



## **DISCRETIONARY POLICY STATEMENT**

The following is a statement of City of York Council's policy on the exercise of its LGPS and discretionary compensation related discretions.

The Chief Finance Officer is responsible for this Policy.

It covers all discretions for which a policy is either mandatory or recommended or less common.

The Council retains the right to change these policies at any time.

The policies confer no contractual rights.

This discretion policy will apply from the date of approval and replaces all previous employer discretion policies from that date. The policy in force at the time a relevant event occurs to a LGPS member will be the one applied to that member.

Decisions relating to the exercise of these discretions will be made as follows:

For Chief Officers – Staffing Matters and Urgency Committee (SMU) will make decisions.

For all other employees – The Chief Finance Officer (Section 151 Officer) will make decisions. Such decisions will be summarised and provide to SMU for noting. The Chief Finance Officer may, if they feel it necessary, refer to the Chief Operating Officer for decisions.

**Section A - Discretions from 1 April 2014 in relation to post 31 March 214 active members (excluding councillor members) and post 31 March 2014 leavers (excluding councillor members)**

**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	Regulation	Discretion Type	Discretion	Council's Policy	Comparison to 2014 Policy
<b>Shared Cost Additional Pension Contributions (APC) (to buy additional pension)</b>	R16(2)(e) and 16(4)(d)	Mandatory	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	The Council will contribute to Shared Cost APC schemes only when an employee has opted to buy back 'lost' pension due to a period of authorised unpaid leave (including sickness and child related leave) within 30 days of returning to work from that leave. In these circumstances, the employee will pay one third of the cost of the Shared Cost APC and the employer will pay two thirds of the cost.  Other than the circumstances above, the Council not enter into any Shared Cost APC scheme.	Same
<b>Flexible Retirement</b>	R30(6)	Mandatory	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)	The Council will consider applications in accordance with its policy on early/flexible retirement.	
<b>Flexible Retirement (cont.)</b>	R30(8)	Mandatory	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	The Council will not ordinarily waive, in whole or part, any actuarial reduction on flexible retirement unless there are exceptional reasons for doing so. The Council will	Wording revised to clarify when the Council will waive actuarial reductions and to avoid fettering discretion. But no material change to existing policy.

				consider each case on its own merits taking into account factors such as the personal circumstances of the member, the financial cost and operational benefits.	
<b>Granting Additional Pension</b>	R31	Mandatory	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 £7,194 p.a - figure at 1 April 2020. This is inflation proofed annually)	The Council will not grant additional pension to a member.	Same
<b>Rule of 85</b>	TP Sch. 2, para 1(1)(c) and (1)(2)	Mandatory	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)	The Council will not ordinarily switch on the Rule of 85 unless there are exceptional reasons for doing so. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member, the financial cost and operational benefits.	Wording revised to clarify when the Council will switch on the rule of 85 and to avoid fettering discretion. But no material change to existing policy.
<b>Waive Reduction</b>	R30(8)	Mandatory	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)	The Council will not ordinarily waive, in whole or part, any actuarial reduction on voluntary early retirement unless there are exceptional reasons for doing so. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member, the financial cost and operational benefits.	Wording revised to clarify when the Council will waive actuarial reductions and to avoid fettering discretion. But no material change to existing policy.
<b>Waive Reduction (cont.)</b>	TP 3(1), TP Sch. 2, para 2(1)(c)	<b>Mandatory</b>	Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal	The Council will not ordinarily waive, in whole or part, any actuarial reduction on voluntary early retirement unless there are	Wording revised to clarify when the Council will waive actuarial reductions and to avoid fettering

