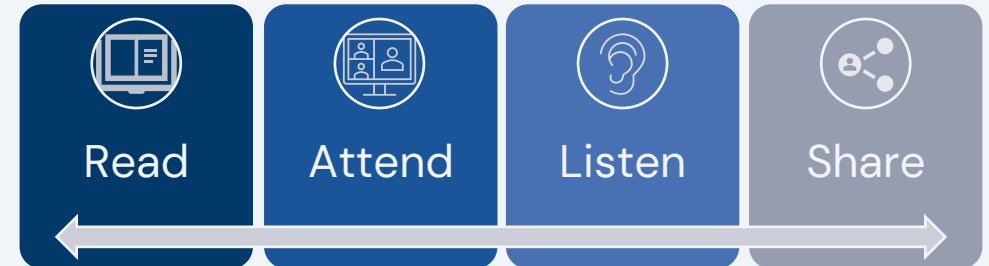


# NPCC Police Pensions Update Financial Loss Compensation Mechanism Refresher

21 November 2024

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# Resources

- Pension Chat
- Bulletins
- [KHUB](#)

## Compensation guidance

- Update on guidance for Scheme Managers [Bulletin 2](#), [Bulletin 5](#), [Bulletin 6](#)
- Publication of compensation guidance and member information [Bulletin 7](#)
- Interest due on Part 4 Tax loss calculator (AA and LTA) [Bulletin 13](#)
- Marginal rate change for previously paid AA tax charge [Bulletin 13](#)
- Waiving liabilities [Bulletin 13](#)

## Compensation Mechanism

- Compensation communications and scheme manager support - [15 August 2024](#) – Slide 13 to 14
- Compensation processes - [4 July 2024](#) – Slide 13 to 18
- Compensation mechanism scheme manager and funding guidance – [23 May 2024](#)
- Compensation mechanism update – [14 March 2024](#)
- Compensation scheme principles - [23 November 2023](#) slide 6
- Update - [26 October 2023](#) – Slides 15 to 17
- Guidance update - [14 September 2023](#) – Slide 11
- Home Office consultation - [10 March 2023](#) Slide 9
- Treasury directions [26 January 2023](#) – Slides 15 to 20

# Compensation Powers

## The Act – PSPJOA 202

- Section 23 of the PSPJOA 2022 provides a permissive power for scheme managers to pay compensation in respect of compensatable losses incurred by members because of the discrimination, or as a result of putting members in the same pension position they would have been in but for the discrimination.

## The Directions – Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022

- Chapter 3 of the directions. Directions 8 to 11

# The Act – PSPJOA 2022

## Section 23 of the PSPJOA 2022

- Provides a permissive power for scheme managers to pay compensation in respect of compensatable losses incurred by members because of the discrimination, or as a result of putting members in the same pension position they would have been in but for the discrimination.

## Losses are compensatable if they meet the description set out in the directions and **one** of the following applies:

- i. The loss is attributable to the breach of the non-discrimination rule that arose from the application of an exception to Section 18(1) of the Public Service Pensions Act 2014 (i.e. the transitional protections which were found to be unlawfully discriminatory through the [McCloud judgment](#)) [(23(4))]
- ii. The loss is attributable to the application of any provision of, or made under, Chapter 1 of the PSPJOA 2022 (i.e. the application of the remedy as required by the Act) or [Scheme Regulations](#) which implement the remedy set out by the act. [(23(5))]
- iii. A Part 4 tax loss (a specific tax loss where HMRC's statutory time limits do not allow for correction of the amount of tax paid). [(23(6))]

# The Directions

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.

There are five relevant directions for compensation, which are:

- Direction 8 – Sets out the power to pay compensation and sets out 10 principles.
- Direction 9 – Describes a compensatable loss as being either a direct financial loss or a specified part 4 tax loss. The directions refer to specific compensatable tax loss scenarios, but no specific scenarios of compensatable direct financial losses are provided.
- Section 10 – Indirect compensation.
- Direction 11 – Indirect compensatable losses.
- Direction 18 – Sets out the process to apply for a compensation claim.

