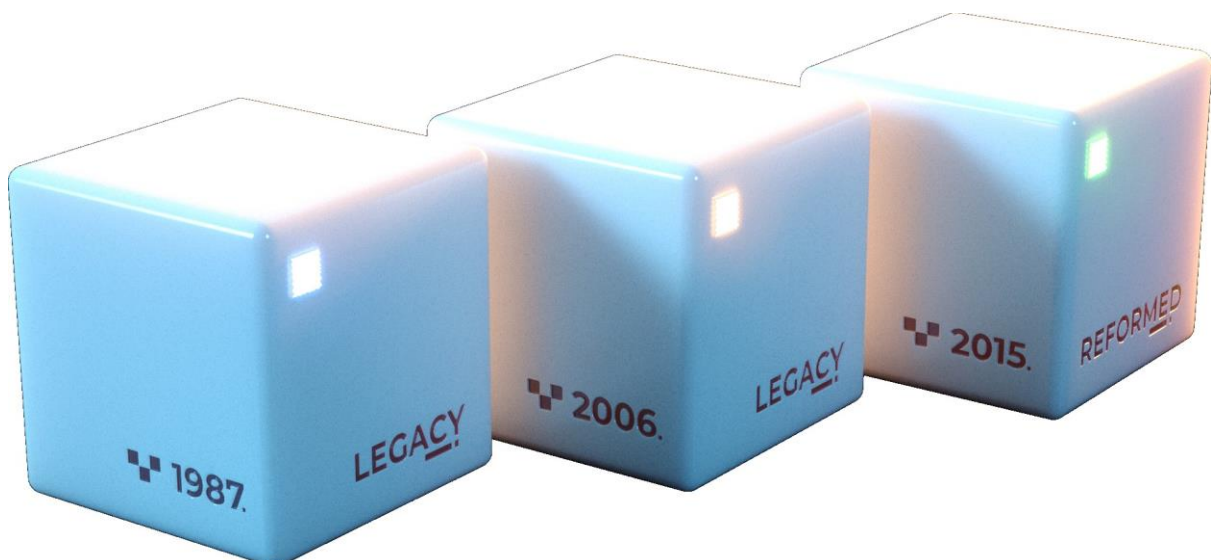


NPCC Police Pensions

Member Remedy Factsheet

McCloud Contingent Decisions



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What is a Contingent Decision?

A Contingent Decision is a decision taken by a Member, that would have been different had it not been for the discrimination identified by the courts. The decision will relate to their membership of the Police Pension Scheme during the Remedy Period 1 April 2015 to 31 March 2022.

Members can make a claim for a Contingent Decision this will be assessed by their force to determine if it can be accepted, this is necessary as each type of Contingent Decision has specific criteria which must be met.

What are the types of Contingent Decisions?

There are four types of Contingent Decisions for which a claim can be made.

A. Opt-Outs:

- i. A Member who would not have opted-out if they had been allowed to remain in the Legacy Scheme beyond their transition date, or,
- ii. A protected Member who had not been allowed to join the 2015 Reformed Scheme from 1 April 2015.

B. Honoraria: A Member who would have chosen an Honoraria (Non-Pensionable Payment) if they had remained in the Legacy Scheme.

C. Additional Service: A Member who would have purchased (more) additional service if they were in the Legacy Scheme.

D. Transfers:

- i. A Member who would have transferred in service from a previous pension if they were in the Legacy Scheme.
- ii. A Member who chose to transfer (in or out) and would not have done so if they had remained in the Legacy Scheme.

This document sets out some [important information](#) about each of the four Contingent Decision areas and then provides some more [general information about the process](#).

A: Opted-Out Service Contingent Decision important information

Periods of service that can be considered for re-instatement of Opted-Out Service

You can make a Contingent Decision claim for Opted-Out Service if you Opted Out between 12 March 2012 and 28 February 2022 and the reason for you Opting Out was because of the 2015 Pension reforms. This also includes opting out because you were deemed a fully protected Member and could not join the 2015 scheme.

