McCloud and the NHS Pension Scheme in England and Wales

Why McCloud May Not End When NHS Pensions Think It Will

Unresolved technical issues, member impact and the need for joined-up analysis

Purpose of this paper

This paper explores unresolved technical, operational and member-experience issues arising from implementation of the McCloud remedy within the NHS Pension Scheme in England and Wales. Drawing on practical casework and member experience, it considers whether current implementation approaches fully address the wider consequences of delayed correction, member understanding and long-term pension certainty.

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Purpose of this paper

The McCloud remedy was introduced to address age discrimination arising from the 2015 public service pension reforms. Whilst the McCloud remedy affects public service pension schemes more broadly, this paper focuses primarily on the NHS Pension Scheme in England and Wales because that is where the issues discussed are currently being encountered in practice.

This paper does not revisit the legal basis of McCloud, nor is it intended to criticise individual administrators working within an exceptionally complex framework. The purpose is to identify recurring technical, operational and member-experience issues that may continue to give rise to uncertainty, complaints, disputes and avoidable cost unless they are considered in a more joined-up way.

The central question is simple:

Core question

Are members being given enough information, explanation and support to make informed decisions, and have the wider consequences of delayed implementation been properly impact assessed?

This paper does not attempt to list every technical detail arising from the remedy. Instead, it highlights recurring themes, repeated errors, unresolved issues and areas where similar problems appear to be emerging across different parts of implementation. The concern is not that mistakes have occurred in a program of this scale. The greater concern is whether those mistakes are being identified, learned from, corrected consistently and prevented from being repeated.

Executive summary

The NHS Pension Scheme in England and Wales is undertaking one of the most significant pension remedy exercises ever attempted. The scale and technical complexity of that task should not be underestimated.

However, the challenge is not just one of implementation. It is also one of learning. As implementation has progressed, repeated errors, unresolved questions and new areas of uncertainty have continued to emerge. The concern is not that mistakes have occurred within a programme of this scale. The key question is whether those mistakes are being identified, understood, addressed consistently and prevented from recurring elsewhere in the remedy process.

The remedy is not simply a calculation exercise. It affects pension entitlement, tax, retirement timing, employment decisions, partial retirement, divorce, ill-health retirement, bereavement, dependant benefits, overpayments, arrears and member confidence.

NHSBSA has acknowledged delays in issuing Remediable Service Statements (RSS) to affected members and has confirmed that implementation remains dependent upon a number of operational and technological workstreams. The Department of Health and Social Care has confirmed that over 1.1 million NHS Pension Scheme members are affected by the McCloud remedy, around 450,000 of whom have already retired, and that thousands of RPSS remain outstanding.

That delay matters because some members may be receiving pension benefits now that do not reflect their eventual remedy choice. The longer delays continue, the greater the potential for underpayments, overpayments, tax adjustments, complaints and disputes.

Delay also creates additional cost. Every correction, recalculation, tax adjustment, member query, complaint, professional advice requirement and retrospective review increases the overall cost of implementation. Whilst the full financial impact remains uncertain, even relatively modest levels of engagement with support and correction processes could result in costs running into hundreds of millions of pounds. This sits alongside wider public sector remedy costs previously estimated by the Government Actuary's Department at approximately £19 billion across public service pension schemes.

The issue is also being compounded because members are still retiring without full certainty over their McCloud position. This means that new decisions are continuing to be made before historic remedy issues have been fully resolved.

The Public Service Pensions and Judicial Offices Act 2022 established the statutory framework for the remedy, and the National Health Service Pension Schemes (Remediable Service) Regulations 2023 (SI 2023/985) came into force on 1 October 2023. Almost three years after those scheme-specific Regulations took effect, members are still reaching retirement without receiving their final remedy options. Significant retirement decisions therefore continue to be made without the information needed to understand the member’s final position.

The remedy is no longer just correcting past decisions. It continues to influence decisions being made today and may continue to do so for decades. For some members, the consequences of choices, corrections and recalculations made now may still be evident well into the 2050s. Decisions relating to retirement timing, employment, tax planning and benefit choices cannot always be revisited once the final position becomes known.

This paper identifies a number of areas requiring consideration, including:

- delayed implementation and accumulating adjustments;
- current retirees without full remedy certainty;
- RSS design, incomplete comparisons and informed choice;
- hidden member actions and passive communication;
- five-year break and contingent decision cases;

- partial retirement complexity;
- advice costs and the £500 cap;
- Annual Allowance and age-related fairness concerns;
- overpayments and member reliance;
- divorce and pension sharing;
- ill-health retirement and bereavement cases;
- calculation transparency and member understanding; and
- scheme pressure caused by unclear communications.

The paper also highlights a wider concern that many of these issues are being considered in isolation despite affecting the same individuals. Members do not experience McCloud as separate administrative workstreams. They experience it as a single, interconnected set of consequences affecting retirement, tax, employment, family circumstances and financial planning.

The central point is this:

The remedy should not be assessed only by whether the regulations are eventually applied. It should also be assessed by whether members know when they need to act, understand the choices they are being asked to make, are given comparisons that reflect the real practical consequences of those choices, and can have confidence that repeated problems are being identified, learned from and resolved.

The four areas of member impact

The issues identified in this paper fall broadly into four overlapping areas. They should be used as the reference point for the remainder of the paper, rather than repeating the same list of possible consequences in each section.

Area	Includes	Why it matters
Financial impact	Pension entitlement, arrears, overpayments, tax, Scheme Pays, compensation and advice costs.	Members may be making or revisiting financial decisions years after the event.
Employment impact	Retirement timing, partial retirement, retire and return, five-year breaks, contingent	Employment decisions often cannot be recreated once the correct pension position is known.

	decisions and working-pattern changes.	
Family impact	Dependant benefits, bereavement, divorce, pension sharing and household financial planning.	The remedy can affect people beyond the member and may interact with irreversible life events.
Decision-making impact	RSS design, calculation transparency, member awareness, access to support and informed choice.	A technically correct statement may still be insufficient if the member cannot understand the outcome.