# Compensation

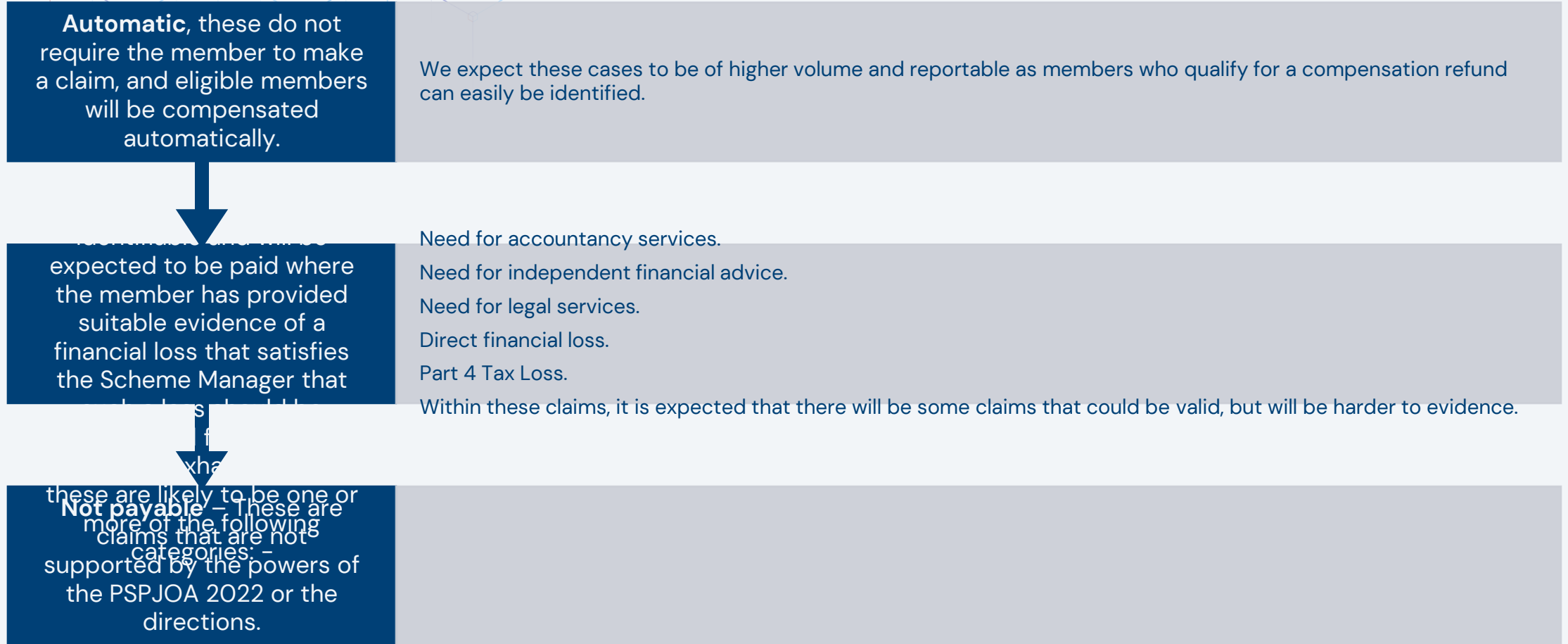
## Direct financial loss

- The compensation should compensate Pension Scheme members (or their beneficiaries) for direct financial losses they have suffered because of either the discriminatory transitional protections, or any provisions in the PSPJOA 2022 or [The Police Pensions \(Remediable Service\) Regulations 2023](#).

## Part 4 Tax Loss

- Paragraph 9 of [section 23](#) sets out that a part 4 tax loss is a reference to pension tax charges such as annual & lifetime allowance and unauthorised payments.

# Compensation categories



# Automatic

**Compensatable refunds** – To remain an authorised payment, situations where a refund of contributions is necessary to rectify the discrimination are to be treated as compensation.

- 2006 transition members who are returned to the 2006 legacy scheme will receive a refund of overpaid 2015 contributions.
- Transitional members of the 2015 scheme who paid added pension in the 2015 scheme during the remedy period will receive a refund of 2015 added pension contributions that they paid during the remedy period.
- 1987 legacy scheme members who choose 2015 benefits when they make their Section 6 (Immediate Choice members) or Section 10 election (Deferred Choice members) will receive a refund of 1987 overpaid contributions.
- A protected or taper protected member who commenced a contract to pay legacy scheme added years contributions during the remedy period, but later chooses reformed scheme benefits at retirement will receive a refund of any added years contributions.
- Tax relief for non-active members – All non-active contributions, excluding opted-out service reinstatement pre and post remedy.