		<p>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):</p> <p>a) 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,</p> <p>b) 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</p> <p>c) on compassionate grounds (pre 1/4/16 membership) and in whole 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>d) 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</p>	<p>exceptional reasons for doing so. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member, the financial cost and operational benefits.</p>	<p>discretion. But no material change to existing policy.</p>
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			between 1/4/16 and 31/3/20 inclusive		
<b>Shared cost Additional Pension Contributions (to buy lost pension following a period of authorised unpaid absence)</b>	R16(16)	Recommended	If a member has an authorised unpaid absence (not including illness or injury, relevant child-related leave or reserve forces service leave) and within 30 days of returning to work they elect to buy back the lost pension, the employer must share the cost (2/3rds) The discretion is whether to extend the 30 day deadline for a member to elect for a shared cost APC	The Council will extend the deadline for a member to elect for a shared cost APC to 60 days or longer where there is evidence of administrative shortcomings.	
<b>Transferring in non LGPS pension rights</b>	R100(6)	Recommended	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	The Council will only allow members to opt to transfer pension rights beyond the 12 month period in exceptional circumstances and/or if there is evidence of administrative shortcomings.	Current policy states:  CYC will allow members to opt to transfer pension rights beyond the 12 month period only if there is evidence of administrative shortcomings. See Appendix 3 for guidance The Administering Authority will provide guidance on individual queries but must be contacted within the 12 month period above.
<b>Transferring in LGPS pension rights (only for post 1.4.14 re-joiners)</b>	R22(8)(b)	Recommended	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	The Council will only extend the 12 month option period beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings.	
<b>Transferring in LGPS pension rights (only</b>	R22(7)(b)	Recommended	Whether to extend the 12 month option period for a member to elect that deferred benefits should not	The Council will only extend the 12 month option period beyond 12 months in exceptional circumstances	Changed from "CYC will permit aggregation beyond 12 months."

<b>for post 1.4.14 re-joiners)</b>			be aggregated with an ongoing concurrent employment	and/or if there is evidence of administrative shortcomings.	
<b>Transferring in LGPS pension rights (only for pre 1.4.14 re-joiners)</b>	A16(4)(b)(ii)	Recommended	Whether to extend the 12 month option period for aggregation of deferred benefits	The Council only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings.	
<b>Transferring in LGPS pension rights (i.e. final salary benefits which will buy CARE pension only for post 1.4.14 re-joiners)</b>	TP10(6)	Recommended	Whether to extend the 12 month option period for a member (who did not become a member of the 2014 Scheme by virtue of TP5 (1)) to elect that pre 1 April 2014 deferred benefit should be aggregated with a new employment	The Council only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings.	
<b>Employee Contribution Rate</b>	R9(1) and 9(3)	Recommended	Employers to assess the relevant contribution band to determine the rate of employee contribution. Banded contribution rates for employees are based on actual pensionable pay received and not whole time equivalent salary. Employers to allocate appropriate band at each 1 April and determine other circumstances in which the banding will be reviewed.	On 1st April each year, the Council will allocate the appropriate band for all members' pensionable pay based on the previous years' pensionable pay and include incremental progression and cost of living increases where known as at 1 April . This will not change during the financial year unless there is a post change or cessation of salary protection arising from that change, or a pay award which cannot be applied on 1 April. This would include a pay award which is being applied retrospectively to 1 April or a pay award which applies from a date other than 1 April. For new posts	Current policy:  CYC will allocate the appropriate band for all members' pensionable pay (to include casuals) based on each monthly pensionable salary pay figure. The percentage could potentially change on a monthly basis. The relevant banding rate at the end of the year will correspond with the annual pensionable pay figure. CYC have agreed to review the pensionable pay earnings quarterly for members to

				<p>commencing during the year, their band will depend on starting salary. Only permanent changes to pensionable pay will result in re banding.</p> <p>If members have variable or nil hours contracts, the relevant band will be based on an assessment of the total pensionable pay received in the previous year. For new variable or nil hours posts, banding will be based on the whole time equivalent salary, and reviewed 6 months after appointment to ensure the correct band has been allocated (based on total pensionable pay in their first 6 months).</p>	ensure the correct banding rate is allocated.
<b>Assumed Pensionable Pay (APP)</b>	R21(5)	Recommended	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	The Council would include lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.	
<b>Assumed Pensionable Pay (APP)</b>	R21(5A) and 21(5B)	Recommended	Where in the employer's opinion, the pensionable pay received in relation to an employment (adjusted to reflect any lump sum payments if appropriate) in the 3 months (or 12 weeks if not paid monthly) before the start of APP, is materially lower than the level of pensionable pay the member would have normally received The discretion is whether to substitute a higher level of pensionable pay by taking into account the pensionable pay received	The Council will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.	

