-up payment does not exceed £30,000 and the survivor is alive, you classify the payment for tax purposes as a 'trivial commutation lump sum death benefit'. The payment is taxable in the year in which you pay the top-up payment.

If the survivor is deceased, the tax regulations do not make explicit provision authorising the top-up payment paid to the personal representatives. HMRC will consider making a change to allow such top-up payments to be authorised benefits as part of future tax regulations.

Other recalculations

Provisional underpin calculations – underpin date before 1 October 2023

For CARE accounts that qualify for underpin protection with an underpin date before 1 October 2023, you need to calculate provisional underpin amounts. See section 3 for details on calculating provisional amounts.

This also applies where a member took flexible retirement during the underpin period and they remained in the Scheme and built up a second set of provisional amounts in respect of which the underpin date occurred before 1 October 2023.

If the final underpin date or death occurred before 1 October 2023, you will need to calculate the provisional amounts before you can do the recalculations under this section.

If the final underpin date or death occurs after 30 September 2023, you need to calculate the provisional amounts without undue delay. In any case, you need to do so before the earlier of:

- the final underpin date
- the date you extract data for 2025 annual benefit statements.

You may need to calculate the provisional amounts earlier than this in other situations. For example:

- information is needed for divorce / dissolution of civil partnership purposes
- you pay an interfund adjustment for the CARE account.

Before calculating provisional amounts, you may need to do additional recalculations for:

- transfers in: see below section on transfers in
- past aggregation cases: ensure you have all necessary information and have correctly recorded the past service (see below section on aggregation).

If the CARE account was aggregated to a different CARE account, you may not need to calculate the provisional amounts if the member was under the final salary scheme normal retirement age on the start date of the new CARE account (or, for concurrent aggregation cases, the end date for the ceased CARE account).

Aggregations

Before you calculate provisional underpin figures for a CARE account ('current CARE account') that qualifies for underpin protection, you may need to revisit aggregations to it from a past CARE account to ensure the information is recorded correctly.

You need to do so if:

- the previous service would have qualified for underpin protection had it remained a separate deferred benefit (or for deferred refund cases, it would have qualified for protection had it been a deferred benefit), and
- the previous service qualifies for underpin protection on the current CARE account (ie there has been no continuous break of more than five years in active membership of any public service pension scheme between the end of the past account and the start of the current account – see step 4 in section 2 for more information on this test).

If the past CARE account was held in a different LGPS fund, you will need to liaise with the other administering authority. See section 6 (what information the sending authority should give to the receiving authority).

Members over final salary scheme normal retirement age

- on the start date of the current CARE account if membership was consecutive
- on the end date of the past CARE account if membership was concurrent.

Calculate the provisional amounts for the past CARE account at the underpin date relevant to that account (see section 3). You use these amounts for the current CARE account.

If membership was concurrent and the current CARE account started before the end of the underpin period, there will already be provisional figures attached to the current CARE account. Both sets of figures continue to operate.

Member under final salary scheme normal retirement age on the start date for the current CARE account

Ensure you have correctly recorded the following information regarding the previous service:

- added lost pension to cover unpaid leave during the past service

- transfers in of remediable service from a different McCloud remedy scheme (See below section on transfers in)
- membership to use in the calculation of the provisional underpin amount (including service breaks).

Member under final salary scheme normal retirement age on the end date for the past CARE account – concurrent aggregation

Ensure you have correctly recorded the following information regarding the previous service:

- added lost pension to cover unpaid leave during the past service
- transfers in of remediable service from a different McCloud remedy scheme (See below section on transfers in)
- membership to use in the calculation of the provisional underpin amount (including service breaks). The membership will need to be adjusted according to the normal concurrent rules of the 2008 Scheme (2009 Scheme).

Transfers in

You need to revisit transfers in from a McCloud remedy scheme which included payment for remediable service which was received before 1 October 2023.

If the transferred in service was originally built up in a McCloud remedy scheme (other than an LGPS scheme) and the member did not qualify for deferred benefits on leaving that scheme, the service is not remediable service.

If you are unsure whether the transferred in service was remediable service, you should check with the sending scheme.

See section 6 - transfers in where the payment was received after 30 September 2023.

Club transfers received before 1 October 2023

You need to ask the sending scheme to:

- recalculate the transfer in accordance with section 4.41 of the Club Memorandum (and pay any top-up payment if necessary)
- provide information in accordance with sections 4.7b, 4.7c and 4.7d of the Club Memorandum.