These areas are often administered separately. Members experience them together. That is why the remedy requires joined-up impact analysis, not simply technical implementation.

Issue 1: Delayed implementation and accumulating adjustments

The first issue is the timescale. The remedy was introduced to correct historic discrimination, but many NHS Pension Scheme members in England and Wales are still waiting for certainty regarding their final pension position.

The remedy framework is no longer new. The Public Service Pensions and Judicial Offices Act 2022 received Royal Assent on 10 March 2022. The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022 subsequently set requirements for the exercise of powers under the Act, and the NHS scheme-specific remedy Regulations came into force on 1 October 2023. The continuing uncertainty must therefore be considered against an established statutory framework rather than as an issue arising at the beginning of implementation.

Delay is not neutral. Where a member is already receiving pension benefits, each year of delay increases the period during which they may be paid benefits that are not yet final. That can create larger arrears where a member has been underpaid, larger overpayments where a member has been overpaid, more complex interest and tax adjustments, increased anxiety for members trying to plan their finances, and greater risk of complaint once the final position is known.

This is particularly difficult where a member has been retired for several years before receiving their final remedy choice. By the time the RSS is issued, the payment history may already be long and complicated. What began as a timetable issue has become part of the substantive member impact.

Illustrative example

A member retires in 2021 and begins receiving pension benefits. Their final remedy position is not confirmed until 2027. By that point, six years of pension payments may need to be revisited. If the member ultimately receives a different remedy outcome, arrears, overpayments, tax adjustments and interest calculations may all need to be considered retrospectively. The longer the delay, the greater the potential scale of correction required

Issue 2: Current and new retirees without full remedy certainty

Members are still retiring without full certainty over their McCloud position. Retirement is not an administrative event. It is a financial and personal decision.

A member retiring now may need to decide whether to retire fully, take partial retirement, continue working, reduce pensionable pay, manage tax, choose a lump sum and plan household income. If the member does not have their final McCloud position at the point of retirement, they are making those decisions in uncertainty.

The scheme may eventually correct the pension calculation. It cannot correct the decision that was made using the information available at the time.

A member who retires earlier than intended, delays retirement unnecessarily, declines further employment opportunities, reduces working hours or makes financial commitments based on incomplete information cannot simply be returned to the decision point once the final remedy position becomes known. That distinction is important because the impact of the remedy extends beyond pension calculations and into real-life decisions that may be irreversible

This uncertainty is not short-term. A member who joined the NHS Pension Scheme before 2012 at age 18 could be affected by McCloud-related choice and correction issues for decades. If that member ultimately retires around age 60, the consequences of remedy implementation may continue into the 2050s. McCloud is therefore not just an historic correction exercise. Decisions made now, records corrected now, and communications issued now may continue to affect members, dependants and administrators for another generation.

Issue 3: RSS design, incomplete comparisons and informed choice

A key issue is whether Remediable Service Statements give members enough information to understand the practical consequences of their choices.

An RSS may present two statutory options: legacy scheme benefits for the remedy period or 2015 Scheme benefits for the remedy period. However, members often need to understand more than which figure appears higher. They may need to understand when each part of the pension is payable, whether benefits are being compared on a true like-for-like basis, how different retirement ages affect the comparison, how lump sum options differ, how survivor benefits may be affected, whether tax issues are excluded from the illustration, and whether inflation linking has been taken into account.

For some members, the comparison may also depend upon a break-even age. One option may provide a higher pension initially while another may become more valuable only if the member lives beyond a particular age. If the RSS does not identify that point, or explain the assumptions used to calculate it, the member may be unable to understand the trade-off between higher immediate income, longer-term value, lump sum and dependant benefits. A headline annual pension figure does not, by itself, show the full lifetime comparison.

A statement can be technically accurate but still insufficient for informed decision-making if it does not show the full practical position. The risk is that members are not choosing between fully understood outcomes. They are choosing between headline figures.

Illustrative example

A member may be presented with two options and see that one produces a higher pension figure than the other. However, the comparison may not make clear that the options have different retirement ages, different actuarial reductions, different survivor benefit implications or different lump sum outcomes. A choice based solely on headline figures may not necessarily reflect the member's wider priorities or circumstances

Joined-up question

Are members being shown enough information to compare outcomes properly, or are they being asked to choose from figures that exclude factors which could materially affect the decision?

Issue 4: Hidden actions, contingent decisions and passive communication

One of the clearest examples of the member journey problem is the way some McCloud-related actions depend on members knowing that they need to do something. The concern is not whether a process exists. The concern is whether members know the process exists, understand whether it applies to them, and are given enough information to decide whether taking action is in their interests.

Opt-out buy-back as an example

NHSBSA states that members can apply to buy back remedy period service if they opted out of the NHS Pension Scheme because of the discrimination identified in the McCloud judgment. NHSBSA has also stated that not all members know they can apply to reinstate remedy period service and has encouraged employers to raise awareness.

Although the underlying legal test links the opt-out to the discrimination identified by McCloud, public service pension schemes have adopted a low evidential threshold in practice. Broadly, the key requirement is that the member opted out during the relevant period. A more forensic evidence test would be extremely difficult to administer fairly many years after the event.

That approach is sensible, but the practical consequence is significant. It potentially opens the door for large numbers of members to revisit opt-out periods, particularly where they opted out for tax reasons and the tax position has now changed as a result of rollback and remedy adjustments.