			by the member in the previous 12 months		
<b>Late Conversion of AVCs to service</b>	TP15(2A)(b) & L66(8) & former L66(9)(b)	Recommended	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	The Council will extend the 30 day deadline if there is evidence of administrative shortcomings.	
<b>Shared Cost AVCs</b>	R17(1) & definition of SCAVC in RSch 1	Recommended	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements	The Council will not enter into SCAVCs.	
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	R19(2)	Recommended	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment unless employer directs a total or partial refund is to be made	The Council will consider whether or not to make a refund based on the merits of each case and in light of advice from Legal and Internal Audit.	Same policy but advice comes from Internal Audit.
<b>Pensionable payments</b>	R20(1)(b)	Recommended	Specify in an employee's contract what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	The Council reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations.  The Council will automatically include "detriment" or "protected" pay as pensionable pay.	Same as 2014 which included detriment or protected pay
<b>Tier 3 Ill Health Review</b>	R37(3) and (4)	Recommended	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	The Council will make a determination whether to suspend or cease the pension, if it is made aware that such a person has started	



				gainful employment (more than 30 hours for more than 12 months).	
<b>T3 Ill health Review Overpayments</b>	R37(3)	Recommended	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	The Council will recover any overpaid Tier 3 pension following commencement of gainful employment.	
<b>Deferred Member - Ill Health</b>	R38(3)	Recommended	Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner	<p>The Council will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP).</p> <p>The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member and the financial cost.</p> <p>Applications from former employees with deferred benefits will be managed by HR which is responsible for referring the former employee to the Independent Registered Medical Practitioner (IRMP) and notifying the former employee of the outcome of the application.</p>	<p>Current policy says:</p> <p>CYC will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP)</p> <p>Applications from former employees with deferred benefits will be managed by former Service; the Service is responsible for referring the former employee to the Independent Registered Medical Practitioner (IRMP) via the Occupational Health Service and notifying the former employee of the outcome of the application. Payment of pension benefits will commence from the date of the employee's letter requesting that the preserved benefits be brought into payment.</p>
<b>T3 Ill Health Recommendation</b>	R38(6)	Less Common	Decide whether a suspended ill health tier 3 member is unlikely to be capable of undertaking gainful employment before normal pension age because of ill health	The Council will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP). See above	Same
<b>Forfeiture Certificate</b>	R91(1) and (8)	Less Common	Whether to apply to Secretary of State for a forfeiture certificate where	The Council will consider whether or not to apply for and enact a certificate based on the merits of	Same but based on advice from Internal Audit

			member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment)	each case and in light of advice from Legal.	
<b>Forfeiture Certificate</b>	R91(4)	Less Common	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R95 below)	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal.	Same but based on advice from Internal Audit
<b>Forfeiture Certificate</b>	R92(1) and (2)	Less Common	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	The Council will not direct that interim payments are made from the Fund pending a decision.	
<b>Recovery of Monetary Obligation</b>	R93(2)	Less Common	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than benefits from transferred in pension rights or APCs or AVCs or, subject to R95 below, in respect of any GMP) where the obligation was incurred as a result of a grave misconduct or a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal and Internal Audit.	Same but based on advice from Internal Audit

