

## Notice of a public meeting of

### **Staffing Matters & Urgency Committee**

- To:** Councillors Alexander (Chair), Fraser, Aspden, Steward and Watson
- Date:** Monday, 10 November 2014
- Time:** 2.00 pm (**Please note amended start time**)
- Venue:** The Thornton Room - Ground Floor, West Offices (G039)

### **AGENDA**

#### **1. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### **2. Minutes (Pages 1 - 2)**

To approve and sign the minutes of the meeting of the Staffing Matters & Urgency Committee held on 27 October 2014.

#### **3. Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **Friday 7 November 2014 at 5.00 pm.**

#### **4. Local Government Pension Scheme 2014 Discretions Policy (Pages 3 - 26)**

This report informs the Committee of changes to the Council's Discretions Policy following implementation of the Local Government Pension Scheme 2014, and asks the Committee to approve the updated Employers Discretions policy so it can be implemented.

## 5. Appointments to Committees and Outside Bodies (Pages 27 - 34)

This report asks Members to agree a number of changes in membership and appointments to Committees and Outside Bodies for the remainder of the municipal year.

## 6. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

### Democracy Officer:

Name: Judith Betts

Contact details:

- Telephone – (01904) 551078
- E-mail – judith.betts@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

City of York Council

Committee Minutes

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Meeting	Staffing Matters & Urgency Committee
Date	27 October 2014
Present	Councillors Alexander (Chair), Aspden, Fraser, Steward and Watson

**36. Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or disclosable pecuniary interests that they may have in the business on the agenda. None were declared.

**37. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during the consideration of annexes to agenda item 5 (Pension or Exit Discretion) on the grounds that it contained information relating to individuals and the financial affairs of particular persons.

**38. Minutes**

Resolved: That the minutes of the last meeting held on 29 September 2014 be approved and signed by the Chair as a correct record.

**39. Public Participation**

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

**40. Pension or Exit Discretion**

Members received a report which advised them of the expenditure associated with pension or exit discretions in accordance with Council policy.

Confidential annexes detailing three requests for flexible retirement were circulated amongst Members.

The Chair requested that for future meetings for Officers to include the financial figures and costs in each case presented.

Resolved: (i) That the proposals be noted.

(ii) That costs associated with each proposal presented to the Committee be added to information provided to Members.<sup>1</sup>

Reason: In order to provide an overview of expenditure and to consider whether the Council should exercise its discretionary powers to make enhancements.

Action Required

1. To include requested information in cases brought to the Committee.

JN

Councillor J Alexander, Chair

[The meeting started at 1.00 pm and finished at 1.05 pm].



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**Staffing Matters and Urgency Committee**

10 November 2014

Report of the Director of Customer and Business Support Services

**Local Government Pension Scheme 2014 Discretions Policy****Summary**

1. This report informs the Committee of changes to the Council's Discretions Policy following implementation of the Local Government Pension Scheme 2014, and asks the Committee to approve the updated Employers Discretion policy so it can be implemented.

**Background**

2. The Local Government Pension Scheme (LGPS) sets out a statutory requirement for every employer to have a Discretions Policy in place detailing the employer's decisions in relation to Pensions.
3. The Council has a Discretions Policy covering the previous LGPS regulation, originally approved by Urgency Committee in 2002, and to which minor amendments were made in 2006.
4. Whilst many of the existing discretions will remain in the Council's Policy, there are some employer discretions which are additional to the current Policy, some which are changed, and some which are removed. This report does not propose any amendments to those originally approved by Urgency Committee in 2002 which flow through to the LGPS 2014 Regulations.
5. Details of the key areas within the discretions policy to be considered are outlined below with a recommendation as to the Employer Discretion to be adopted in each instance.

**Waiving of Actuarial Reduction for Early Payment of Pension Benefits at the Request of a Current Employee**

6. The LGPS 2014 Regulations include a significant change in that any current employee can decide to retire voluntarily from age 55 without the employer's consent: up to March 2014 the employer's consent was required to retire before age 60, with no employer consent required from age 60. Actuarial reduction will normally apply to pensions taken from age 55 up to normal retirement age using actuarial guidance issued by the Secretary of State.
  - a. The employer discretion is that Employers may agree to waive all or part of the actuarial reduction. Waiving the reduction would require the Council to make a payment to the pension fund for the shortfall created by paying the pension early without reduction, known as a pension strain payment or employer pension cost.
    - i. The Council will therefore not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age.