This is particularly important because NHS Pensions has reported that around 230,000 members may be affected by opt-out decisions. That is not a marginal issue. It is a potentially large-scale remedy workstream requiring active communication, clear member prompts and practical support.

One obvious question is whether awareness should depend on chance. If NHS Pensions can identify members who opted out during the remedy period, a more proactive communication approach could be considered. Members should not have to discover an important pension option through social media, online forums, advisers, employers or word of mouth when the relevant information may already exist within scheme records.

This is particularly relevant where the scheme has already acknowledged that not all eligible members are aware of the option. Where large groups of potentially affected members can be identified from existing records, there is a legitimate question about whether communication should rely primarily on websites, employer communications and word of mouth, or whether direct member communication should form a larger part of the strategy.

The effectiveness of a remedy should not be judged solely by whether an option exists. It should also be judged by whether reasonable steps have been taken to ensure affected members know that the option exists and understand its potential significance.

There are also practical barriers to pursuing a contingent decision. A member may need to reconstruct why they opted out or changed their working arrangements many years ago, identify evidence that may no longer be readily available, understand an unfamiliar application process and assess the financial consequences of restoring service. Even where a low evidential threshold is applied, the process may still be difficult to navigate without clear prompts, worked examples and access to informed support. An entitlement that is technically available may remain inaccessible in practice if members do not know how to evidence, evaluate or pursue it.

Other hidden actions

The issue extends beyond opt-out buy-back. One example is where members need to declare or provide information regarding membership of other public service pension schemes during the remedy period. The practical problem is awareness.

A form buried within a website is not the same as an effective communication strategy. Members are unlikely to know that they need to search for, complete and submit a form unless the scheme actively explains why it matters. We have seen a significant number of members who were unaware that previous public service pension membership could affect their McCloud position or that they may need to take action.

Communication principle

Publication is not the same as communication. Availability is not the same as understanding.

A remedy can only be effective if members know it exists. Members can only exercise a choice if they know the choice exists. They can only make an informed choice if they understand the implications of exercising it.

Issue 5: Five-year breaks, contingent decisions and retrospective reconstruction

One area requiring urgent joined-up consideration is the interaction between McCloud contingent decisions and members who previously relied on having a break of more than five years in NHS Pension Scheme membership.

In some circumstances, a member with a break of more than five years may be able to access NHS pension benefits while continuing to work, without needing to formally retire and return. That position may have been entirely correct based on the rules and information available to the member at the time.

The difficulty arises where the member later makes a McCloud-related contingent decision, such as opting back into pensionable service during part of the remedy period. If that contingent decision is accepted, it will retrospectively alter the member's pension history. NHS Pensions has stated that buy-back restores a member's position as if they had not opted out. Whilst that principle is understandable, it raises wider questions where members made subsequent decisions based upon the position that actually existed at the time.

The question is not whether the member complied with the rules. In many cases they clearly did. The question is whether it is fair to assess historic decisions using a pension position that did not exist at the time those decisions were made. That distinction lies at the heart of many contingent decision and member reliance concerns

This creates a circular problem. The member did not fail to comply with the rules at the time. They acted correctly based on the information available to them. The issue only arises because the remedy reconstructs the member's pension position years later.

Member perspective

> I acted correctly based on the rules as they applied to me at the time. I did not retire and return because I was not required to. How can I now be disadvantaged because McCloud has retrospectively changed my pension position?

This is not merely an administration issue. It raises questions about fairness, reliance, causation and potentially age-related impact. A remedy designed to correct age discrimination should be carefully assessed to ensure it does not create fresh disadvantage for members who acted correctly under the rules as they stood.

Issue 6: Partial retirement and safe percentage complexity

Partial retirement should provide flexibility for NHS Pension Scheme members. However, when partial retirement interacts with McCloud, the process can become extremely difficult for members to understand.

The National Health Service Pension Schemes (Remediable Service) Regulations 2023 came into force on 1 October 2023. Almost three years later, members are still reaching retirement without receiving their final McCloud options. Providing the remedy options at retirement would immediately remove a significant layer of complexity because members and employers would be working from confirmed benefits rather than provisional assumptions.

Members may already be trying to understand the difference between 1995/2008 Scheme benefits and 2015 Scheme benefits. They may also need to consider remedy period choices, pensionable pay reductions, future accrual, tax, lump sum decisions and ongoing employment. Where a form or process requires a member to identify a “safe percentage” of benefits to take, the language may imply a degree of certainty that does not exist. A safe percentage is not required by the underlying partial retirement principle and, where the final remedy position is unknown, it can only be a best estimate based on the information available at the time.

This may be technically necessary from an administrative perspective. The question is whether it is understandable from a member perspective. A technically compliant form does not necessarily create an informed member decision.

Partial retirement is a good example of why the remedy cannot be assessed solely by whether the correct form has been completed. It must also be assessed by whether the member understood what they were completing.

We have also seen examples of partial retirement forms being returned because the percentage elected cannot ultimately be supported by the underlying benefits once detailed calculations are carried out. Whilst this may be technically necessary, it highlights the challenge facing members. A process that appears straightforward at the point of application can become significantly more complicated once different benefit structures, McCloud choices, future accrual and tax considerations are taken into account.

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Every returned form creates additional work for members, employers and NHS Pensions. More importantly, it can undermine confidence in the process and reinforce the perception that members are being asked to make decisions that they do not fully understand. A technically correct process is not necessarily an accessible or understandable process

Issue 7: Tax, RPSS delays and Scheme Pays amendments

Tax may prove to be one of the most contentious aspects of the remedy. The McCloud remedy can change pension input amounts and therefore Annual Allowance positions. The legal framework provides mechanisms for correcting some tax outcomes. However, correcting the tax calculation does not necessarily correct everything that happened because of it.