<b>GMP Forfeiture</b>	R95	Less Common	Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	The Council will consider each case on its merits.	Same
<b>Bulk Transfer</b>	R98(1)(b)	Less Common	Agree to bulk transfer payment  Whether to agree to bulk transfer payment where two or more members' active membership ends on their joining a registered non local government pension scheme	The Council will consider whether or not to agree on the merits of each case after consideration with the Administering Authority and after having taken appropriate actuarial advice.	Same
<b>Final Pay Period (Fees)</b>	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) & B11(2)	Less Common	Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31st March in the 10 years prior to leaving	The Council will allow members to so choose.	Same

**Section B - Discretions in relation to scheme members (excluding councillor 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, Memberships and Contributions) Regulations 2007

T = LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238)

Area	Regulation	Discretion Type	Discretion	Council's Policy	Comparison to 2014 Policy
Waive Reduction	B30(5)	Mandatory	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	Applications from deferred members will only be considered on compassionate grounds. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member and the financial cost.	Current policy states: "Applications from deferred Pensioners will only be considered on compassionate grounds, taking into account the costs of waiving any reduction. All applications will be considered by the Head of Paid Service and Section 151 Officer."
Waive Reduction	B30A(5)	Mandatory	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under B30A (pensioner member with deferred benefits, i.e. a suspended tier 3 ill health pensioner)	Applications from deferred members will only be considered on compassionate grounds. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member and the financial cost.	
Late Conversion of AVCs to service	T Schedule 1 & L66(8) & former L66(9)(b)	Less Common	Allow late application to convert scheme AVCs into membership credit i.e. allow application more than 30 days after cessation of active membership (where AVC arrangement was entered into before 13/11/01)	The Council will extend the 30 day deadline if there is evidence of administrative shortcomings.	Same
Refund of contributions	A47(2)	Less Common	No right to return of contributions where a	The Council will consider whether or not to make a refund based on the	

<b>- member left due to an offence/grave misconduct</b>			member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment unless employer directs a total or partial refund is to be made	merits of each case and in light of advice from Legal.	
<b>Forfeiture Certificate</b>	A72(1) and (6)	Less Common	Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment)	The Council will consider whether or not to apply for and enact a certificate based on the merits of each case and in light of advice from Legal.	
<b>Forfeiture Certificate</b>	A72(3)	Less Common	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal.	
<b>Forfeiture Certificate</b>	A732(1) and (2)	Less Common	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	The Council will not direct that interim payments are made from the Fund pending a decision.	
<b>Recovery of Monetary Obligation</b>	A74(2)	Less Common	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights or AVCs/SCAVCs) where the	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal and Internal Audit.	

			obligation was incurred as a result of a criminal, negligent or fraudulent act or omission in connection with the employment and as a result of which the person has left employment		
<b>Recovery of Monetary Obligation</b>	A76(2) and (3)	Less Common	Whether to recover from Fund any financial loss caused by fraudulent offence or grave misconduct of employee (who has left employment because of that fraudulent offence or grave misconduct), or amount of refund if less	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal and Internal Audit.	
<b>Deferred Member - Ill Health</b>	B31(4)	Less Common	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	<p>The Council will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP).</p> <p>The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member and the financial cost.</p> <p>Applications from former employees with deferred benefits will be managed by HR which is responsible for referring the former employee to the Independent Registered Medical Practitioner (IRMP) and notifying the former employee of the outcome of the application.</p>	
<b>T3 Ill Health Recommendation</b>	B31(7)	Less Common	Decide whether a suspended ill health tier 3 member is permanently incapable of	The Council will be guided by the recommendation of an Independent	

			undertaking any gainful employment	Registered Medical Practitioner (IRMP). See above	
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**Section C - Discretions in relation to:**

- a) councillor members who ceased active membership on or after 1 April 1998, and**
- b) any other scheme members who ceased active membership on or after 1 April 1998 and before 1 April 2008**

**Applicable Regulations:**

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

R = LGPS Regulations 2013(SI 2013/2356)

TP = LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525)

