



Home Office

# **Police and Fire McCloud (*The Remedy*) Compensation Arrangement Funding Guidance**

**Home Office Guidance for Scheme  
Managers when calculating forecasts for  
the McCloud Compensation Funding and  
Accounting Guidance**

**May 2024**

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## Overview

1. This guidance is for the purpose of paying compensation to eligible claims in relation to McCloud remedy. Please note that any approved compensation payments should be made from general operational accounts and **should not** be paid from the pension fund account.

## Introduction

2. The [Public Service Pensions and Judicial Offices Act 2022](#) (PSPJOA 2022) has put in place a legal framework to rectify the unlawful discrimination identified by the McCloud judgment. The Court of Appeal found that the transitional protections provided when reformed public service pension schemes were introduced in 2015 were discriminatory.
3. To administer the remedy, schemes and employers will have to consider how to account for and finance adjustments in contributions, benefits, tax liabilities and transfers between schemes and any compensation losses.
4. This McCloud/Sargeant compensation arrangement guidance sets out the process by which Forces and Fire and Rescue Authorities (FRAs) will exercise their powers in section 23(1) of the PSPJOA 2022 to pay compensation in respect of legitimate financial losses incurred by members, or in the case of deceased members, their personal representatives.
5. Powers are given to scheme managers to pay compensation in respect of compensatable losses by the PSPJOA 2022 and [The Public Service Pensions \(Exercise of Powers, Compensation and Information\) Treasury Directions 2022](#).
6. On 20 October 2023, the Director of Public Spending at HM Treasury, Nick Donlevy wrote to scheme managers (Annex C) to confirm funding for the compensation scheme will be managed through the Annual Managed Expenditure (AME) process and to set out the parameters for payment of compensation.
7. AME funding is considered as expenditure that is not fixed and is demand led (e.g. pensions and benefits).
8. There is already a well-defined AME process set out in regulations for the purpose of paying police pension benefits<sup>1</sup>, and firefighters pension benefits<sup>2</sup>. This is used by both Forces and FRAs to manage the top-up grant process, paid from the pensions fund account.

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<sup>1</sup> [The Police Pension Fund Regulations 2007](#);

<sup>2</sup> Part L of the [Firefighters' Pension Scheme 1992](#); Part 13 of the [Firefighters' Pension Scheme 2006](#); and Part 9 of [the Firefighters' Pension Scheme 2015](#)

9. However, compensation payments, set out by HMT, should **not be paid from the pension funds account**. Therefore, this requires a new, separate AME process for the purpose of paying compensation from operational accounts which is the purpose of this guidance (they do not qualify as legitimate payments in or out of the pension fund under the relevant regulations).
10. It is at the discretion of the Forces and the FRAs how they manage the operational accounting of these compensation payments and whether they create a specific compensation account. For the purposes of reporting to the Home Office all compensation spend will need to be clearly identified. Appropriate coding of compensation payments (as identified in [Annex B of the appendix](#)) should be applied, so that they may be identified as and when required. i.e. annual account reporting.
11. To supplement this guidance, additional detailed guidance has been produced for Forces and FRAs and will be available directly from the NPCC and LGA.
12. Given the limited data available to forecast compensation payments relating to the McCloud/Sargeant remedy, the initial forecast which we will use for budgeting purposes will be undertaken by the Home Office with support from the Government Actuary's Department (GAD).<sup>3</sup>
13. This guidance will be periodically reviewed by the Home Office to ensure it remains up to date and relevant.

## Who is this guidance for?

14. This guidance is for scheme managers and financial officers of Forces and FRAs.
15. Forces and FRAs are responsible for introducing the necessary process changes to introduce the arrangements needed to implement remedy which was required from 1 October 2023. The Home Office acknowledge the importance of providing guidance to support Forces and FRAs to do this.
16. In accordance with regulations Forces and FRAs continue to have responsibility for paying Police and Firefighter pensions as well as compensation in respect of McCloud remedy. The Home Office is providing this guidance to provide clarity on McCloud/Sargeant finance and reporting processes.

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<sup>3</sup> Forecast funding relating to top-up funding (outlined in paragraph 6) required for the McCloud/Sargeant remedy will not form part of this guidance. This guidance is for compensation payments only.