Some members paid significant Annual Allowance charges during the remedy period. Some changed working patterns, reduced sessions, declined promotion, opted out of pension membership or retired earlier than planned because of pension tax concerns. Years later, their tax position is now being revised, or will be revised, as a direct consequence of the remedy. But the career or retirement decision cannot be reversed.

RPSS delays

There are still RPSS cases outstanding. Some cases will genuinely be complex. However, not every retired case is complex simply because the member has already retired. The key question should be what makes a case complex, what action is needed to resolve it, and whether the member is receiving clear, accurate information about the consequences of the delay.

In July 2026, the Department of Health and Social Care confirmed that NHSBSA had issued Remediable Pension Savings Statements (RPSS) to 122,036 members and that 19,694 RPSS remained outstanding. At that time, NHSBSA stated that completion of those outstanding cases was forecast for March 2027 and described them as particularly complex cases.

That forecast completion date has not yet been reached. However, members whose RPSS remain outstanding are being asked to wait until as late as March 2027 for certainty about tax positions relating to pension growth in much earlier years.

NHS Pensions has referred to the remaining cases as complex. Some undoubtedly are. However, a proportion of the outstanding cases are known to involve members who have already retired. Retirement in itself does not necessarily explain why a case is particularly complex, nor does it remove the need for timely resolution.

At present, it remains unclear precisely what features make many of these outstanding cases so difficult to complete, and greater transparency around the nature of the remaining backlog would be beneficial. Members, advisers and representative organisations would be better able to understand the continuing delay if there was clearer information regarding the categories of cases remaining, the obstacles preventing completion, and the expected timescales for resolution

For affected members, an RPSS is not simply another pension statement. It may determine whether Annual Allowance charges arise, whether previous charges should be amended or removed, whether compensation or reimbursement may be available, whether Scheme Pays elections require amendment and whether previous financial decisions were made on information that has subsequently changed.

The continued delay therefore has consequences beyond administration. Some members remain uncertain about tax positions arising from pension savings made many years ago. Others have already retired without certainty regarding the final tax consequences of the remedy.

The effect is also being felt by advisers and accountants supporting affected members. They may be unable to finalise tax reviews, update Scheme Pays advice, assess compensation or give reliable retirement-planning guidance until the RPSS position is confirmed. This creates repeat work, duplicated professional costs and prolonged uncertainty, particularly where calculations must be revisited each time new or corrected information is issued.

Scheme Pays amendments

Another issue is emerging. In our experience, NHS Pensions is taking in excess of 12 months to process some Scheme Pays amendments. This means members and advisers may be chased by HMRC for payments that have not been received, even where the delay sits with the scheme rather than the member.

This creates obvious unfairness. Members may face anxiety, interest concerns, late payment correspondence or repeated HMRC contact because the scheme has not processed the necessary amendment. This should be treated as a priority operational risk, not simply a backlog issue.

Illustrative example

A member incurred an Annual Allowance charge during the remedy period and elected for Scheme Pays to settle the liability. Following the McCloud remedy, the underlying tax position changes and the charge is reduced or removed. However, if the associated Scheme Pays amendment takes many months to process, the member may continue receiving correspondence from HMRC regarding a liability that is still awaiting adjustment by the scheme.

Issue 8: Annual Allowance and age-related fairness concerns

Annual Allowance issues also create a wider fairness concern between groups. Older members who remained in legacy schemes under age-based transitional protection may have incurred and paid Annual Allowance charges at the time. Younger members who were moved into the 2015 Scheme and later rolled back may have their tax position corrected differently as part of the remedy.

The legal answer may sit within the remedy and tax legislation. But the member's question may be simpler: If this was about correcting age discrimination, why do outcomes still feel so different depending on which age-related group I was in?

Specific fairness example

The tax correction framework distinguishes between tax years that fall within the scope of HMRC's public service pension adjustment process and earlier years that sit outside it. For the purposes of this example, the relevant in-scope years are 2019/20 to 2022/23. Earlier years are outside that specific process. This distinction helps explain why rollback may remove or alter a charge for one member while another member, whose charge arose and was settled in an earlier year, does not receive an equivalent outcome.

Specific Fairness Example

The age-related fairness concern can be illustrated through a simplified example.

Assume two NHS consultants, Member A and Member B. Both have the same pensionable pay, work the same hours, have the same pension growth and generate the same Annual Allowance tax charge in the 2017/18 tax year.

The only significant difference between them is age.

Member A is older and was protected under the transitional arrangements. As a result, they remained in their legacy scheme throughout the relevant period and were not subject to rollback as part of the McCloud remedy. They incurred an Annual Allowance charge in 2017/18 and paid that charge.

Member B is younger. They were moved into the 2015 Scheme because of the age-based transitional arrangements that were subsequently found to be discriminatory. As part of the McCloud remedy, Member B is later rolled back into their legacy scheme for the remedy period, creating the same Annual Allowance charge in 2017/18 that Member A originally experienced.

At first glance, both members have arrived at the same position.

However, Member B's position is recalculated through rollback. In this simplified example, the recalculation means that Member B does not ultimately have an Annual Allowance charge to pay, whereas Member A's historic charge remains paid and is not revisited through the same process.

Member A, by contrast, has already paid their Annual Allowance charge and receives no equivalent correction because they were not part of the rollback population.

The result is that:

- both members performed the same work;

- both members had the same pension growth;
- both members generated the same Annual Allowance charge;
- one member ultimately pays the charge; and
- the other member does not.

The difference between the two outcomes arises not from pay, service, pension growth or member behaviour, but from the age-related transitional arrangements that sat at the heart of the original McCloud discrimination case.