The specific date that you Opted-Out and the Scheme you Opted-Out from will depend on how your Opted-Out Service can be re-instated.

Re-instatement of Opted Out Service

1987 Legacy Scheme

If your Legacy Scheme is the 1987 Scheme and you Opted-Out before 1 April 2015, you will only be able to be re-instated into the 2006 Scheme for your period of Opted-Out Service, up to the latest date of 31 March 2022. This is because the rules in place before this date did not allow members to rejoin the 1987 Scheme.

If your Legacy Scheme is the 1987 Scheme and you Opted-Out between 1 April 2015 and 28 February 2022, you will be re-instated into the 1987 Scheme for your period of Opted-Out Service, up to the latest date of 31 March 2022.

2006 Legacy Scheme

If your Legacy Scheme is the 2006 Scheme you will be re-instated into the 2006 Scheme, up to the latest date of 31 March 2022.

Service after 1 April 2022

If you have any Opted-Out Service after 1 April 2022, the Scheme Manager can re-instate your membership of the 2015 Scheme from 1 April 2022.

Opt-Out after 30 years' service

If you Opted-Out of the 1987 Scheme when you reached 30 years' service and this was before 1 April 2015 then you will only be able to be re-instated into the 2006 Scheme.

If you Opted-Out of the 1987 Scheme when you reached 30 years' service and this was during the remedy period then you will be re-instated into the 1987 Scheme.

As you have achieved your maximum service, you will not be able to accrue any more benefits in either the 1987 Scheme or the 2006 Scheme, but you would be able to accrue pension benefits in the 2015 Scheme so the option to have your Opted-Out Service re-instated may be of benefit to you if you choose 2015 Scheme benefits for the Remedy Period.

If you have a period of re-instated Opted-Out Service that falls between 12 March 2012 and 31 March 2015 this will not count for pension purposes.

Changing your mind about your election

If your Contingent Decision claim is accepted and you elect to have your Opted-Out Service re-instated, this decision is irrevocable. This means that even if your personal circumstances change in the future, you will have to pay the missing contributions at some point before your pension benefits can be brought into payment.

As you will not be able to change your mind about any election to have Opted-Out Service re-instated, before you make your decision, you should take into account and consider very carefully the information that is sent to you, which will include how much it will cost and how and when you will pay the required amount.

B: Honoraria Contingent Decision important information

Periods that can be considered for an Honoraria Contingent Decision

You can make a Contingent Decision claim for Honoraria if you made an election in the Remedy Period 1 April 2015 to 31 March 2022 about your temporary pay.

You may have elected to receive a Non-Pensionable Payment (Honoraria) instead of any increase in temporary pay, or you were entitled to make such an election but you did not.

C: Additional Service Contingent Decision important information

Conditions that need to be met for an Additional Service Contingent Decision claim

You can make a Contingent Decision claim for Additional Service if immediately before 1 April 2022 you were either an Unprotected or Tapered Member of the 1987 Scheme or the 2006 Scheme.

If your Legacy Scheme is the 1987 Scheme you will need to meet the necessary conditions for purchase of Additional 60ths in that Scheme with the key point being that you could not achieve 30 years by the normal pension age for your rank.

If your Legacy Scheme is the 2006 Scheme you will need to meet the necessary conditions for the purchase of Added Years in that Scheme with the key point being that you could not achieve 35 years by your normal pension age.

A Contingent Decision election for Additional Service can take effect from your first birthday within the Remedy Period, but you can choose a later birthday as long as you still meet the conditions required at that date.

D: Transfers Contingent Decision important information

Conditions that need to be met for a Transfer In Contingent Decision claim

You can make a Contingent Decision claim for a transfer in if you meet the relevant conditions for either the Legacy 1987 or 2006 Schemes would have applied.

A Contingent Decision election to transfer in non-club pension rights to the Legacy Scheme to secure additional benefits will take retrospective effect from the start of the remedy period.