17. Forces and FRAs continue to be required to adhere to all administrative, accounting, and audit requirements.
18. For both the police and firefighters, central Government will be ultimately responsible for funding the remedy compensation costs. This funding will be provided by the Home Office. Funding for the new McCloud/Sargeant Remedy compensation will be managed via AME, but it is a new process that is separate from the existing pension fund top-up process Forces and FRAs already follow. Compensation payments made through this new process will be paid in arrears and on a quarterly basis meaning that Forces and FRAs will make payments to successful compensation claims and can seek reimbursement from the Home Office following the end of every quarter (e.g. July, October, January, April). Additionally, the Home Office will consider exceptional requests for supplementary funding, to reimburse actual compensation spend they have made, outside the quarterly process if any Forces or FRAs can demonstrate cashflow challenges arising from making these compensation payments.

### **What is the purpose of this guidance?**

19. This guidance outlines the necessary steps for Forces and FRAs to implement and manage the compensation related to the McCloud/Sargeant Remedy. It is essential to review this guidance alongside the PSPJOA 2022, Treasury directions and the [Police Pensions \(Remediable Service\) Regulations 2023](#) or the [Firefighters' Pensions \(Remediable Service\) Regulations 2023](#) and scheme manager process guidance provided by NPCC and LGA.
20. This guidance constitutes new instructions distinct from pension fund top-up guidance. Remedy compensation payments should be paid from operational budgets, with the payments coded separately by type for identification and reporting purposes.

### **Summary of the new arrangements, expectations and process timeline**

21. HM Treasury have confirmed that McCloud/Sargeant Remedy compensation will be classified as AME. This applies to all types of corrective payments and compensation payable under the PSPJOA 2022 including:
  - a) Corrections to pension benefits, contributions, and interest
  - b) Corrective payments for overpaid tax
  - c) Compensation for financial losses
22. The correction of pension benefits, inclusive of the applicable interest, must be paid out of the existing pension fund account and, therefore, these

amounts must **NOT** be included in the request for McCloud Remedy compensation funding via AME. Additionally, any amounts paid by eligible members to correct their contributions (including interest) must be paid into the existing pension fund account (further detail is provided in Annex A). This will mean that Forces and FRAs will need to provide additional financial information to enable the Home Office to pay the correct amounts through the pension top-up grant payments.

23. As scheme experience develops concerning this compensation grant and its payment frequency, the Home Office may review the configuration and disbursement of compensation grant to ensure its continued alignment with the needs of Forces and FRAs.

### **Immediate term process**

24. The overarching timetable for the McCloud Remedy compensation grant forecasting is set in the [Annex C of the appendix](#).
25. The McCloud/Sargeant Remedy compensation arrangement will be paid via Annually Managed Expenditure. There will be a new central Government grant to cover this - this grant is outside the Formula Grant system and the pension top-up grant system, so must be recorded separately. Once Forces and FRAs have developed some scheme experience and are in a better position to provide quality compensation forecasts, we will utilise the online DELTA system to collect these in the same way as we collect the BAU pension forecasts. The Home Office will provide further information on this in due course.
26. For the initial period, the Home Office will undertake forecasting with support from GAD to ensure that the Home Office has sufficient budget cover to meet any compensation costs that are paid by Forces and FRAs. Forces and FRAs may be asked to provide periodic updates so the Home Office can monitor compensation spend against the latest budget cover.
27. Payments for the McCloud/Sargeant Remedy compensation will be made quarterly in arrears. Forces and FRAs should also adhere to the principles outlined in [Managing Public Money](#) when considering claims from affected individuals.
28. Forces and FRAs are required to submit claims detailing actual compensation payments made during each quarterly period and respective financial year. The data return should be submitted on the DELTA online data collection site. Instructions on this will be issued closer to the initial submission date. Payment will be based on verified actual costs to ensure adequate funding is provided to cover any deficits resulting from compensation payments. An overarching verification process will ensure that the total annual compensation funding aligns with the audited accounts of each FRA and Force.

29. By making payments in arrears, costs relating to compensation for McCloud/Sargeant remedy can be accurately reflected whilst also mitigating cashflow risks. Forces and FRAs will, in exceptional circumstances, have the option to request additional interim funding payments if they can substantiate that the quarterly reimbursement process is causing cashflow difficulties.