In accordance with paragraph 4.41 of the Club Memorandum, you then recalculate the transfer in so that:

- the transfer value for the remediable service buys a CARE pension (this will be used to calculate the member's LGPS benefits and will be included in the provisional assumed benefits). If the transfer in also buys CARE pension for non-remediable service, ensure this is recorded separately so that the provisional assumed benefits calculation only includes the transfer for the remediable service
- the transfer value for the remediable service also buys a notional final salary service credit (this will only be used to calculate the provisional underpin amount).

You will also need to let the member know about the changes to the past transfer in.

If a final salary service credit was originally awarded for the remediable service, you will need to undo this and recalculate subsequent calculations including the CARE transfer in, rather than the final salary service credit. For example, annual allowance calculations. We do not expect there to be many affected cases because:

- the member must have been in the other scheme post 2014/15 and to have then joined the LGPS before 1 October 2023, and
- to have final salary membership in the other scheme, the member must have had protected status in the other scheme, meaning that the member would need to have been close to retirement age in the other scheme.

If you do have a case and you are unsure how to proceed, you may wish to seek specific advice for the case.

Non-Club transfers received before 1 October 2023

This section covers transfers in from other public service pension schemes on non-Club terms that were completed before 1 October 2023. Where there has not been a continuous break of active membership of a public service pension scheme of more than five years between the end of the remediable service and the start of the LGPS CARE account (for more information on this test – see step 4 in section 2), you need to recalculate the transfer in so that:

- the transfer value for the remediable service buys a CARE pension (this will be used to calculate the member's LGPS benefits and will be included in the provisional assumed benefits). If the transfer in also buys CARE pension for non-remediable service, ensure this is recorded separately so that the provisional assumed benefit calculation only includes the transfer for the remediable service.

- the transfer value for the remediable service also buys a notional service credit (this will be used to calculate the provisional underpin amount).

Before you can do so, you may need to request further information from the sending scheme.

Technical query 13, however, sets out that there is no guidance on how to calculate non-Club transfers in of remediable service which will qualify for underpin protection.

You will also need to let the member know about the changes to the past transfer in.

If a final salary service credit was originally awarded for the remediable service, you will need to undo this and recalculate subsequent calculations including the CARE transfer in, rather than the service credit. For example, annual allowance calculations. We do not expect there to be many affected cases because:

- the member must have been in the other scheme post 2014/15 and to have then joined the LGPS before 1 October 2023
- the member must have had a break longer than five years between the sending scheme and the LGPS (or it would have been a Club transfer), and
- to have final salary membership in the other scheme, the member must have had protected status in the other scheme, meaning that the member would need to have been close to retirement age in the other scheme.

If you do have a case and you are unsure how to proceed, you may wish to seek specific advice for the case.

Pension credit calculations

What cases to revisit

For CARE accounts that qualify for underpin protection, if the benefits were shared due to a pension sharing order with an effective date between 1 April 2014 (or 1 April 2015 in Scotland) and 30 September 2023 (inclusive), and the order was implemented before 1 October 2023, you must revisit the pension sharing calculations.

A pension sharing order refers to any order or provision specified in section 28 of the Welfare Reform and Pensions Act 1999.

How do you do the recalculation?

First, recalculate the cash equivalent you used when implementing the pension sharing order (PSO). Use the same calculation date.

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. The guidance does not currently cover recalculating cash equivalents for PSOs. However, GAD states in the guidance that it intends to update it to include this information in due course. SPPA issued equivalent guidance for LGPS Scotland, effective from 30 August 2024. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (LGPS Scotland).

Before you can recalculate the cash equivalent, you will need to do other recalculations. The specific calculations you need to do depend on the status of the member at the pension sharing order effective date:

Active members under their final salary normal retirement age:
Calculate notional provisional underpin amount and assumed benefits using the day before the pension sharing order effective date as the notional underpin date

Active members over their final salary normal retirement age and deferred members:
if it has not been done already, calculate the provisional underpin amount and assumed benefits as at the underpin date (refer to the earlier section on provisional underpin calculations – underpin date before 1 October 2023)

Pensioner members:
If it has not been done already, recalculate the pension (see earlier section on revisiting annual pensions).