# Anticipated claims with evidence



All claims will need to provide clear evidence of a direct financial loss (such as a receipt, invoice, or bank transaction) as well as justification as to how that loss is attributable to the discrimination identified by the McCloud judgment or its remedy.



Anticipated claims would fall into the following categories:

- Accountancy Services
- Independent financial advice
- Legal services
- Financial Loss
- Part 4 Tax Loss



This does not include a payment for information or services that, in the opinion of the decision maker, the applicant could have reasonably obtained from the Scheme Manager of the Police Pension Scheme without charge, such as the following documents:

- Factual information
- RSS
- Pensions Savings Statement (PSS)
- Information request from scheme manager for use with HMRC calculator

## Financial Loss

- Claims for support using HMRC digital service
- Paying additional contributions – effect on historical tax relief position

## Part 4 Tax Loss

- Annual or lifetime allowance compensation claims (out of scope)
- Annual or lifetime allowance compensation claims (Interest)
- Unauthorised payments interest

# Compensation

Tax relief is compensatory only



No historical changes to P60s or  
marginal rate

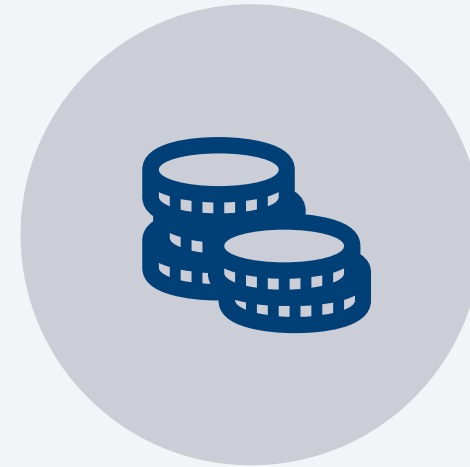


Financial loss of personal tax will be  
remedied by compensation

# Scenarios for compensation



**CHANGE IN THRESHOLD  
ENTITLEMENT, DUE TO ADDITIONAL  
TAX RELIEF**



**CHANGE IN MARGINAL RATE, DUE TO  
ADDITIONAL TAX RELIEF**

# Decision Making

The PSPJOA 2022 and the directions require the scheme manager to make decisions about compensation claims, and to consider appeals.

On the matter of scheme manager discretion, in the Home Office consultation response, paragraph 6.172 Home Office said *"Scheme Managers need to be able to consider individual cases when making certain decisions, rather than a blanket set of rules applying"*

When exercising the power to pay amounts by way of compensation, the decision maker must act in accordance with direction 8 of the Treasury Directions.

A decision maker may request such further information from the applicant as they consider appropriate.

The relevant decision maker will always be a representative of the current scheme manager, who is the most recent employer of the member.

The scheme manager must hold a record of the claim and the decision, such that no member can be compensated more than once for any specific loss.

# Member guidance



[MEMBER  
COMPENSATION GUIDE](#)



[COMPENSATION CLAIM  
FORM](#)

# Scheme Manager Guidance

## Policy

- NPCC Guidance
- Regulations

## Process

- For scheme manager
- To consider decision making
- Local arrangements
- Accepting member claims

# Funding

- Home Office issued funding guidance in May 2024
- Compensation is a new AME process
- Separate to pension fund account
- Quarterly forecasting
- Paid in arrears

## Pension Fund vs Compensation

### Pension Fund

#### Expenditure:

- Additional pension arrears
- Additional commutation lump sum arrears
- Interest applied to legitimate expenditure in this category

#### Income:

- Additional employee contributions (for adjustments)
- Additional employee contributions (for opt-out periods during remedy period)
- Interest applied to legitimate income in this category

### Compensation

- Contribution adjustments including interest
- Refund of 'Added Pension' contributions
- Compensation for tax relief
- Accountant/tax services and/or IFA fees
- Taper member where mixed benefits are more than single benefit choice
- Maintaining transfer values
- Other compensatable losses



# What's next



# Disclaimer

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