### **Future process**

30. Once there is enough experience to be able to forecast, it is intended to move to a forecasting process similar to that used in pension forecasting.
31. Currently the Home Office requests Forces and FRAs each year to provide pension income and expenditure forecasts for the subsequent seven years relating to the main pensions top up grant forecasts. It is envisaged that the process for collecting forecasts for the McCloud/Sargeant remedy compensation grant will mirror a similar approach but will be separate to the current AME pensions top up grant.
32. Given the extent of the McCloud/Sargeant Remedy and its continuing requirements for the membership, this process will be required to be completed on an annual basis to ensure sufficient compensation funding is provided to Forces and FRAs to meet their financial obligations. **Accurate forecasts are crucial to ensure that the Home Office secures sufficient funding coverage to facilitate compensation grant payments.**
33. As scheme experience develops, it is important for Forces and FRAs to plan for this annual activity to support future forecasting requirements and ensure sufficient funding is available. These forecasts will support the Home Office to secure sufficient budget cover to pay the compensation grant to Forces and FRAs during each quarterly period.
34. On receiving the returns, the Home Office reviews the data submitted by each Force and FRA. Should any concerns be identified, Forces and FRAs may be required to explain.
35. All compensation forecasts and compensation spend will need to be subject to FRAs' and Forces' normal internal finance checks, to include accounting and auditing due diligence, as well as undergo rigorous scrutiny by the National Audit Office.
36. Payments to be included in the compensation scheme will be payable from the "McCloud/Sargeant Remedy Compensation arrangement". [Annex B provides a \(non-exhaustive\) list of areas where compensation payments may be made and recorded.](#)

## Calculating compensation forecasts – future process

37. McCloud/Sargeant Remedy Compensation payments apply across both the Police and Firefighters' pension schemes. The future expectation is for forecasters to provide meaningful compensation grant forecasts as scheme experience alongside new compensation data develops and based on the best information available at the time. Forecasters may need to access specific pension and workforce data to feed into the compensation calculations. It is at the forecasters' discretion what data is utilised for any forecasting, however a rationale should be available if requested. Forecasters should work closely with their HR, payroll and pension administration teams to determine impacted individuals (including spouses/children and deceased members, anticipated retirements and any other expected compensation payments).
38. As part of the compensation forecasting process, Forces and FRAs should have regard to the PSPJOA 2022 and HM Treasury/HMRC directions, for example on the application of interest.
39. It is key that Forces and FRAs identify the impacted members in each scheme, in particular identifying those with an immediate choice within the Remedy period to help identify compensatable amounts due. It is expected that the McCloud Remedy compensation grant will continue for some years as members approach retirement and claim adjusted entitlements including any financial losses.
40. To estimate the compensatable levels, Forces and FRAs should attempt to identify for the year in question:
  - Numbers of members/spouses/children who will have an immediate choice for their pension benefits.
  - Number of members expected to make their deferred choice election where legacy benefits were in the 2006 scheme (refund of contributions).
  - Number of deferred members expected to make a deferred choice who have a remedy period transfer-in.
  - Members identifying a financial loss where it is anticipated that a payment will be due.
  - Members expected to make their immediate or deferred choice election who were and/or would have been eligible for honoraria in the remedy period and may make the alternative honorarium choice.
  - Number of members who are likely to incur further tax charges who may also have taken or require professional services.
  - Correcting payments required because of identifiable tax changes.
41. To calculate forecasted compensation, Forces and FRAs should consider the following:
  - Any refunds due on contributions and interest due.
  - Costs incurred for professional services.
  - Any Transfer-In during the remedy period which has no home in the member's legacy scheme and requires a compensation payment.



- Any tax relief payments due as a result of Remedy that cannot be resolved through another route.
- Financial losses in relation to Remedy that are evidenced and accepted by the Scheme Manager.

## **What compensation spend will be considered in scope for the McCloud Remedy compensation grant payments**

42. Payments that relate to arrears and interest in respect of pension benefits are out of scope for this compensation payment and funding for these entitlements will be met through the AME pension top up grant.
43. No payments in respect of the pension top up grant should be accounted for in operational budgets.
44. Payments that are within scope of the compensation grant will be payable from the “McCloud/Sargeant Remedy Compensation Grant”. In scope compensation payments are detailed in the [Annex B of the appendix](#).
45. Scheme managers have discretion to decide on compensatable financial losses and where necessary, evidence should be collected and held on record in line with Forces’ and FRAs’ retention arrangements, particularly for their audit purposes.