The legislative explanation may be straightforward. However, from a member perspective the question is likely to be:

"If the remedy was intended to remove age-related unfairness, how can two members with the same pension growth and the same tax charge end up with different outcomes simply because one was older and one was younger?"

The practical effect is that two members can undertake the same work, generate the same pension growth, incur the same Annual Allowance charge and make the same decisions because of that charge, yet ultimately experience different financial outcomes. Whilst the legislative explanation may be understood by specialists, it is unlikely to be immediately understandable from a member perspective. That distinction between technical correctness and perceived fairness is important

This does not necessarily mean that the legislative framework is wrong. However, it demonstrates why some members continue to raise age-related fairness concerns even after the formal discrimination remedy has been applied.

Issue 9: Advice costs and the limits of the Cost Claim Back Scheme

NHSBSA explains that most members should not need professional advice to make their McCloud decision, but that members with more complex situations may apply to recover certain costs through the NHS Cost Claim Back Scheme. NHSBSA's FAQ states that a claim for services to help make a remedy-period pension choice is limited to £500 including VAT per piece of advice, and accountancy support linked to use of the HMRC Digital Service is limited to £1,000 including VAT per piece of advice.

Not all remedy-related claims operate within the same fixed reimbursement limits. The Cost Claim Back arrangements specify caps for certain categories, including support with a remedy-period choice and accountancy support linked to the HMRC Digital Service. Other areas, including contingent-decision work and claims for direct financial loss, are not expressed through the same fixed caps and instead require consideration of the circumstances and reasonableness of the claim.

This raises a question of consistency: where a case genuinely requires substantial work, a fixed cap may not reflect the support reasonably needed.

Those limits may be sufficient in straightforward cases. They may not be sufficient where a member's position involves multiple interacting issues, such as partial retirement, Annual Allowance, Scheme Pays, divorce, contingent decisions, continued employment, survivor benefits or possible compensation for loss.

The complexity test also presents challenges. A case may be technically straightforward to a pension specialist but extremely difficult for the member to understand. Equally, a member's case may appear straightforward on paper, but the member may still require support because the RSS does not explain clearly how the figures have been calculated or what each option means in practice.

The need for support may arise not because the underlying pension issue is unusually complex, but because the information supplied does not adequately explain the options, assumptions or practical consequences. A member should not automatically be regarded as having a complex case simply because they require help to understand information that could have been communicated more clearly. Advice and clear scheme communication are not interchangeable. Better explanation may reduce the need for advice, but it will not remove it in cases involving material interactions or irreversible decisions.

There is also a practical question of market capacity. McCloud work may require combined knowledge of pension scheme rules, tax, Scheme Pays and retirement planning. The number of specialists able and willing to undertake this work is finite. If large groups of members require assistance at the same time, availability, waiting times and access to appropriately experienced support may themselves become barriers to informed decision-making.

If the remedy creates the need for specialist interpretation, there is a legitimate question about whether members should have to bear additional cost simply to understand the consequences of correcting discrimination they did not cause.

Illustrative example

A member may need to consider a McCloud remedy choice alongside partial retirement, Annual Allowance adjustments, Scheme Pays elections, a previous divorce settlement and ongoing NHS employment. Whilst each issue may be manageable in isolation, understanding the combined effect of those interactions may require specialist support. In some cases, the cost of obtaining that support may exceed the reimbursement limits available under the Cost Claim Back Scheme

Issue 10: Overpayments and member reliance

Overpayment recovery is another area likely to create significant concern.

This may arise particularly where members had tapered protection and the pension originally put into payment is no longer the final position once McCloud has been applied.

From the scheme's perspective, the outcome may be a mathematical consequence of applying the remedy.

From the member's perspective, it may feel very different.

"I took the pension NHS Pensions told me I was entitled to. I planned my finances around that income. How can I now be told I have been overpaid?"

In some cases, a member may face a lower ongoing pension than expected, recovery of an overpayment, tax adjustments and uncertainty over whether they would have made the same retirement decision had they known the eventual outcome.

This is not simply an arithmetic issue.

Importantly, these are not necessarily cases where the original pension was incorrect because of missing service, incorrect pensionable pay, data quality issues or administrative error.

The pension originally put into payment was calculated correctly under the scheme rules, legislation and member position that applied at the time. Members were provided with figures they were entitled to rely upon and benefits were paid in accordance with the rules then in force.

The issue arises because McCloud retrospectively changes the position years later.

The member relied on official information provided by the scheme. If that information subsequently changes, and the member is asked to repay money and accept a lower income, they may reasonably question whether they are being penalised for relying on information that was correct when it was provided.

Whilst this paper focuses primarily on McCloud-related corrections, member reliance concerns are not limited to the remedy. Similar issues may arise where pension records contain inaccuracies relating to service, pensionable earnings or other historic data. Where members have relied upon information held within official scheme records, there is a wider question about the extent to which responsibility for identifying and challenging those inaccuracies should rest with the member. It may not be reasonable to expect members to discover and correct historic record errors themselves, particularly where they had no reason to doubt the information provided.

Many members will have made irreversible decisions based on those figures. They may have retired, reduced hours, declined further employment opportunities, repaid debt, taken financial commitments or structured household finances around the pension they believed they were entitled to receive. Those decisions cannot simply be revisited years later.

There is also a wider question regarding consistency across public service pension schemes.

Different schemes appear to be taking different approaches to McCloud-related overpayments and detriment. Some schemes have indicated that certain overpayments arising solely because of remedy corrections will not be recovered. Others continue to reserve the right to seek recovery.

From a member perspective, this can be difficult to understand. Two individuals affected by the same underlying age discrimination and the same remedy legislation may ultimately be treated differently depending upon which public service pension scheme they belong to.

Transparency is another concern.