Calculate the relevant proportion of any survivor guarantee amount that would become payable, assuming the member died on the pension sharing order effective date (see section 5 for more details)

Before you can do the above calculations. you may need to do other recalculations, such as:

- transfers in (see earlier section on transfers in)
- past aggregation cases to make sure that you have all the required information (see earlier section on aggregation).

Results of the cash equivalent recalculation

If the recalculated cash equivalent is not greater than the original cash equivalent, no further recalculations are necessary.

However, if the recalculated cash equivalent is greater, you will need to recalculate the LGPS annual pension credit. If the annual pension credit is or was in payment, you also need to calculate and pay arrears.

You will not need to recalculate the credit if the sharing order specified a monetary amount. Notwithstanding the recalculated cash equivalent, the amount awarded to the ex-spouse or partner will still be based on that monetary amount.

MHCLG issued GAD guidance on applying the McCloud remedy to retrospective cases in LGPS England and Wales, effective from 4 July 2024. The guidance does not currently cover recalculating pension credits. However, GAD states in the guidance that it intends to update it to include this information in due course. SPPA issued equivalent guidance for LGPS Scotland, effective from 30 August 2024. You can access the guidance on the actuarial guidance pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (LGPS Scotland).

The regulations are uncertain on several points:

- **pension debits:** the regulations do not currently provide for recalculating the pension debits
- **immediate transfers:** if the ex-spouse or partner took an immediate transfer on the implementation of the order, it is uncertain whether you need to pay a top-up transfer payment
- **transfers of LGPS pension credits**: if the ex-spouse or partner was awarded a LGPS annual pension credit and then later transferred the cash equivalent to a different scheme, it is uncertain whether you need to pay a top-up transfer payment
- **trivial commutation**: if the ex-spouse or partner has trivially commuted their LGPS annual pension credit, it is uncertain whether you need to pay a top-up commutation payment
- **death grants**: if the ex-spouse or partner was awarded an LGPS annual pension credit and has since died, it is uncertain whether you need to pay a top-up death grant.

MHCLG / SPPA are considering amending the regulations to clarify the policy intention.

Can the pension credit member commute the extra pension for lump sum?

If the LGPS annual pension credit is still payable and the credit member was able to commute some of the pension for lump sum on the original pension start date, they can elect to commute some of the extra pension for tax-free lump sum (12:1). The lump sum is classified as a pension commencement lump sum.

The relevant benefit crystallisation event (RBCE) for the lump sum occurs on the date the member becomes actually entitled to the extra pension. This will be a current date and will be later than the original BCE.

The lump sum must not exceed normal HMRC limits. To check the limits, use the extra lump sum and the rate of the extra pension as at the RBCE.

The extra lump sum uses up some of the credit member's lump sum allowance and death benefit and lump sum allowance.

Are there special tax rules on the arrears?

If the pension is still payable and you pay the arrears to the pension credit member, use the normal rules on arrears. See PTM142000 for more information.

Where the credit member has died, it is unclear whether you can rely on regulation 23 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023. This is because the extra pension is being paid under a provision made under section 80 of the Public Service Pensions and Judicial Offices Act 2022. Regulation 23 however, in respect of the LGPS, only applies to extra pension being paid due to a provision made by virtue of section 78 of the 2022 Act.

If you can't rely on that regulation, subject to conditions, the arrears could then be authorised under regulation 16 of the Registered Pension Schemes (Authorised Payments) Regulations 2009. See PTM062800 for more details.

What are the interest rules on arrears?

If the LGPS annual pension credit was in payment on 1 October 2023, special interest rules apply to the arrears as set out here. The normal LGPS interest rules apply if the pension credit was put into payment after 30 September 2023.

The arrears cover the extra pension due until you correct the account or it ceased, whichever is sooner. This could include some arrears after 30 September 2023.

You calculate simple interest on the total arrears from the 'relevant date' to the date you pay them. Do not calculate the interest for each instalment of extra pension separately.

For the interest rate:

- LGPS England and Wales: use the rate set out in section 17(1) of the Judgments Act 1838 (8 per cent per year)
- LGPS Scotland: use the rate set out in section 9 of the Sheriff Courts (Scotland) Extracts Act 1892 (8 per cent per year).

These rates last changed before April 2014. If they do subsequently change, and you have to use two rates to calculate the interest, you may, if you consider it appropriate in the interests of simplicity, apply such median or average of those rates as seems to you appropriate.