<b>Area</b>	<b>Regulation</b>	<b>Discretion Type</b>	<b>Discretion</b>	<b>Council's Policy</b>
<b>Employer Consent Retirement</b>	L31(2)	Mandatory	Grant application for early payment of deferred benefits on or after age 50 and before age 55	The Council will not grant early payment of deferred benefits before the age of 55
<b>Waive Reduction</b>	L31(5) and TPSch 2, para 2(1)	Mandatory	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early	Applications from deferred members will only be considered on compassionate grounds. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member and the financial cost.
<b>Employer consent at Normal Retirement Date for optant out</b>	L31(7A)	Mandatory	Where a member who opted out of the scheme continues to be employed by a Scheme employer, the member is only entitled to receive their benefits at NRD if their employer consents to them doing so (in respect of a member who opted out of the scheme after 31 March 1998 and before 1 April 2008)	The Council will agree to optants out being able to get benefits paid from their NRD.
<b>Rule of 85</b>	TP Sch. 2, para 1(2) and (1)(1)(f) and R60	Mandatory	Whether to "switch on" the Rule of 85 for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	The Council will not ordinarily switch on the Rule of 85 for a deferred member unless there are exceptional reasons for doing so. The Council will consider each case on its own merits taking into account factors such as the personal circumstances of the member and the financial cost.



<b>No double entitlement</b>	L34(1)(b)	Less Common	Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership (i.e where a member is entitled to a the 'normal' payment of a preserved benefit and an ill health benefit from preserved status, they are not entitled to both payments. In the absence of an election from the member, the employer can decide which benefit can be paid)	The Council will choose to automatically apply the regulations of greatest benefit to the employee.
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	L88(2)	Less Common	No right to return of contributions where a member left their employment due to offence of a fraudulent character or grave misconduct in connection with that employment unless employer directs a total or partial refund is to be made	The Council will consider whether or not to make a refund based on the merits of each case and in light of advice from Legal and Internal Audit.
<b>Forfeiture Certificate</b>	L111(2) and (5)	Less Common	Whether to apply to Secretary of State for a forfeiture certificate where member is convicted of a relevant offence (a relevant offence is an offence committed in connection with an employment in which the person convicted is a member, and because of which the member left the employment)	The Council will consider whether or not to apply for and enact a certificate based on the merits of each case and in light of advice from Legal.
<b>Forfeiture Certificate</b>	L112(1)	Less Common	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	The Council will not direct that interim payments are made from the Fund pending a decision.
<b>Recovery of Monetary Obligation</b>	L113(2)	Less Common	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than transferred in pension rights)	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal.

<b>Recovery of Monetary Obligation</b>	L115(2) and (3)	Less Common	Recovery from Fund of financial loss caused by employee, or amount of refund if less	The Council will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from Legal.
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**Section D - Discretions in relation to scheme members who ceased active membership before 1 April 1998**

**Applicable Regulations:**

LGPS Regulations 1995 (as amended) (SI 1995/1019)

TL = LGPS (Transitional Provisions) Regulations 1997 (SI 1997/1613)

Area	Regulation	Discretion Type	Discretion	Council's Policy
<b>Employer Consent Retirement</b>	TP3(5A)(vi) TL4 & L106(1) & D11(2)(c)	Mandatory	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	The Council will not grant applications for early payment of deferred benefits between the ages of 50 and 55. Over the age of 55, NYCC will consider on a case by case basis.
<b>No double entitlement</b>	D10	Less Common	Decide, in the absence of an election from the member within 3 months of being able to elect, which benefit is to be paid where the member would be entitled to a pension or retirement grant under 2 or more regulations in respect of the same period of Scheme membership (i.e where a member is entitled to a the 'normal' payment of a preserved benefit and an ill health benefit from preserved status, they are not entitled to both payments. In the absence of an election from the member, the employer can decide which benefit can be paid)	The Council will choose to automatically apply the regulations of greatest benefit to the employee.