Members may be informed that their pension has changed, that an overpayment has arisen, or that a different level of pension is now payable. However, they are not always provided with sufficient detail to understand:

- how the original pension was calculated;
- how the revised pension has been calculated;
- what assumptions have changed;
- why the overpayment has arisen;
- how any revised figures have been determined; and
- whether tax, interest or Scheme Pays adjustments have been taken into account.

Without that level of explanation, members may struggle to understand or independently verify either the revised pension or the alleged overpayment.

The issue is therefore not simply whether an overpayment exists.

The issue is whether members are being given sufficient information to understand why a pension that was correctly calculated and correctly paid under the rules at the time has subsequently changed, and whether the resulting treatment is fair, transparent and consistent.

Transparency is not simply about informing a member that a figure has changed. It is about providing sufficient information for the member to understand, challenge and independently verify the revised position if necessary.

Issue 11: Divorce and pension sharing

Divorce has not been ignored within the wider McCloud framework. Legislative and actuarial material recognises that pension sharing orders may need to be adjusted where remediable service is involved, with mechanisms for pension credit and pension debit adjustments.

However, within the NHS Pension Scheme in England and Wales, there appears to be limited clear member-facing guidance explaining how historic divorce and pension sharing cases will be handled in practice.

Members and advisers may still need to understand whether pension credits will change, whether pension debits will change, whether historic cash equivalent values may be revisited, how members will be notified, what happens if a divorce settlement was negotiated using figures that later change, and whether the pension sharing percentage still produces the intended outcome.

The pension sharing order may be capable of adjustment. The wider financial settlement may not be. That distinction is important and needs to be clearly understood by members, advisers and representatives.

Illustrative example

A divorce settlement may have been agreed using pension values and cash equivalent figures available at the time. If those pension values subsequently change as a consequence of the McCloud remedy, the pension element of the settlement may no longer reflect the position that existed when the agreement was reached. Whilst mechanisms may exist to adjust pension-sharing outcomes, the wider financial settlement may be far more difficult to revisit

Issue 12: Ill-health retirement, death cases and bereavement

Ill-health retirement, death cases and bereavement require specific consideration.

These are not ordinary retirement cases with additional administration. They involve some of the most vulnerable members and families affected by the remedy and may involve decisions that can never be revisited once the final McCloud position becomes known.

In ill-health retirement cases, the structure of benefits can materially affect outcomes. Tier 1 and Tier 2 awards may interact differently with legacy scheme benefits and 2015 Scheme benefits, enhancement calculations, retirement ages and remedy period service.

This is particularly important because, in many ill-health retirement cases, Option B is likely to produce a higher overall benefit outcome. Whilst each case must be considered on its own facts, the interaction between enhancement and 2015 Scheme benefits means these cases may be among the most financially significant remedy decisions faced by members.

The significance of this is considerable. Delays in providing remedy certainty may therefore have particularly important consequences for members who have already left employment on grounds of ill health. Unlike some other groups of members, they may have limited scope to revisit employment decisions, rebuild pension benefits or alter the timing of retirement once the final remedy position becomes known

Questions may arise regarding:

- whether a member would have applied for ill-health retirement earlier or later;
- whether a different remedy position may have influenced employment decisions;
- whether appeal rights would have been exercised differently;
- whether retirement decisions were made using complete information; and
- whether the member fully understood the practical effect of the options available.

Unlike some other remedy issues, these decisions often cannot be revisited once the true position becomes known.

A member who has already left employment because of ill health cannot simply return to the point at which the original decision was made. Employment opportunities, earnings, career progression and pension accrual may all have been affected by decisions taken years earlier.

The impact may therefore extend beyond the pension itself.

Bereavement and death cases present similar challenges.

Government guidance recognises that remedy decisions may still be required where a member has died and allows a legal personal representative to act on behalf of the deceased member. However, this raises practical and emotional difficulties that do not arise in ordinary retirement cases.

Questions remain regarding:

- who is responsible for making the remedy choice;
- what information is provided to dependants;
- how survivor benefits are compared and explained;
- whether changes to lump sums are clearly communicated;
- how overpayments or arrears are treated; and
- how families are expected to make decisions that the member themselves never had the opportunity to consider.

These cases require more than technical accuracy.

They require clarity, sensitivity and an understanding that the people dealing with the consequences may be grieving family members rather than pension specialists.

A remedy designed to restore fairness must also consider the practical realities facing those asked to make decisions in these circumstances.

For that reason, ill-health retirement, death and bereavement cases should not simply be treated as another administrative category within the wider remedy programme. They warrant specific monitoring, targeted communications and separate impact analysis because the consequences for affected members and families can be profound and irreversible.

***I**llustrative example*

A member dies before their final remedy choice has been determined. The responsibility for making that choice passes to a legal personal representative or those acting on behalf of the estate. Those individuals may be required to make decisions about pension benefits that the member themselves never had the opportunity to consider, whilst simultaneously dealing with the practical and emotional consequences of bereavement.

Issue 13: Calculation transparency and member understanding

A recurring issue is not simply whether the figures are correct. It is whether members can understand them.

Members may reasonably ask how figures have been calculated, what assumptions have been used, why figures differ from previous estimates, why an implemented figure has changed, how lump sums have been calculated, how survivor benefits have been treated, and why arrears or overpayments have arisen.

We are already seeing examples of members querying information in their Remediable Service Statement and asking for a detailed calculation breakdown, only to be told that the calculation is complex, that a breakdown cannot be provided, or that NHS Pensions has checked the figures and confirmed they are correct. Those responses may be intended to reassure, but they do not enable the member to understand or independently verify the result. Members being asked to make decisions with potentially significant lifetime consequences should be given sufficient information to see how the figures have been derived.