The ‘relevant date’ is the date that falls halfway through the period beginning with the day on which the pension was put into payment and ending with the date you pay the arrears. If there is no day that falls halfway through the period, use the first day of the second half of the period.

For example, if the date the pension was put into payment was 31 March 2019 and you pay the arrears on 31 January 2025, the relevant date would be 2 March 2022. This is because there are 2,133 days from 1 April 2019 to 31 January 2025, and 2 March 2022 falls halfway through this (1 April 2019 to 1 March 2022 = 1066 days, 3 March 2022 to 31 January 2025 = 1066 days).

If the date the pension was put into payment was instead 30 March 2019, the relevant date would still be 2 March 2022. This is because there are 2,134 days from 31 March 2019 to 31 January 2025 and there is no date that falls halfway through this. 2 March 2022 is the first day of the second half of the period (31 March 2019 to 1 March 2022 = 1,067 days, and 2 March 2022 to 31 January 2025 = 1,067 days).

GAD has published a calculator for LGPS England and Wales that can be used to calculate the special interest. This is available on the actuarial guidance page of www.lgpsregs.org (click on ‘McCloud remedy’ section). GAD will publish an equivalent version for LGPS Scotland shortly.

Are there special tax rules for the interest on arrears?

Treat this in the normal way you treat interest on late payment of pension instalments.

This means that you classify the interest as a ‘scheme administration member payment’ (SAMP).

Note that interest qualifies as a SAMP only if it is no more than a reasonable commercial rate of interest. In this context, the 8 per cent interest rate raised questions about its eligibility as a SAMP. However, HMRC confirmed in Newsletter 159 that it will qualify in its entirety "due to the specific circumstances of the public service pensions remedy."

HMRC has published member guidance for tax on interest. The guidance was included as an Appendix to the September 2024 Public service pensions remedy newsletter. HMRC will publish the guidance on www.gov.uk shortly. You may wish to signpost people receiving interest to the guidance.

What are the interest rules on extra lump sum?

The normal LGPS interest rules apply to the extra lump sum.

Annual allowance

What cases to revisit

You must identify and recalculate past annual allowance calculations if the old underpin was included in the closing value.

This is necessary for pension input periods 2014/15 (2015/16 for Scotland) to 2022/23.

For pension input periods from 2023/24 onwards, neither the old nor new underpin should have been included in annual allowance calculations at the time of the original calculation.

When issuing pension savings statements for 2023/24, 2024/25 and 2025/26, ensure that the pension input amounts for the preceding three years exclude the underpin in their calculation.

How to do the recalculation

When recalculating the pension input amount for the applicable year, omit the old underpin from the closing value. Also exclude the new underpin.

As a result, the pension input amount for that year will decrease.

What do you need to tell the affected members?

If a pension savings statement you issued for the relevant pension input period is affected by the exclusion of the old underpin, leading to a change in the pension input amount, you must provide a revised statement with the amended pension input amount. This applies regardless of:

- the reason you issued the original statement (ie because you had to provide it automatically or the member requested it), or
- whether the recalculation affects the member exceeding the annual allowance.

The revised statements should be issued no later than:

- 6 October 2024 (if you were required to issue the original statement automatically), or
- 5 October 2024 (if you were required to issue the original statement on the member's request).

Though not explicitly stated in regulations, we recommend issuing revised statements in scenarios where:

- You issued a statement for a pension input period where the amended pension input amount related to one of the three preceding pension input periods shown on the statement. This is because the reduction in the pension input amount for the earlier year may mean the member had more carry forward.
- You automatically issued a statement where you were not required to do so. This ensures that cases where the member would have requested the statement had you not provided it automatically are also covered.

Do you need to tell HMRC about the revised statement?

If you are required to send a revised pension savings statement because you were required to automatically send the original pension savings statement, report this to HMRC through event report 22.

When to report:

- if you sent the revised statement in tax year 2023/24, use event report for 2023/24 (deadline 31 January 2025)
- if you send the revised statement in tax year 2024/25, use event report for 2024/25 (deadline 31 January 2026).

Do not amend the event report for the tax year in which you sent the original statement.

What happens if an annual allowance tax charge was paid?

Tax years 2014/15 (2015/16 in Scotland) to 2018/19

HMRC will not refund overpaid annual allowance tax charges for these years.