**Early Payment of Pension Benefits before Normal Retirement Age at the Request of a Former Employee (a Deferred Pensioner)**

7. The new Regulations allow any member or former member to retire from age 55 at their choice and with actuarial reduction applying (See above). Former employees with service under previous LGPS regulations may also wish to take their pension from age 55. Currently former employees require the Council's consent to access their pension before age 60, however these provisions fall away from 1 April 2014 when the 2008 Regulations cease to apply.

**Shared Cost Additional Pension Contributions**

8. Under LGPS 2014 employees have the option to 'buy back' pension lost due to periods of authorized unpaid absence from work, including periods of unpaid child related leave. Where an employee takes this option, they enter an Additional Pension Contribution scheme with their employer. Where such a scheme is entered into within 30 days of returning to work, the Regulations state the total cost of the scheme is shared, with the employee paying one third of the total cost and the employer paying the remaining two thirds.

- a. The Employer Discretion here enables employers to either pay the full Additional Pension contribution, or pay a Shared Cost Additional Pension contribution in other circumstances.
  - i. The employer costs of shared cost contributions could be considerable therefore it is proposed the Council will not pay employer funded Additional Pension contributions at all, and will not enter Shared Cost Additional Pension contribution Arrangements in any other circumstances other than those to enable employees to buy back lost pension as required by the legislation.

**Early Payment of Pension Benefits from Age 55 where Employees have a Protected 85-year Rule Protection for Accrued Benefits**

9. The Regulations require that employers have a policy on whether to agree to apply the 85-year rule to the benefits of a scheme member wishing to voluntarily draw their pension between age 55 and 60. The 85-year rule allows benefits to be paid unreduced where the age and membership in the pension scheme (in whole years) add up to 85. The 85-year rule protection would not automatically apply if the employee decides to voluntary retire between 55 and 60, but the employer can agree to apply the 85-year rule to accrued pension benefits, in which case employer costs arise.
10. The 'Rule of 85' continues under LGPS 2014, however this now comes into effect after the age of 60. Therefore if an employee met the 'Rule of 85' and chose to retire between 55 and 60, they would still face an actuarial reduction to their benefits, and the pension strain would not be passed to the employer. If however they chose to retire after age 60 and met the 'Rule of 85', that Pension Cost will be passed to the Employer to pay.
  - a. The Employer Discretion here relates to whether the Council wishes to 'switch on' the 'Rule of 85' or waive the actuarial reduction for those voluntary drawing benefits after age 55 and before 60.
    - i. On both these points, it is proposed that the Council will not waive any actuarial reduction, or switch on the 'Rule of 85' in line with the original principles on which the Discretion Policy was approved.

### **Definition of Pensionable Pay**

11. The definition of Pensionable Pay has changed under the Regulations to include non-contractual overtime and additional hours. Whilst this has a financial impact, there is no employer discretion which could reduce or limit this.

### **Award of Additional Pension**

12. The existing Employer discretion on whether to grant additional pension to an employee, or within 6 months of ceasing to be an employee due to redundancy or business efficiency remains.
  - a. It is not proposed to change the Council's position in relation to this discretion which is not to grant additional pension to any member.

### **Transferring in of Pension Rights**

13. Where an active member has previous LGPS service, they may elect to aggregate this with their ongoing service within 12 months of becoming an active member 'or such longer periods that the employer may allow'
  - a. In line with the previous Discretion policy the Council will permit aggregation from previous LGPS service beyond 12 months.
14. If an active member wishes to transfer in pension rights from a non-local government source, they must do so within 12 months of becoming an active member 'or such longer periods that the employer may allow'
  - a. The Council will not permit aggregation from a non-local government source beyond 12 months unless there is evidence of administrative shortcomings.

### **Consultation**

15. The recommendations made in this report are a result of discussion and consultation between the Director of Customer and Business Support Services, the Head of Human Resources and Technical Accountant. The discretions made have been to comply with the Council's statutory requirements with regard to both cost and human resource implications and the legal framework as set out by the LGPS regulation.