If detailed breakdowns are not provided, members may be unable to verify the figures or understand the reason for the outcome. This creates two problems. First, it undermines informed choice. Second, it increases pressure on the scheme.

There is also a wider question regarding responsibility for identifying inaccuracies. Members, advisers and representative organisations frequently spend considerable time reviewing records, identifying discrepancies and seeking correction of historic information. Whilst scrutiny is an important safeguard, a system should not depend upon affected individuals discovering errors before those errors are corrected. Where an error is identified, consideration should be given to whether equivalent cases should be reviewed and whether correction and any resulting redress should be more proactive, consistent and transparent.

Where members do not understand figures, they ask questions. Where they do not receive clear explanations, they complain. Where outcomes appear inconsistent or unfair, they escalate. Better communication is not an optional extra. It may be one of the most effective ways to reduce scheme pressure.

Illustrative example

A member receives a pension estimate, later receives pension benefits based on a different figure, and subsequently receives a remediable service statement showing a further change. If a clear calculation breakdown is not provided, the member may struggle to understand which figures have changed, why they have changed and whether the final outcome is correct

Issue 14: Scheme impact, capability and avoidable pressure

The current process is not only difficult for members. It also places significant pressure on the scheme. Unclear communications, unexplained figures and delayed decisions generate calls, emails, requests for breakdowns, employer escalation, union involvement, complaints, IDRP cases, Ombudsman referrals, repeat calculations and professional advice claims.

Insufficient explanation does not necessarily save administrative time. It often creates more work. Greater transparency and clearer explanation should therefore be viewed as risk controls, not administrative burdens.

Capacity matters, but capability matters more. McCloud enquiries are not routine pension administration queries. They require an understanding of legacy scheme rules, 2015 Scheme rules, rollback, deferred choice, Annual Allowance, Scheme Pays, contingent decisions, retirement timing, member reliance and the interaction between current and historic records.

Increasing headcount without sufficient technical capability risks creating more incorrect answers, not fewer delays. It is also a false economy to place complex member-facing enquiries with staff who are not trained to deal with complex remedy issues. If call handlers are required to work from scripts without understanding the technical context, members may receive incomplete or incorrect information. That creates repeat contact, complaints, professional intervention and avoidable detriment.

A common frustration reported by members is receiving different answers depending on who answers the telephone. McCloud-related enquiries frequently involve interactions between legacy scheme rules, 2015 Scheme rules, tax legislation, retirement regulations, transitional protection and contingent decisions. These are not routine pension administration queries and may sit beyond the experience of some frontline staff.

Consistency of information is therefore not simply a customer service issue. It is a critical component of member confidence and informed decision-making.

Regulatory, Ombudsman, system and government risk

Repeated delay also creates wider governance risk. The statutory framework was not intended to permit indefinite uncertainty. Where statutory targets or implementation milestones have moved or been missed, including the 2025 statutory target referred to in member-facing discussions, there should be clear transparency about what has not been delivered, why it has not been delivered, which cohorts are affected, and what safeguards are in place to prevent detriment.

This matters because complaints, IDRP cases, Ombudsman referrals and parliamentary scrutiny are not driven only by whether the final calculation is technically correct. They are also driven by whether the member was informed, whether the delay was explained, whether incorrect information was corrected, whether reliance was considered and whether the scheme can show that lessons were learned from repeated issues.

A scheme of this size should not be expected to avoid every error. It should, however, have a visible mechanism for identifying repeated errors, correcting them consistently, learning from them and communicating the learning to affected members and stakeholders.

Cost implications: why accuracy first time matters

The financial impact of McCloud implementation should not be considered only by reference to central IT, staffing, administrative and consultancy costs. There is also a material downstream cost where members require additional support, cases require manual review, statements need to be corrected, tax positions are revisited, or decisions are reopened years after the original event.

The Government Actuary's Department reported that the cost of the McCloud remedy was calculated at £19 billion across UK public service pension schemes when the 2016 valuations were completed. That figure relates to the remedy cost across schemes. It does not capture every additional operational, advisory, complaint, correction or member-support cost that may arise from implementation.

Scenario	Illustrative volume	Assumed support/cost	Illustrative exposure
Opt-out contingent decision support	230,000 members	£1,500 per case	£345 million
RPSS/accountancy support	100,000 members	£1,000 per claim	£100 million

McCloud choice support	500,000 members	£500 per member	£250 million

The figures above are intended only to illustrate scale. They do not assert that every member will necessarily seek support and should not be interpreted as projected expenditure. The table shows the potential exposure if each illustrative population sought support at the stated amount. Even if only a proportion of affected members require assistance, clarification, correction or professional advice, the cumulative cost could still be substantial.

More importantly, these costs arise after the original implementation activity has taken place. They are secondary costs resulting from complexity, delay, repeated correction, uncertainty and insufficient understanding. This reinforces the importance of accurate information, clear communications and robust quality assurance at the earliest possible stage

This sits alongside additional IT infrastructure, external support, consultancy, processing, complaints, recalculations, HMRC interaction and ongoing casework. It is therefore realistic to expect that the total cost of implementing and administering the remedy will extend well beyond the core actuarial remedy cost and will run for years.

Against that background, accurate information at the first point of contact is not simply a service standard issue. It is a cost-control issue. Every incorrect statement, incomplete explanation, missed interaction or poorly handled enquiry increases the likelihood of repeat contact, complaints, professional fee claims, tax correction, retrospective recalculation and member detriment.

The need for joined-up impact analysis

The McCloud remedy sits at the intersection of pensions, taxation, employment, retirement planning, divorce, ill-health retirement, bereavement, compensation and member communications. These issues are often managed separately. Members experience them together.

A member does not separate their pension choice from their tax position, employment plans, household income, spouse's retirement, divorce settlement or health. That is why a more joined-up approach is needed.