Conditions that need to be met to revisit a previous transfer (in or out) Contingent Decision claim

You can make a Contingent Decision claim to revisit a transfer (in or out) if: –

- It was received or made from the 2015 Police Pension Scheme, and,
- The transfer took effect during the remedy period (1 April 2015 to 31 March 2022).
- It was not a transfer to or from another public service pension scheme that is subject to the McCloud remedy, this is because there is already remediable legislation to take account and revalue any such transfers.

Even if any such claim is accepted, it is also important to note that that the pension scheme that the benefits were transferred to or from will also need to agree to the transfer being reversed, and they have no obligation to do so.

When can I make a Contingent Decision claim?

There are various timeframes for when you can make a Contingent Decision claim. During the period 1 October 2023 to 31 March 2025, Pension Administrators will be issuing Remediable Service Statements to all active, deferred, pensioner and beneficiary members with relevant membership in the Remedy Period.

The information and remedy choices provided to you in the Remediable Service Statements will be affected by any Contingent Decision claim that you intend to make.

Your Force and/or Pension Administrator may publish information about the Contingent Decision process and specify when they would like members to make claims, but in effect the following deadlines will apply:

- You can make a Contingent Decision claim at any point before you receive your Remediable Service Statement.
- Where possible, you should consider making your claim and any subsequent election for a Contingent Decision at least six months prior to your retirement to ensure that there are minimal delays with processing your benefits.
- For Honoraria Contingent Decision claims, these must be made no later than three months after receipt of your Remediable Service Statement.
- For Transfer Contingent Decision claims, these must be made no later than six months after receipt of your Remediable Service Statement.
- For Opt-Out and Additional Service Contingent Decision claims, these must be made no later than 12 months after receipt of your Remediable Service Statement.

How do I make a Contingent Decision claim?

To make a Contingent Decision claim you will need to complete the Contingent Decision Claim form and send it to the Scheme Manager (Chief Constable) for your force. You can use the [claim form](#) on the NPCC Police Pensions website.

For an Opt-Out, Additional Service or Transfer Contingent Decision claims you will also need to provide supporting evidence. In all cases, this will be a short written statement in your own words of two or three sentences and in some cases you may need to provide some additional evidence. More information about what you need to provide is given on the claim form.

Once the Scheme Manager has received your claim and evidence, it will be assessed, and you will be notified of the outcome. If your claim is accepted, you will be sent a set of options by the Pension Administrator for your force relating to your specific claim.

What are the timescales to make a Contingent Decision claim?

The timescales provided below are the suggested national timescales that have been provided as a guide for Forces and Pension Administrators, there may be differences for local arrangements.

The Scheme Manager (Chief Constable) for your force will be able to advise you of the timescales that will apply for you.

Description	Timescales
<p>The Scheme Manager acknowledges receipt of the Contingent Decision claim and any evidence provided.</p> <p>This will include any information about delays that are anticipated, especially where cases are expected to be paused before being progressed to the next stage.</p>	Ten Working Days
<p>The Scheme Manager reviews the Contingent Decision claim and the evidence provided and makes their decision.</p> <p>The Scheme Manager notifies the Member of the outcome of the Contingent Decision claim.</p>	Two Months

Where the Contingent Decision claim is accepted by the Scheme Manager the case will progress as follows: –

Description	Timescales
The Scheme Manager sends the relevant data request to the Payroll Team.	Ten Working Days
<p>The Payroll Team collates the necessary information for the Contingent Decision claim.</p> <p>The Payroll Team send the collated data to the Pension Administrator.</p>	One Month
<p>The Pension Administrator creates or amends the pension records as necessary and produces the Contingent Decision Remediable Service Statement to the Member.</p> <p>The Pension Administrator sends the Contingent Decision Remediable Service Statement to the Member.</p>	Six Weeks
Members makes election for Honoraria	Three Months
Member makes election for Opted-Out Service, Additional Service or Transfers.	Twelve Months

What information will I be sent to make my Contingent Decision election?