## Options

16. It is a requirement under the LGPS Regulations 2013 for the Council to have an Employers Discretion policy in place.

## Analysis

17. When the Council's Discretion Policy was original approved by Urgency Committee in 2002 it was in accordance with the following principals:
  - a. A fair and transparent process for decision making in relation to employer discretions pertaining to existing employees who are members of the LGPS, and deferred members of the LGPS (those who have left the employment of the Council)
  - b. Consistency of decision making in relation to employer discretions
  - c. Ensuring, where possible that the cost to the Council is well managed.
18. The employer discretions detailed in this report adhere to these principles.

## Council Plan

19. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements contributing to an 'Effective Organisation'

## Implications

20.
  - (a) **Financial** – These are detailed in the body of the report
  - (b) **Human Resources (HR)** – It is important that the Council has the ability to use local discretions to effectively and efficiently manage within the organisation. Any discretions the Council uses will operate under a framework to ensure a consistent application to reduce the chance of claims of unfairness.
  - (c) **Equalities** – The Equality Act 2010 impacts on the Employer Discretions Policy, with regard to Age Discrimination in that the 'Rule of 85' only affects those who are older, so the Council needs to guard against the risk of treating this group of

employees differently from others. The proposal not to switch on the 'Rule of 85' or waive any actuarial reduction ensures all employees who are members of the LGPS are treated in the same way. The way in which any decision making process is carried out regarding any early retirements (including redundancy, efficiency, or voluntary early retirements) will also be transparent and not differentiate between age groups.

(d) **Legal** – The LGPS Regulations 2013 makes it clear that the Council must have an employer Discretions policy in place and inform the Pension Fund of that Policy.

(e) **Crime and Disorder** - There are no implications

(f) **Information Technology (IT)** - There are no implications

(g) **Property** - There are no implications

### **Risk Management**

21. Failure to agree and publish a policy dealing with Discretions under the LGPS 2014 may lead to an inconsistent approach and possible legal challenge.

### **Recommendation**

The Staffing Matters and Urgency Committee is asked to approve the revised Local Government Pension Scheme Employer Discretion Policy.

Reason: To invite Members to consider changes to the Council's Employers Discretion Policy following the implementation of the LGPS 2014 and approve the updated policy

**Contact Details**

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Ian Floyd  
Director of Customer and Business  
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**Report  
Approved**



**Date** 27/10/2014

**Specialist Implications Officers**

**Wards Affected:**

**All**

**For further information please contact the author of the report**

**Background Papers:**

None

**Annex**

The report is supported by the appendices listed below:

Appendix 1 – List of Legislation relating to the Discretions Policy

Appendix 2 – The proposed Employer Discretion Policy

Appendix 3 – Guidance on Pensionable Pay

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**Key Legislation relating to the Discretions Policy**

The Discretions Policy needs to cover the following Legislation:

1. The Local Pension Scheme Regulations 2013 (R)
2. The Local Government Pension Scheme (Transitional Provisions and Savings) Regulations 2014 (TP)
3. The Local Government Pension Scheme Regulations 1997 (as amended) (L)
4. The Local Government (Discretionary Payments) Regulations 1996 (as amended) (IA)

These are the Discretions covered in this report.

Discretions in relation to scheme members (excluding Councillor members) who ceased active membership on or after 1 April 2008 and before April 2014. These discretions are covered in the Council's current policy, which will be kept as a record and reference for any cases where decisions made in relation to this group of members is challenged or needs further action:

1. The Local Government Pension Scheme (Administration) Regulations 2008 (A)
2. The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) (B)
3. The Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (T)

The Discretion Policy does not cover, but does link with existing Discretions Policies which cover the following Regulations:

1. Local Government Pension Scheme Regulations 1997 (as amended) – in relation to active councillor members, and councillor members who cease active membership on or after 1 April 1998 or between 1 April 1998 and 1 April 2008
2. Local Authorities (Members Allowances) (England) Regulations 2003 (SI 2003/1021)

3. Local Government (Early Termination of Employment)  
(Discretionary Compensation) (England and Wales) Regulations  
2006 (as amended)
4. Local Government (Early Termination of Employment)  
(Discretionary Compensation) (England and Wales) Regulations  
2000 (as amended)

# CITY OF YORK COUNCIL STATEMENT OF POLICY

## LGPS EMPLOYER DISCRETION POLICY With effect from 1<sup>st</sup> April 2014

This document incorporates the City of York Council policies under the following LGPS Regulations as at 1<sup>st</sup> April 2014. For ease of reference, each discretion in this document is marked 'Ref R', 'Ref TP' etc. to correspond with the relevant Regulation.

