



Local Government Pension Scheme (LGPS) Discretion Policy

History of document: To be reviewed annually and re-approved by the Trust Board every three years, or sooner if deemed necessary.

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V1	C. Dowson	15 Sept. 2022	27 Sept. 2022	

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Overview

The Local Government Pension Scheme (LGPS) in England and Wales was amended from 1 April 2014. The provisions of the new LGPS, together with protections for members benefits accrued before 1 April 2014, are now contained in the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (the 'LGPS Transitional Regulations 2014') and the Local Government Pension Scheme (Amendment) Regulations 2020 ('LGPS Amendment Regulations 2020').

Therefore, this statement now relates to the application of discretions under:

- (a) the LGPS Regulations 2013 and the LGPS Amendment Regulations 2020;
- (b) the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 ('LGPS Transitional Regulations 2014'); and
- (c) the Local Government Pension Scheme Regulations 1997 ('LGPS Regulations 1997') and the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 ('LGPS Benefits Regulations 2007'), which continue to have effect in so far as is necessary under Regulation 3 (Membership before 1 April 2014) of the LGPS Transitional Regulations 2014.

Statement of Intent

As an employer, participating in the Local Government Pension, the Trust is required to compose, publish and keep under review a policy statement in relation to the exercising of a number of discretions under the LGPS.

Under Regulation 60 (statements of policy about exercise of discretionary functions) of the LGPS Regulations 2013 and paragraph 2(2) of Schedule 2 of the LGPS Transitional Regulations 2014, The Trust is required to make and publish policy statements on how the Trust will exercise five specific discretions as follows:

1	Granting additional pension	Regulation 31 of the LGPS Regulations 2013
2	Shared cost Additional Pension Contributions (to buy additional pension)	Regulations 16(2)e and 16(4)(d) of the LGPS Regulations 2013
3	Flexible retirement	Regulation 30(6) of the LGPS Regulations 2013 and Regulation 11(2) of the (Transitional Provisions, Savings and Amendments) Regulations 2014
4	Switching on the 85 Year Rule	Schedule 2 paras 1(2) & 1(1)(c) of the LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014
5	Waiving actuarial reductions	Regulation 30(8) of the LGPS Regulations 2013 Regulations 3(1), Schedule 2 para 2(1) of the LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014 & B30(5) of the (Benefits, Membership and Contributions) Regulations 2007.

Following the implementation of the LGPS Amendment Regulations 2018 **two further mandatory** discretions have been introduced under regulations 24(a), 30(a), 30(c), 30(e) and 30(f).

In addition, **there are two further discretions relevant**, which relate to members who left before 1 April 2014. These are under Regulation 66 of the Local Government Pension Scheme (Administration) Regulations 2008 (in respect of leavers between 1 April 2008 and 31 March 2014) and under Regulation 106 of the LGPS Regulation 1997 (in respect of leavers between 1 April 1998 and 31 March 2008).

These are as follows:

These relate to members who left before 1 April 2014 only ¹		
1	Switching on the 85 Year Rule for a member who ceased active membership on or after 1/4/2008 but before 1/4/2014 voluntarily drawing benefits on or after age 55 and before 60	Regulations Sch 2 1(2) para 2(1) & 1(1)(c) of the (Transitional Provisions) Regulations 2008
2	Switching on the 85 Year Rule for a pension member with deferred benefits (i.e a suspended tier 3 ill health pensioner) voluntarily drawing benefits on or after age 55 and before age 60	Regulations Sch 2 1(2) para 2(1) & 1(1)(c) of the (Transitional Provisions) Regulations 2008
3	Early payment of Deferred Pensions for a member who ceased active membership on or after 1/4/2008 but before 1/4/2014	Regulation B30(5), Sch2, para 2(1) of the (Transitional Provisions) Regulations 2008
4	Early payment of Deferred Pensions who ceased active membership on or after 1/4/2008 but before 1/4/2014 and have ceased to be entitled to a tier 3 ill health benefit	Regulation 30A(5) of the LGPS Benefits Regulations 2007 and Sch2, para 2(1) of the (Transitional Provisions) Regulations 2008

Approach to Discretions

To ensure value for money and financial stability, the Trust has adopted an approach that befits the size, finances and current staffing levels of the Trust. In addition, the decisions regarding the discretionary powers have been taken to ensure the affordability of the scheme to all members.