You will be sent a Contingent Decision Remediable Service Statement which will contain details of:

- The additional pension contributions that you will have to pay. They will be adjusted for tax relief (except for active members who make an Additional Service Contingent Decision claim). They will also have interest applied.
- Information about any associated pension benefits so you can see the impact of any Contingent Decision election. Both the Legacy Scheme and Reformed Scheme Remedy choices will be shown.
- A notional Pensions Savings Statement will also be included so you can see any impact of Pensions Tax with regard to your Annual Allowance.
- Details of how and when you will need to make any payments.

In some cases you may need to go back to the Pension Administrator to request further options. They will tell you how you can do this when they send you the Contingent Decision Remediable Service Statement.

How will I make my election for a Contingent Decision?

Your Pension Administrator will send you a Contingent Decision Remediable Service Statement which will also include a Contingent Decision Election form.

You will need to complete the Contingent Decision Election form and return it to your Pension Administrator within the required timeframes: –

- Within three months for an Honoraria Contingent Decision claim.
- Within twelve months for an Opt-Out, Additional Service and Transfer Contingent Decision claim.

How will any monies due be paid?

There are a variety of ways that the additional contributions owed by you can be paid. These will be dependent on what status of member you are and the type of Contingent Decision claim that you are making.

Where the Scheme owes you monies due to your election, then these will be paid as soon as possible after your election has been made.

Your Pension Administrator will provide more information about any payments that are due and how these can be paid in the Contingent Decision Remediable Service Statement.

What can I do if I've not heard anything about my case?

If you have not received any communication to advise you of a delay, or you are expecting to hear and the timescales set out have passed, you should in the first instance, contact the Scheme Manager for your Force to ask about your Contingent Decision claim.

What can I do if my Contingent Decision claim is declined?

If your Contingent Decision claim is declined by the Scheme Manager for your Force, you will be provided with details of how to raise a dispute through the Internal Dispute Resolution Procedure (IDRP).

Your case will be heard by an Accountable Officer and depending on the process for your Force this may be a Single Stage or a Two Stage process.

You will also have the right of appeal to The Pensions Ombudsman.

Legislation

The legislation that applies to all the types of Contingent Decisions is: –

1. [The Public Service Pensions and Judicial Offices Act 2022](#) (PSPJOA 2022)
 - Meaning of Opted-Out Service – [Section 36 of Chapter 1](#)
 - Election for retrospective provision to apply for Opted-Out Service – [Section 5 of Chapter 1](#)
 - Pension and lump sum benefits for Immediate Choice members – [Section 14\(3\) to \(6\) of Chapter 1](#)
 - Pension Contributions for Immediate Choice members – [Section 15\(3\) and \(4\) of Chapter 1](#)
 - Pension Contributions for Deferred Choice members – [Section 16\(3\) and \(4\) of Chapter 1](#)
 - Remediable arrangements to pay voluntary contributions to legacy schemes – [Section 25 of Chapter 1](#)
2. [The Public Service Pensions \(Exercise of Powers, Compensation and Information\) Directions 2022](#) (The Directions)
 - Remedial arrangements to pay voluntary contributions to legacy schemes – [Direction 12\(2\) to \(7\) of Chapter 2 of Part 1](#)
 - Application of interest – [Directions 13 to 19 of Chapter 3 of Part 2](#)
3. [The Police Pensions \(Remediable Service\) Regulations 2023](#) (Police Scheme Remediable Regulations)
 - Opted-Out Service Elections – [Chapter 1 of Part 3](#)
 - Voluntary Contributions – [Regulation 29 of Part 5](#)
 - Transfers – [Part 6](#)
 - Elections for Non-Pensionable Payment instead of temporary pay – [Regulation 55 of Part 7](#)
 - Liabilities and Payment – [Part 9](#)
4. [The Police and Firefighters' Pensions \(Remediable Service\) \(Amendment\) Regulations 2024](#) (Police Scheme Remediable Amendment Regulations)
 - Non-club transfer in – [Regulation 43A of Chapter 3A of Part 6](#)

Disclaimer

This factsheet has been prepared by NPCC using the regulations as they stand in February 2024, however they should be used only as an informal view of the interpretation of the Police Pension Scheme as only a court can provide a definitive interpretation of legislation.

This factsheet should not be interpreted as legal advice.