## **McCloud Remedy compensation grant requirements, recording and forecasting**

46. To receive the McCloud/Sargeant Remedy compensation grant in the way described in this guidance, Forces and FRAs must meet the requirements set out in this guidance for forecasting and any adjustments.
47. All compensation payments identified in this guidance should be recorded on systems separately to ensure appropriate reporting. These should be coded separately and individually identifiable. These are identified in the [Annex A of the appendix](#).
48. Forces and FRAs should also be aware that they will need to be able to identify and code separately the following to allow for any adjustments to be easily identifiable for the purposes of the pension top-up grant:
  - Any adjusted pension and lump sum including arrears and interest
  - Contribution adjustments including tax relief and interest
  - Any adjusted death benefits and spouse entitlement including arrears and interest
49. The list of in-scope compensation (Annex B) is not exhaustive and may be added to, should HM Treasury require further data. It is recognised that it

may not be possible to collect new data requests retrospectively so any future data adjustments will be recorded from a reasonable period following the point the guidance is updated.

50. McCloud/Sargeant Remedy compensation grant forecasting will be an annual process and made based on data provided by the Forces and FRAs. The form on which the estimates are submitted must be certified by the Force's/FRA's Statutory Financial Office/Treasurer as true and accurate.
51. These forecasts will be used to inform HM Treasury of the required AME compensation funding for the financial year. The performance of the forecasts will be reviewed quarterly against the actual compensation payments made and Forces and FRAs should inform the Home Office should any significant changes to the compensation forecast be required ahead of any supplemental submissions to HM Treasury. Forces and FRAs should be ready for any challenge meetings by Officials to discuss any changes in forecasts.
52. Providing accurate and timely compensation data (forecast and actual payments) is critical to ensure robust future financial planning. Otherwise, the Home Office will not be able to secure sufficient budget cover to be able to make the required remedy compensation grant payments in each financial year.
53. Scheme experience will develop during the first year of the compensation grant and the Home Office will review the setup and structure of the grant to ensure it remains relevant and necessary for Forces and FRAs.

## Audit

54. From 1 October 2023, all payments relating to McCloud remedy compensation identified in this guidance must appear as separate cost codes on systems to be accurately identified during Audit. This guidance is intended to provide further clarity on expectations around the annual process, recording of data and source for payments relating to compensation.
55. Forces and FRAs will be required to identify the compensation payments separately on their systems (including the financial year in which the claim falls) in order that all legitimate compensation transactions can be identified, and relevant payments funded.
56. Forces and FRAs should continue to keep separate records relating to the already established pensions top-up grant which is funded under a separate AME financing arrangement – these are not relevant for this compensation guidance.
57. Compensation payments made by Forces and FRAs will be subject to the normal annual audit process. Any payments made under the

McCloud/Sargeant remedy compensation grant will be adjusted if necessary, following the completion of the audit process for each financial year.

## Out of Scope

58. Compensation cannot be paid out where a member has already received compensation for the loss in question (e.g. pursuant to a court order), or a member has owed an amount to the scheme that has been reduced by an amount in respect of the compensatable loss.
59. [Treasury Directions 8 to 11](#) provide principles and detail about the scenarios in which scheme managers may pay compensation using section 23. There is no discretion in the PSPJOA 2022 for scheme managers to compensate for McCloud-related losses outside the scope provided in the Treasury Directions.
60. The ordinary route for a member to raise a complaint is through the established Internal Dispute Resolution Process (IDRP).
61. If the member remains unsatisfied after this process, they may raise a complaint with the Pensions Ombudsman, or through the courts.

## Appendix

### Annex A – Pension Fund Account vs Compensation

All data relating to compensation payments (those payments being made that are not considered legitimate pension expenditure/income from the Pension Fund Account) should be recorded and coded separately.