However, affected members have the option to seek compensation from you. If the member paid the charge directly, they can apply for direct compensation. If the scheme paid the charge on their behalf, the member can apply for indirect compensation.

Before members can apply for compensation, they must obtain a calculation of the overpayment from HMRC using the 'Calculate your public service pension adjustment service'.

If you receive a compensation application, see section 11 of the McCloud implementation statutory guidance. The guidance is available on the Administrator guides and documents pages of www.lgpsregs.org (England and Wales) and www.scotlgpsregs.org (Scotland).

Tax years 2019/20 to 2022/23

HMRC will refund overpaid annual allowance tax charges for these years.

A specific procedure has been established by HMRC for these cases. Members and schemes should not amend the previous self-assessment forms / Accounting for Tax returns.

Providing 'specified information' to HMRC

Members must provide 'specified information' to HMRC, irrespective of who paid the tax charge. The information is outlined in columns 1 and 2 of the schedule to the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No 2) Regulations 2023.

Deadline:

- the information must be provided by no later than 31 January 2025
- if the member dies between 1 November 2024 and 31 January 2025, the deadline is extended to three months after the date of death.

Should the member die before providing the information, their personal representative is responsible for providing it by the deadline. Failure to meet the deadline may result in penalties.

Members should use the 'Calculate your public service pension adjustment service' to provide the information.

The member (or their personal representative) must retain all documents in their possession relating to the 'specified information' for four years from the deadline mentioned above.

Refund of charge paid by the member

Members who have paid the charge directly can apply for a refund from HMRC. This can be done concurrently with or subsequent to the provision of 'specified information'. However, applications must be submitted by 31 January 2029.

Regulation 38(5) of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No 2) Regulations 2023 outlines what the application must include.

Members should use the 'Calculate your public service pension adjustment service' to apply for a refund.

If the member paid some of the charge and the scheme paid the rest, the member's refund is limited to the amount they paid that exceeds the revised charge, as HMRC gives precedence to refunding the part paid by the Scheme.

HMRC will decide the application within the period of 90 days of receiving it.

Refund of charge paid by the Scheme

If you paid the charge on the member's behalf (including under voluntary 'scheme pays'), you should request a refund from HMRC by no later than 1 April 2027.

If you paid all the charge, you reclaim the amount by which the charge has reduced.

If you paid some of the charge and the member paid the rest, you reclaim the lower of:

- the amount by which the charge has reduced, and
- the amount you paid.

HMRC gives precedence to refunding the part paid by the Scheme, over the part paid by the member.

Regulation 15(5) of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023 outlines what information the application must include.

You apply for a refund through the single point of contact at HMRC. They will provide you with a form to request the repayment. You then submit this through the Secure Data Exchange Service. Once HMRC receives the request, they will review it and contact you to obtain further information or to confirm the refund. They will raise a credit on the scheme to issue a refund, which you can view on your pension scheme financial information.

Once you receive the refund, recalculate the annual allowance offset.

HMRC guidance

For more information on dealing with annual allowance overpayments due to the exclusion of the old underpin, see:

- Guidance on the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No. 2) Regulations 2023
- Public service pensions remedy newsletter – October 2023
- Changes in your annual allowance following the public service pensions remedy (member guidance)
- Changes in annual allowance as a result of the public service pensions remedy (scheme administrator guidance)
- Paying compensation to members following the public service pensions remedy.

Supplementary information

Relevant rules

- regulations 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 of the LGPS (Amendment) (No 3) Regulations 2023
- regulations 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 of the LGPS (Remediable Service) (Scotland) Regulations 2023
- regulation 4T of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014
- regulation 4R of the LGPS (Transitional Provisions and Savings) (Scotland) Regulations 2014
- Section 79 of the Public Service Pensions and Judicial Offices Act 2022.
- Finance Act 2004

- The Registered Pension Schemes (Authorised Payments — Arrears of Pension) Regulations 2006
- Direction 38 of The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022
- Regulations 5, 6, 7,14, 15, 19, 20, 25, 31 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) Regulations 2023
- Regulations 8, 9, 11 and part 6 of the Public Service Pension Schemes (Rectification of Unlawful Discrimination) (Tax) (No 2) Regulations 2023
- Section 637G of the Income Tax (Earnings and Pensions) Act 2003
- Regulation 16 of the Registered Pension Schemes (Authorised Payments) Regulation 2009

8. Dictionary

CARE Scheme NPA

The member's State Pension age, with a minimum age of 65.