<b>Ref 'R'</b>	<i>The Local Government Pension Scheme 2013</i>
<b>Ref 'TP'</b>	<i>The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014</i>
<b>Ref 'A'</b>	<i>The Local Government Pension Scheme (Administration) Regulations 2008</i>
<b>Ref 'T'</b>	<i>The Local Government Pension Scheme (Transitional Provisions) Regulations 2008</i>
<b>Ref 'B'</b>	<i>The Local Government Pension Scheme (Benefits, Membership and Contributions Regulations (as amended) 2007 (to include amendments contained in the Local Government Pension Scheme (Miscellaneous) Regulations 2012)</i>
<b>Ref 'L'</b>	<i>The Local Government Pension Scheme Regulations 1997 (as amended)</i>
<b>Ref 'OT'</b>	<i>The Local Government Pension Scheme (Transitional Provisions) Regulations 1997 (as amended)</i>
<b>Ref 'IA'</b>	<i>The Local Government (Discretionary Payments) Regulations 1996 (as amended)</i>

The following is a statement of City of York Council's (CYC) policy on the exercise of discretions under the Local Government Pension Scheme Regulations (as detailed above). The policy represents clear guidance on the exercise of any particular discretion.

The decision maker retains the right to deviate from the policy in exceptional circumstances. CYC retain the right to amend these policies at any time. The policies confer no contractual rights. The policy in force at the time of a relevant event occurring will be the one that is applied.

Regulation	Discretion	Policy
<p>20(1)(b) (Ref R)</p>	<p><b>An employer can specify in an employee’s contract what other payments or benefits, other than those specified in regulation 20(1)(a) and not otherwise precluded by regulation 20(2), are to be pensionable.</b></p> <p>The employee’s pay is “all the salary, wages, fees &amp; other payments paid to him/her for his/her own use in respect of his/her employment”. The employer may opt to specify in an employee’s contract any other payment or benefit that may be pensionable, <b>excluding</b> the following items which are not deemed pensionable under the Regulation:</p> <ul style="list-style-type: none"> <li>◆ Expenses (travel, subsistence, other expenses allowances)</li> <li>◆ Payments in lieu of notice of termination</li> <li>◆ Payment in consideration of holidays</li> <li>◆ Payments made as an inducement not to terminate employment</li> <li>◆ Any amount treated as the money value for the provision of a motor vehicle or any amount paid in lieu of such a provision</li> </ul>	<p>CYC reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations and will automatically include “detriment” or “protected” pay as pensionable pay.</p> <p>See Appendix 1 for CYC guidance on pensionable and non pensionable pay</p>



30(8) <b>(Ref R)</b>	<b>Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement</b>	CYC will not waive any actuarial reduction on benefits paid on flexible retirement.
30(8) <b>(Ref R)</b>	<b>Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age</b>	CYC will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age
Sch 2 Paras 1(2) and 2(2) <b>(Ref TP)</b>	<b>Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.</b>	CYC will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60
3(1), Sch 2, paras 2(1) and 2(2) <b>(Ref TP)</b> 30(5) and 30A(5) <b>(Ref B)</b>	<b>Whether to waive any actuarial reduction on pre and/or post April 2014 benefits on compassionate grounds</b>	CYC will not waive any actuarial reduction and pay any pension strain costs arising out of voluntary early retirement or flexible retirement
30A and 30(5) <b>(ref B)</b>	<p><b>To waive, on compassionate grounds, any actuarial reduction that would otherwise be applied to benefits paid early.</b></p> <p><b>The employer may determine on compassionate grounds that a members’ retirement pension and grant should not be reduced if paid early under Regulation 30(A)</b></p>	Applications from deferred Pensioners will <b>only</b> 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.