In particular for contributions:

**Contributions owed by member**

Gross contributions owed - pension fund

Interest paid by member - pension fund

Tax relief offset for non-active members - compensation

**Contributions due to member**

Gross contributions paid - compensation

Interest paid compensation

Tax relief owed resulting from “refunded” contributions – compensation [income]

For the avoidance of doubt, Legitimate pension expenditure/income from the Pension Fund Account is:

**Legitimate pension expenditure:**

Additional pension arrears

Additional commutation lump sum arrears

Interest applied to legitimate expenditure in this category

**Legitimate pension income:**

Additional employee contributions (for adjustments)

Additional employee contributions (for opt-out periods during remedy period)

Interest applied to legitimately income in this category

## Annex B – Recording data for submission to Home Office

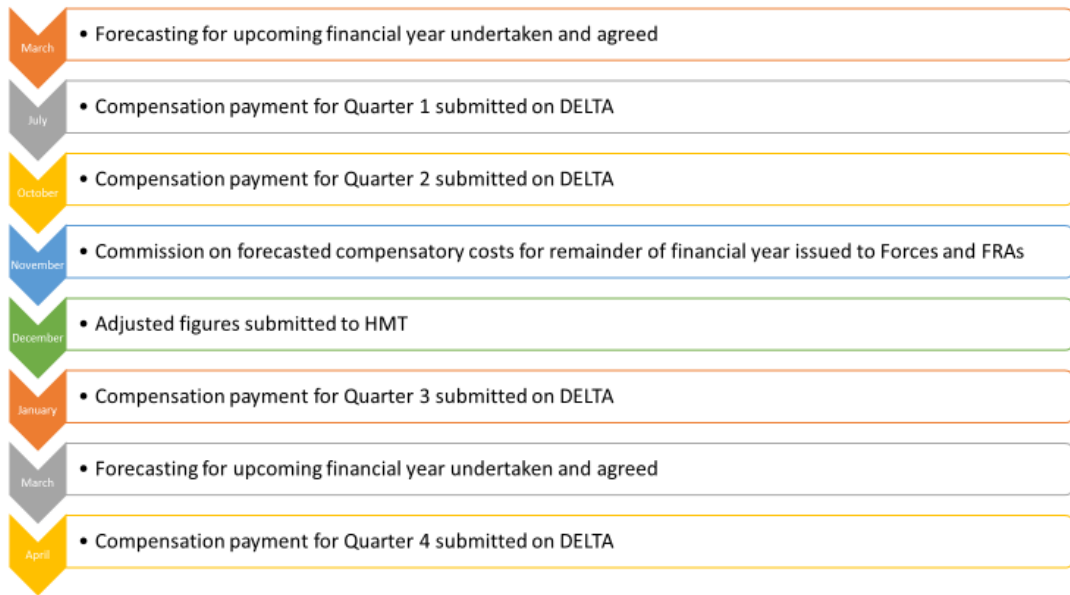
This document will be reviewed at intermittent periods or when any significant revisions are required. To ensure consistency, compensation payments that fall within PSPJOA 2022 and Treasury Directions, should be coded on accounts within the following categories (or similar if system restrictions apply):

<b>Code</b>	<b>Descriptor</b>
RoC	Refund of employee contributions (contribution adjustments)
RoCINT	Interest on contribution adjustments
RocAP	Refund of 'Added Pension' contributions
CompT	Compensation for tax relief on non-active member contributions
AdjT	Adjustment for tax relief on gross contribution compensation
Services	Accountant/tax services and/or IFA fees
Taper	Taper member where mixed benefits are more than single benefit choice
Transfer	Transfers proportions that have no value in the alternative scheme
OtherFinLoss	Other financial losses and contingent decisions resulting in financial loss
Other	Other compensatable losses

It is at the Scheme Manager's discretion for approval of compensatory payments to be made to members based on the merits of the evidence presented. Any changes to the overarching approach for consideration of reviewing compensation payments will be provided by the Home Office following instruction from HMT and Scheme Managers will be informed within a reasonable period to provide sufficient time for adoption and future implementation.

A Scheme Managers' compensation scheme guidance document has been produced and should be utilised in tandem with this guidance document. When reviewing evidence for payments, consideration should be given to automatic and non-automatic claims which are outlined in the Scheme Managers guidance document appendix.

## Annex C - Annual Process for Forecasting



## Annex D – Nick Donlevy Letter – HMT



20-10-2023 Nick  
Donlevy to Scheme M