The Trust is committed to equality and this policy has been created in accordance with anti-discrimination laws, the Equality Act 2010 and with regard to Age Regulations.

In addition to the above, the Trust is required to adhere to a number of provisions and to create and implement effective procedures for administration of the LGPS scheme.

Section	Description
1	Discretions from 1/4/14 in relation to post-31/3/14 active members and post- 31/3/14 leavers
2	Discretions in relation to scheme members who ceased active membership on or after 1/4/08 and before 1/4/14
3	Additional discretionary decisions

Regulations are marked M (Mandatory), R (Recommended) or LC (Less Common) according to their status. Only M (Mandatory), and LC (Less Common) regulations are being considered in this policy.

Section	Description
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¹ The Trust was formed 1 August 2011

Section 1: Formulation of compulsory policies from 1 April 2014 in relation to post 31 March 2014 active members and post 31 March 2014 leavers

Applicable Regulations:

R = Local Government Pension Scheme (LGPS) Regulations 2013 (SI 2013/2356)

TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014

A = LGPS (Administration) Regulations 2008 (SI 2008/239)

B -= LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) (SI 2007/1166)

L = LGPS Regulations 1997 (as amended) (SI 1997/1612)

Area	Discretion	Ref	Key	Policy
Granting additional pension	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a - figure at 1 April 2014. This is inflation proofed annually)	R31	M	Yorkshire Causeway will only exercise the discretion in exceptional circumstances and with express permission of the Trust Board Decisions will be made on the merit of each case, having regard to: the member's personal circumstances. the interests of the Trust; the additional contributions due to the Fund by the Trust in respect of the exercise of this discretion; any potential benefits or savings to the Trust arising from the exercise of this discretion; other options that are, from time to time, available under the Trust's severance arrangements; the funding position of the Trust within the Fund; The Trust will only consider granting additional pension in line with R31, where this is a clear financial or administrative advantage to the Trust
Shared cost Additional Pension Contributions (to buy additional pension)	Whether, how much and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme A member can buy additional pension through an APC contract. The discretion is whether the employer will share the cost of the APC	R16(2)(e) & R16(4)(d)	M	Yorkshire Causeway will only consider in exception circumstances and where there is a clear financial or administrative advantage to the Trust

Flexible retirement	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	M	Yorkshire Causeway will consider applications in accordance with its Early Retirement Policy (approved July-21)
	Whether to waive, in whole or part, actuarial reduction on benefits paid on flexible retirement	R30(8)	M	Yorkshire Causeway will only consider doing so in cases where there is a clear financial or administrative advantage to the Trust
85 Year Rule	Whether to “switch on” the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement)	TPSch 2, para, 1(2) & 1(1)(c)	M	Only for members with no Rule of 85: Yorkshire Causeway Schools Trust will not switch on the 85 Year Rule unless there is a clear financial or administrative advantage to the Trust.
Waive Reduction	Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership) on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was not in the Scheme before 1/10/06, on compassionate grounds (pre 1/4/14 membership) and in whole or in part on any grounds (post 31/3/14 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will not attain 60 between 1/4/16 and 31/3/20 inclusive on compassionate grounds (pre 1/4/16 membership) and in whole	TP3(1), TPsch 2 para 2(1), & B30(5), B30A(5)	M	Yorkshire Causeway will not waive any actuarial reduction arising out of a voluntary or flexible retirement. The Trust will pay any pension strain costs arising out of retirement on the grounds of redundancy or in the interests of the efficient exercise of the Authority’s functions, where this has been approved through its Early Retirement Policy (approved July-21)

	<p>or in part on any grounds (post 31/3/16 membership) if the member was in the Scheme before 1/10/06 and will be 60 by 31/3/16</p> <p>on compassionate grounds (pre 1/4/20 membership) and in whole or in part on any grounds (post 31/3/20 membership) if the member was in the Scheme before 1/10/06, will not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20 inclusive.</p>			
	<p>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age other than on the grounds of flexible retirement (where the member only has post 31/3/14 membership)</p>	R30(8)	M	<p>Yorkshire Causeway will not waive any actuarial reduction on benefits paid which a member voluntarily draws before pension age.</p>
<p>Shared cost AVCs (SCAVCs)</p>	<p>Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements</p>	R17(1) & definition of SCAVC in RSch 1	LC	<p>Yorkshire Causeway will pay Shared Cost Additional Voluntary Contributions (SCAVC) where an employee has elected to pay AVCs by salary sacrifice. Employees will be required to contribute a minimum of £1 per month into the SCAVC. The Trust SCAVCs will not contribute more than the amount of salary sacrificed by the employee.</p> <p>The discretion enables employees to make SCAVC payments, and thereby benefit from tax and National Insurance savings as a means of building up pension savings. The arrangement requires the Trust to make a minimal contribution to the arrangement (£1 per month per participating employee), but this cost is (substantially) more than offset by the employer's National Insurance savings on the amount of the salary sacrificed.</p>