Disqualifying gap

A disqualifying gap is a period more than five years when the member was not in pensionable service in a McCloud remedy scheme.

If the member's public sector employment was transferred to a different private sector employer, do not count any period of pensionable service in a broadly comparable scheme as a break in pensionable service for this purpose.

For more information, see step 3 in section 2.

Eligible remediable service

Remediable service that qualifies for underpin protection.

See section 2 for more details.

Final salary scheme normal retirement age

The normal retirement age applicable to the member under the 2008 Scheme (2009 Scheme for Scotland). For most members this is 65. If the member was not in that Scheme, it is 65.

Final underpin date

See the final underpin date information in section 4.

McCloud remedy scheme

A public service pension scheme in England, Wales, Scotland or Northern Ireland that covers one of the following groups:

- civil servants
- teachers
- the judiciary
- local government workers
- NHS staff
- firefighters
- police officers

- armed forces personnel.

Underpin date

This is the earliest of:

- the last day the member was an active member for that account
- the date the member reached the final salary scheme normal retirement age
- if the member took flexible retirement, the day before the reduction in hours / grade begins.

Underpin period

This is the period:

- beginning with 1 April 2014 (2015 for Scotland), and
- ending with the earlier of:
  - 31 March 2022, and
  - the final salary scheme normal retirement age.

See sub-section on flexible retirement and underpin date if you are calculating the provisional amounts for a period of service after the member took flexible retirement.

9. Technical queries

Table 7 – list of technical queries raised with the Ministry of Housing, Communities and Local Government (MHCLG) and / or the Scottish Public Pensions Agency (SPPA)

No.	Scheme	Query	Response
1	Both	If the member leaves a period of membership without an entitlement to benefits (for example, deferred refund cases), does that membership count as being in pensionable service? Does it matter if the contributions for it have been refunded? Or if the membership was transferred to a different scheme or later aggregated to a different period of membership in the same scheme? This issue also affects whether you are able to include provisional amounts in cash transfer sum calculations.	MHCLG / SPPA have addressed this issue in section 5 of the McCloud Implementation guide.
2	Both	When calculating the provisional assumed benefits, where the member is paying APCs for a leave period that spans the underpin period but does not pay the required APCs and this is not due to enhanced ill health retirement or dying in service, it is unclear how to determine what added pension to include in the provisional assumed benefits. For example, we need to consider the amount of added pension credited to the actual CARE account. How do we determine which parts of that added pension relate to the leave before the end of the underpin period?	MHCLG / SPPA have addressed this issue in section 9 of the McCloud Implementation guide.

No.	Scheme	Query	Response
3	Both	If the member elects to use their certificate of protection / best 3 in 13 calculation protection (England and Wales only) for their actual benefits, the authority will use that protection when calculating the provisional assumed benefits (Scotland only) and the provisional underpin amount. What is not clear is whether the authority would consider this protection if the underpin date was the final salary scheme normal retirement age? Would the authority not consider this, as the protection is only notional until we know when the member will leave and whether they will actually elect for it? Or should the authority allow the member to elect to use it for the provisional calculations (assuming the member is then eligible)?	
4	Both	It is unclear what happens if the member takes partial flexible retirement and later aggregates the benefits in the relevant CARE account to a different pension account. In particular, what should happen to the provisional amounts calculated at flexible retirement?	
5	Both	Under regulation 4Q (4O for Scotland), where the member has attained the final salary scheme normal retirement age before the relevant date, you use the provisional amounts for the earlier account as the provisional amounts for the account to which the benefits are aggregated. The regulations are unclear where the member has other eligible remediable service included in the new account. For example, do you calculate the provisional amounts for that other service separately and add the amounts together?	MHCLG / SPPA have addressed the issue in section 8 of the McCloud Implementation guide.

No.	Scheme	Query	Response
6	Scotland	When considering whether to actuarially reduce the provisional underpin amount, regulation 4L(4) contains a condition which is not included in the same regulation for England and Wales. The additional condition requires that the member's pre-April 15 benefits must be actuarially reduced. We understand that the Scottish Government's policy in this area is the same as for England and Wales and the additional condition is an error.	SPPA launched a consultation on draft LGPS (Remediable Service) (Amendment) (Scotland) Regulations 2024 on 2 September 2024. Draft amendment regulation 4 will correct the error.
7	Both	See query set out in section 5: what survivor pension account you add the amount to.	