	<p><b>NOTE: This discretion only applies to those members who have left employment on or after 01.04 2008 and before 01.04.2014. A deferred pension brought into early payment on compassionate grounds cannot be reduced.</b></p> <p>Where a tier 3 ill health retirement pension has been paid and subsequently ceased, LGPS member becomes a 'deferred Pensioner' who has ceased to be employed by CYC and is not receiving payment of benefits. He or she may seek early release of pension benefit from age 55 (as preserved benefits into payment) on compassionate grounds.</p>	
22(7)(b) (Ref R)	<b>Where an active member has previous LGPS service, they may elect to aggregate this with their ongoing service within twelve months of becoming an active member, or "such longer period as their employer may allow".</b>	CYC will permit aggregation beyond 12 months.
31 (Ref R)	<b>From 1<sup>st</sup> April 2014, the employer has the authority to grant additional pension to a member by up to £6,500 per annum.</b>	CYC will not grant additional pension to a member
15(1)(b) (Ref TP) 66(8) (Ref L) 66(9)(b) (former Ref L)	<b>A scheme member who wishes to elect to convert In House AVC's into a period of scheme membership must do so within 30 days of ceasing to be an active member "or such longer period as the employer may allow".</b>	CYC will extend the 30 day deadline if there is evidence of administrative shortcomings.

	<p>The legislation states that an employee must make an election within 30 days of retiring if he wishes to transfer his AVC benefits into the LGPS. The employing authority may allow the member to make this election beyond 30 days of retiring.</p>	
<p>16(2)(e) and 16(4)(b) (Ref R)</p>	<p><b>Whether, how much, and in what circumstances to contribute to a shared cost APC / AVC scheme</b></p> <p><b>If a scheme member wishes to buy more pension, he/she can do this through either an Additional Pension Contribution (APC) or an Additional Voluntary Contribution (AVC). There is a discretion as to whether the employer wishes to share the cost of an APC or AVC or buy additional pension for employees through an Employer APC or AVC</b></p>	<p><i>CYC will contribute to Shared Cost APC Schemes only when an employee has opted to buy back 'lost' pension due to a period of <b>authorised unpaid leave</b> (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</i></p> <p><i>Other than the circumstances above, CYC will not enter any Shared cost APC/AVC arrangements</i></p>
<p>19(2) (RefR)</p>	<p><b>A scheme member who meets the normal criteria for a refund of pension contributions is not entitled to such a refund if he/she ceased employment due to an offence of a fraudulent character or due to grave misconduct unless the employer directs that a total or partial refund may be made.</b></p> <p>The employer may over rule the LGPS legislation and pay a refund of contributions to a member who is entitled to a refund had they simply resigned but who instead was dismissed due to an offence of a fraudulent character or due to grave misconduct.</p>	<p>CYC will consider whether or not to make a refund based on the merits of each case and in light of advice from Internal Audit.</p>

<p>91 (1)and (8) (Ref R)</p>	<p><b>If a scheme member is convicted of, and ceases employment as a result of, an offence in connection with his/her employment which was gravely injurious to the state or liable to lead to a serious loss of confidence in the public service, the employer can apply to the Secretary of State or the Office of the Deputy Prime Minister for the issue of a forfeiture certificate. If the Secretary of State issues a certificate the employer may direct that certain of the person's rights are forfeited.</b></p> <p>The employing authority may apply to remove the member's entitlement to receive his pension.</p>	<p>CYC will consider whether or not to make a refund based on the merits of each case and in light of advice from Internal Audit.</p>
<p>92 (1)and (2) (Ref R)</p>	<p><b>Where the Secretary of State has issued a forfeiture certificate but the employer has not applied the certificate, nor notified the scheme member of an award of benefits under the LGPS, the employer may direct that interim payments are made out of the Pension Fund until such time as it decides to apply the forfeiture certificate or to make an award of benefits.</b></p> <p>The employer may instruct the pension fund to pay the pension until a decision is taken by the employer to forfeit the pension.</p>	<p>CYC will not direct that interim payments are made from the Fund pending a decision.</p>