Section 2: Discretions in relation to scheme members who ceased active membership on or after 1 April 2008 and before 1 April 2014

Applicable Regulations:

A = LGPS (Administration) Regulations 2008

B -= LGPS (Benefits, Membership and Contributions) Regulations 2007 T = LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238)

Area	Discretion	Ref	Key	Policy
85 Year Rule	Whether to “switch on” the 85-year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement)	TPSch 2, para, 1(2) &1(1)(c)	M	Only for members with no Rule of 85: Yorkshire Causeway Schools Trust will not switch on the 85 Year Rule unless there is a clear financial or administrative advantage to the Trust.
	Whether to “switch on” the 85 year rule for a pensioner member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60.	TPSch 2, para, 1(2) &1(1)(c)	M	Yorkshire Causeway Schools Trust will not switch on the 85 Year Rule for a pensioner member with deferred benefits (i.e. a suspended tier 3 ill health pensioner) voluntarily drawing benefits on or after age 55 and before age 60.
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	B30(5), TPsSch 2 para 2(1)	M	Applications from deferred pensioners will only be considered on compassionate grounds and in exceptional circumstances, taking into account the costs of waiving any reduction. All applications will be considered by the Trust Board.
	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under regulation 30A (pensioner member with deferred benefits) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended).	B30A(5) TPsSch 2 para 2(1)	M	

Section 3: Additional discretionary decisions

Discretions in relation to redundancy and compensatory payments on the early termination of employment
Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended)

Redundancy Pay on actual weeks' pay	To base redundancy payments on an actual weeks, pay where this exceeds the statutory weeks' pay limit	5	M	Yorkshire Causeway uses actual salary (= actual weekly pay) in the calculation of redundancy payments. Where the resultant value exceeds the statutory weekly capped amount, the higher of actual weekly pay or the statutory weekly pay will be used. These entitlements will be applied to part-time staff on a pro-rata basis.
Lump sum compensation	To award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	6	M	Yorkshire Causeway will not award any lump sum compensation ² in any situation.
Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15/01/12 Local Government (Discretionary Payments) (Injury Allowance) Regulations 2011 (SI 2011/2954).				
Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job		3(1)	M	Yorkshire Causeway will consider each case on its merits.
Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job		3(4) and 8	M	Any injury allowance will not exceed the amount of the reduction in remuneration offset against any other benefits, payments or awards received in relation to the injury or disease.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job)		3(2)	M	Any injury allowance granted will cease when the employee leaves employment with the Trust. The injury allowance will be reviewed should the employee's circumstances change, e.g. in relation to the employee's working or earning capacity or other payments received.

² This refers to compensation in the form of added years (expressed as weeks) of pension entitlement, and not to redundancy pay

Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(1)	M	Yorkshire Causeway will consider each case on its merits.
Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(3) and 8	M	Any injury allowance granted will not exceed 85% of the employee's final pensionable remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	M	Any injury allowance will cease when the employee reaches their state pension age or is granted tier 1 ill-health retirement.
Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	M	Any injury allowance will be reassessed or suspended if the employee becomes capable of working again.
Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply.	6(1)	M	Yorkshire Causeway will not make an injury allowance award.
Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment).	6(1)	M	Yorkshire Causeway will not make an injury allowance award.
Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following cessation of employment).	6(2)	M	Yorkshire Causeway will not make an injury allowance award.

Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	7(1)	M	Yorkshire Causeway will consider each case on its merits.
Determine amount of any injury allowance to be paid to the spouse, civil partner or co- habiting partner under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(2) and 8	M	Any injury allowance granted will not exceed 85% of the employee’s final pensionable remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(3)	M	Any injury allowance granted will cease at the date when the employee would have reached their state pension age or may be reviewed if the beneficiary remarries, enters into a new civil partnership or cohabits.