No.	Scheme	Query	Response
8	Both	If the member took partial flexible retirement and then later died as a deferred member, it is unclear how to calculate the death grant. You will have one set of relevant provisional amounts, in respect of which there will be a flexible retirement pension account and a deferred member account. We understand the authority will calculate the death grant as normal for the flexible retirement pension account, including any final guarantee amount that was added to that account. However, it is unclear how to do the final underpin calculation that forms part of the deferred death grant calculation. For example, if a survivor guarantee amount is to be included, does the authority include the entire guarantee amount?	

No.	Scheme	Query	Response
9	both	Regulation 7(1)(b) of the LGPS (Amendment) (No 3) Regulations 2023 (7(1)(b) of the LGPS (Remediable Service) (Scotland) Regulations 2023) says “in respect of whom a death grant was calculated under regulation 46 of the 2013 Regulations before that date and paid, whether or not under that regulation.”. It is unclear what the purpose of stipulating a condition that the death grant must be calculated before 1 October 2023. Is the calculation date always the date of death? Or is it when the authority processes the case? If the latter, why is there not a similar condition under regulation 6? Also, if it’s the latter, there would be no provision to take the new underpin into account where the member died before 1 October 2023 and it was calculated on or after then. For example, authorities would calculate the original death grant using the rules that applied at the date of death (ie before 1 October 2023) and there would be nothing to say to recalculate it.	

No.	Scheme	Query	Response
10	Both	Regulation 8(1)(b) of the LGPS (Amendment) (No 3) Regulations 2023 (8(1)(b) of the LGPS (Remediable Service) (Scotland) Regulations 2023) says that the survivor pension must have been paid before 1 October 2023. As the survivor pension is payable on the day after death, it appears that regulation 8(1)(b) only applies to deaths that occurred on 29 September 2023 and before. Where the death occurred on 30 September 2023, we believe that the intention is that these should also be covered here because: • they are initially captured by regulation 4 • if they weren't captured here, the new underpin rules wouldn't apply. Regulation 4O (4M in Scotland) only applies to deaths that occurred on or after 1 October 2023 and there would be nothing telling administering authorities to apply regulation 4O (4M in Scotland) to it).	

No.	Scheme	Query	Response
11	Both	Regulation 11 of the LGPS (Amendment) (No 3) Regulations 2023 (the LGPS (Remediable Service) (Scotland) Regulations 2023) is designed to cover both commutations paid to members and commutations paid to survivors. We feel it may be helpful to amend regulation 11 and 14 to make this clearer. For example: • regulation 11(2) should be amended to also refer to considering whether the survivor is entitled to a survivor guarantee amount • regulation 11(4) refers to "the person", which could be read to refer back to "a person in category A, B or C", which can only be the original deceased member • regulation 14(2)(f) refers to "the member". This should be amended to align with regulation 11.	

12	Both	Deferred refund CARE accounts cannot qualify for the underpin. However, the membership in that account could later qualify as ‘remediable service’ if it is aggregated to an active LGPS CARE account or transferred to a different LGPS scheme. This depends on whether the member meets the vesting period for the new account. When an administering authority pays an interfund adjustment to a different LGPS fund or a transfer payment to a different LGPS scheme for a deferred refund account that would have qualified for underpin protection had the member met the vesting period, it is unclear whether it should include the underpin in the interfund adjustment / transfer payment calculations. For example, should the authority: 1. ignore the underpin and revisit the interfund / transfer payment once the member meets the vesting period on the new account 2. assume that the member will meet the vesting period on the new account (and not revisit if they don’t) 3. assume that the member won’t meet the vesting period on the new account (and not revisit if they do). For (3), the administering authority would still need to provide the relevant information so that the different authority is able to include the previous benefits in subsequent underpin calculations, if applicable. Option 2 and 3 will be done on a ‘knock for knock basis’. The member’s benefits won’t be affected. Option 1 feels disproportionate. We appreciate that for Club transfers, the Cabinet Office will need to decide.	

No.	Scheme	Query	Response
13	Both	There is no guidance on how to calculate non-Club transfers in of remediable service and what information to provide.	

10. Disclaimer

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