<p>91 (4) (Ref R)</p>	<p><b>Where a member (i) ceases employment in consequence of a criminal, negligent or fraudulent act or omission in connection with that employment and (ii) has incurred a monetary obligation arising therefrom to the employer and (iii) is entitled to pension benefits under the LGPS, the employer may recover the amount of the monetary obligation or the value of the member's pension rights, if less, other than transferred in pension rights, from the Pension Fund and reduce the member's benefits accordingly.</b></p> <p>If member dismissed due to a criminal, negligent or fraudulent act in connection with his employment and it costs the employer money, the employer may recover the outstanding amount from the member's benefits. If the pension entitlement is below the amount owed the employer may recover the full value of the pension benefits. If the pension benefit is not due to be brought into payment immediately then this amount may be noted and deducted from the pension at a later date. The employer may only recover local government benefits, not benefits transferred in from another approved scheme.</p>	<p>CYC will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from internal audit.</p>
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<p>93(2) and (Ref R)</p>	<p><b>Where</b></p> <ul style="list-style-type: none"> <li>(i) <b>a member ceases employment in consequence of an offence involving fraud or due to grave misconduct in connection with that employment, and</b></li> <li>(ii) <b>the employer has suffered a direct financial loss resulting therefrom, and</b></li> <li>(iii) <b>the member is entitled to benefits under the LGPS and a forfeiture certificate has been applied, or the member is entitled to a refund of pension contributions</b></li> </ul> <p><b>the employer may direct that the amount of the direct financial loss, or the refund of contributions if less, be recovered from the Pension Fund.</b></p> <p>Virtually as 91 above, but with the issue of forfeiture certificate the money is recovered by the pension fund, not the employer.</p>	<p>CYC will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in light of advice from internal audit.</p>
<p>95 (Ref R)</p>	<p><b>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</b></p>	<p>CYC will consider each case on its merits.</p>

<p>100(68) (Ref R)</p>	<p><b>If a scheme member wishes to transfer pension rights into the NYPF from a non-local government source, he/she must opt to do so within 12 months of joining the LGPS “or such longer period as the employer may allow”.</b></p> <p><b>With effect from 1<sup>st</sup> April 2014, this regulation also includes any AVC arrangements dated prior to membership of the North Yorkshire Pension Fund</b></p> <p><i><b>Note:</b> It is common practice in pension schemes (eg the NHS) to only allow transfers into a scheme within the 1<sup>st</sup> year of the member joining the scheme. This is because it is more beneficial for the member as the member’s salary is usually lower upon joining the scheme than in later years resulting in increased years bought. In addition the money transferred in may be used for investment over a longer period of time.</i></p> <p><b><i>For previous LGPS membership with an employer other than CYC, various inter fund transfer regulations apply.</i></b></p>	<p>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</p> <p>The Administering Authority will provide guidance on individual queries but must be contacted within the 12 month period above.</p>
<p>3(6), 4(6)(c), 8(4), 10(2)(a), 17(2)(b) (Ref TP) and 11(2) (Ref B)</p>	<p><b>Whether to allow a member to select final pay period for fees to be any 3 consecutive years ending 31<sup>st</sup> March in the 10 years prior to leaving</b></p>	<p>CYC will allow members to so choose.</p>

<p>9(1) and 9(3) (Ref R)</p>	<p><b>From 1 April 2014 Banded Contribution rates for employees will be based on actual pensionable pay received.</b></p> <p><b>Employers to assess the relevant contribution band to determine the rate of employee contribution.</b></p> <p><b>Note: LGPS 2014 allocates contribution bands based on actual pay received, and not on whole time equivalent pay as was used in the LGPS 2008 Regulations</b></p>	<p>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.</p> <p>The relevant banding rate at the end of the year will correspond with the annual pensionable pay figure.</p> <p>CYC have agreed to review the pensionable pay earnings quarterly for members to ensure the correct banding rate is allocated.</p>
<p>12(6) (Ref TP)</p>	<p><b>From 1<sup>st</sup> April 2008, regulations introduced tiered ill health retirement and this continues under LGPS 2014.</b></p> <p><b>If an employer determines, in the case of a qualifying active member:-</b></p> <p><b>(a) To terminate his employment on grounds that his ill health or infirmity of mind or body renders unlikely to be capable of discharging efficiently the duties of his current employment</b></p> <p><b><u>And</u></b></p> <p><b>(b) That he unlikely to be capable of obtaining any gainful employment before his normal retirement age,</b></p>	<p>CYC will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP).</p>