**Section E - Discretions in relation to redundancy and compensatory payments on the early termination of employment**

**Applicable Regulations:**

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006 (as amended) (SI 2006/2914)

Area	Regulation	Discretion Type	Discretion	Council's Policy
<b>Redundancy Pay on actual week's pay</b>	<b>5</b>	Mandatory	To base redundancy payments on an actual weeks pay where this exceeds the statutory week's pay limit	When calculating redundancy payments the Council will use the employee's actual weekly pay.
<b>Lump sum compensation</b>	<b>6</b>	Mandatory	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	<p>The Council's general policy is that it will not award any lump sum compensation.</p> <p>However, the Council reserves the right to use this discretion in exception circumstances.</p> <p>This power may be used in connection with regulation 8 of The Restriction of Public Sector Exit Payments Regulations 2020 (where applicable).</p>

## Section F - Discretions in relation to any compensatory added years awarded before 1 April 2007

### Applicable Regulations:

Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000 (as amended) (SI 2000/1410)

Area	Regulation	Discretion Type	Discretion	Council's Policy
<b>Abatement during re-employment</b>	17	Mandatory	Whether and to what extent to reduce or suspend the member's annual compensatory added years (CAY) payment during any period of re-employment in local government	The Council will make a determination after consultation with the Administering Authority and having regard to the date of original award.
<b>Reduction following cessation of re-employment</b>	19	Mandatory	How to reduce the member's annual CAY payment following the cessation of a period of re-employment in local government	The Council will make a determination after consultation with the Administering Authority and having regard to the date of original award.
<b>Apportionment of survivor benefit</b>	21(4)	Mandatory	How to apportion any surviving spouse's or civil partner's annual CAY payment where the deceased person is survived by more than one spouse or civil partner	The Council will consider on a case by case basis.
<b>Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments</b>	21(7)	Mandatory	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should be disapplied i.e. whether the spouse's or civil partner's annual CAY payments should continue to be paid	The Council will consider on a case by case basis.
<b>Effects of remarriage, new civil partnership or co-habitation on survivor's</b>	21(5)	Mandatory	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual CAY payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	If the Council determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.

<b>compensation payments</b>				
<b>Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments</b>	21(7)	Mandatory	Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or co-habitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	The Council will consider on a case by case basis.

**Section G - Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15 January 2012**

**Applicable Regulations:**

Discretions under the Local Government (Discretionary Payments) (Injury Allowances) Regulations 2011(SI 2011/2954)

Area	Regulation	Discretion Type	Discretion	Council's Policy	Comparison to 2014 policy
<b>Injury Allowances</b>	3(1)	Mandatory	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	The Council will consider on a case by case basis.	Current policy states (re 1996 IA Regulations) :  CYC will not grant any awards
	3(4) and 8	Mandatory	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	Any injury allowance granted 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.	
	3(2)	Mandatory	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).	Any injury allowance granted will cease when the employee leaves employment with the Council. The injury allowance will be reviewed should the employee's circumstances change e.g. relation to the employee's working or earning capacity or other payments received.	
	21(7)	Mandatory	Whether, in respect of the spouse of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries, enters into a new civil partnership or cohabits after 1 April 1998, the normal pension suspension rules should	The Council will consider on a case by case basis.	

			be disapplied i.e. whether the spouse's or civil partner's annual CAY payments should continue to be paid		
	21(5)	Mandatory	If, under the preceding decision, the authority's policy is to apply the normal suspension rules, whether the spouse's or civil partner's annual CAY payment should be reinstated after the end of the remarriage, new civil partnership or cohabitation	If the Council determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.	
	21(7)	Mandatory	Whether, in respect of the spouse or civil partner of a person who ceased employment before 1 April 1998 and where the spouse or civil partner remarries or cohabits or enters into a civil partnership on or after 1 April 1998 with another person who is also entitled to a spouse's or civil partners annual CAY payment, the normal rule requiring one of them to forego payment whilst the period of marriage, civil partnership or cohabitation lasts, should be disapplied i.e. whether the spouses' or civil partners' annual CAY payments should continue to be paid to both of them	The Council will consider on a case by case basis.	

**Signed**

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**Position:**

**Chief Finance Office**

**Date**

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