The legislative framework and implementation dates are important, but they should not distract from the central point. McCloud is no longer simply a question of whether a statutory mechanism exists. The question now is whether that mechanism is producing accurate, timely and understandable outcomes for members.

A one-off delay in a programme of this scale may be understandable. Repeated delays require a different level of scrutiny. They raise questions about planning, governance, technical capability, data quality, communication and whether the lessons from earlier missed milestones have been properly learned.

Long programme dates should not be treated as a neutral administrative endpoint. During the years in which implementation continues, members retire, reduce hours, divorce, become ill, die, pay tax, receive HMRC correspondence, make financial decisions and rely on the information provided to them. For those members, delay is not theoretical. It affects real decisions and, in some cases, decisions that cannot later be reversed.

Calls to action

This paper is not intended simply to identify technical concerns. It is intended to prompt practical action.

The McCloud remedy has reached a point where isolated workstream management is not enough. Members experience the remedy as one pension outcome, not as separate administrative categories. The response now needs to be more joined-up, more transparent and more focused on what members actually understand and experience.

1. Publish clearer implementation data

- Outstanding RPSS volumes and timescales.
- Outstanding RSS volumes and timescales.
- Retired member cases awaiting correction.
- Contingent decision volumes, including opt-out buy-back progress.
- Scheme Pays amendment backlogs.
- Known categories of repeat error, repeat enquiry or avoidable delay.
- Dependencies affecting delivery, including software, external suppliers and manual calculation resource.

2. Measure member outcomes, not just process completion

- Whether members received accurate information.
- Whether members understood what action was required.
- Whether members were able to make informed decisions.
- Whether members experienced avoidable financial, tax or employment consequences.
- Whether members needed professional support because core communications were unclear.

3. Engage directly with experienced external specialists

- NHS Pensions, DHSC and relevant stakeholders should engage with a broader and more diverse range of pensions specialists, accountants, advisers, employer representatives, unions and member-facing professionals who are seeing these issues in practice. Engagement that is concentrated among a small number of familiar external stakeholders risks limiting the operational experience, constructive challenge and alternative perspectives available to inform implementation.

- The purpose should be to identify recurring problems, improve communications, reduce avoidable errors and support better member outcomes.

4. Review technical training and escalation routes

- Review scripts used for McCloud calls.
- Improve escalation routes for complex cases.
- Strengthen technical training for call handlers.
- Quality assure verbal information given to members.
- Correct previous guidance where inaccurate or incomplete information has been identified.

5. Communicate actively where member action is required

- Who needs to act.
- Why it matters.
- What happens if the member does nothing.
- What deadline applies.
- Where to get support.
- How the issue interacts with tax, retirement or other benefits.

6. Create a visible learning mechanism for repeated errors

- Identify repeat error themes.
- Correct affected cases consistently.
- Update guidance and forms.
- Retrain staff where needed.
- Notify members where previous information may have been incomplete or misleading.

7. Treat accuracy and clarity as cost-control measures

- Incorrect information creates avoidable downstream cost through repeat enquiries, complaints, recalculations, professional fee claims, HMRC issues and member distress.
- Getting the information right first time is therefore not only fairer to members. It is likely to be materially cheaper over the long term.

Conclusion

The McCloud remedy was designed to correct age discrimination in public service pension schemes. However, implementation has created a further layer of complexity, uncertainty and potential unfairness for many members.

The concern is no longer only whether the legal remedy exists. The concern is whether members are receiving accurate, timely and understandable outcomes in practice.

The NHS Pension Scheme is dealing with one of the most complex pension correction exercises ever undertaken. That complexity is recognised. However, complexity cannot become a reason for poor communication, repeated delay, inconsistent information or avoidable member detriment.

This paper calls for a more transparent, collaborative and member-focused approach. That should include clearer implementation data, better technical training, stronger escalation routes, engagement with external specialists, and a formal mechanism for learning from repeated errors.

McCloud will continue to affect members for decades. The decisions made now will shape not only immediate remedy outcomes, but future retirements, tax corrections, dependant benefits, pension sharing cases and member confidence in the scheme. Getting this right is therefore not optional. It is essential.

We would welcome engagement with NHS Pensions, the Department of Health and Social Care, unions, employer representatives, professional advisers and member representatives to discuss the issues identified within this paper. The aim is not criticism for its own sake. It is to share practical experience gained through supporting affected members, identify recurring themes, improve member outcomes and help ensure lessons are learned from issues that continue to emerge during implementation.

Members have been at the centre of the McCloud remedy from a legal perspective. They should also be placed at the centre of its implementation

The observations in this paper are informed by practical casework, member enquiries and ongoing engagement with those affected by remedy implementation. Although the paper focuses on the NHS Pension Scheme in England and Wales, many of the themes have wider relevance across public service pensions.

About the author

Laura Bowler is Director and Technical Specialist at Pengage Ltd, a specialist public sector pensions consultancy. She works with members of the NHS, Local Government, Civil Service, Teachers' and other public sector pension schemes, helping individuals understand complex pension issues and make informed retirement decisions.

Through her work with members affected by the McCloud remedy, Laura has become increasingly concerned about the practical challenges of implementation, particularly where technical pension corrections intersect with real-life decisions around retirement, tax, employment, divorce, ill-health and bereavement.

This paper reflects her observations from working directly with members navigating the NHS Pension Scheme remedy process in England and Wales.

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About Pengage

Pengage Ltd is a specialist public sector pensions consultancy supporting members, employers, trade unions and representative bodies across the NHS and wider public sector. Through technical consultancy, training, advisory services and direct member support, Pengage helps people understand complex pension issues and navigate major pension reforms, including the McCloud remedy.

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