	<p><b>They shall agree to his retirement pension coming into payment before his normal retirement date and decide whether Tier 1, 2 or 3 payments are payable</b></p>	
<p>38(3) (Ref R)</p>	<p><b>Employer to decide whether deferred beneficiary meets permanent ill health criteria</b></p> <p><i><b>Note:</b> Scheme members who have left employment and are entitled to preserved benefits may obtain access to the payment of their pension benefits early on ill health grounds. The IRMP will be asked to certify that the employee, who has left a local government employment before he is entitled to the immediate payment of retirement benefits, has become permanently incapable of discharging efficiently the duties of that employment because of ill health or infirmity of mind or body.</i></p> <p><b>No enhancement to the service will apply where preserved benefits are being brought into payment on ill health grounds.</b></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>
<p>38(6) (ref R)</p>	<p><b>To grant an application for reinstatement of a suspended tier 3 ill health pension on or after age 55 and before age 60</b></p> <p>Where a tier 3 ill health retirement pension has been paid and subsequently ceased, LGPS member becomes a 'deferred Pensioner' who has ceased to be employed by CYC and is not receiving payment of benefits. He or she may seek further Ill Health Retirement benefit payments (as preserved benefits into payment) on an unrelated medical condition. See above</p>	<p>CYC will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP)</p>

6(3) (Ref T) 42(4) (Ref L) 9 (Ref OT)	<p><b>Whether to accept (late) elections after 31.3.1998 from members who want to count membership between 1.4.72 and 5.4.88 for widower's pensions.</b></p> <p>If late election is allowed, the employer must pass a resolution, within 6 months of agreeing to accept the election, to state that the membership will count for widower's pensions</p>	CYC will extend the deadline where there is evidence of administrative shortcomings.
17(3) (Ref OT)	<p><b>Whether to extend time limit for repayment of a previous refund during the period 1.4.74 and 31.12.79</b></p>	CYC will extend the deadline where there is evidence of administrative shortcomings.
Reg 8 (SI 2006/966)	<p><b>Whether to recover employee contributions that had been reduced or waived after 40 years' pensionable local government service</b></p>	CYC will not seek to recover such contributions
Reg 33 to 38 Ref (IA)	<p><b>Whether to award an injury allowance following loss of employment or reduction in pay or death in service through permanent incapacity after sustaining an injury or contracting a disease as a result of anything he or she was required to do in carrying out duties of job.</b></p>	CYC will not grant any awards
98 (1)(b) (Ref R)	<p><b>Whether to agree to bulk transfer payment where two or more members' active membership ends on their joining a registered non local government scheme</b></p>	CYC 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.

**Note**

Unless otherwise stated, the application of these discretions will be in accordance with the Officers Delegation Scheme with advice from the Director of Customer and Business Support Services – who is accountable for the proper and consistent application of this policy on behalf of CYC.

## PENSIONABLE PAY

### When is pay pensionable under the Local Government Pension Scheme Regulations?

The Pay and Reward programme removed and replaced many historic features of pay to provide an improved package of pay and benefits for staff.

Also, the New Look LGPS 2014 covers what elements of pay are pensionable and, as importantly, what aren't.

This is therefore a good opportunity to set out categories of pay and awards available to CYC employees and whether or not they are pensionable under the LGPS regulations. Pensionable payments are included in the total 'pay' figure each year on which both the employee and the employer pay pension contribution. Where appropriate, pensionable pay is taken into account for the final salary figure when calculating retirement benefits (for pension benefits built up until 31 March 2014). LGPS 2014 is not a final salary scheme, and therefore pension benefits based on contributions paid on pensionable pay is built up each year and revalued in line with CPI so as to retain its value up until retirement.:-

### WHAT IS PENSIONABLE PAY?

Pensionable	Non Pensionable
<ul style="list-style-type: none"> <li>• Salary, wages and fees</li> <li>• Detriment or protected pay</li> <li>• Market Supplement Payment</li> <li>• Additional Contribution Payment</li> <li>• Acting Up Payment</li> <li>• Honoraria Payments for additional temporary duties</li> <li>• Accelerated Incremental progression</li> <li>• Stand-By Allowance</li> <li>• Sleep-In Allowance</li> <li>• Residential Duty Payment</li> <li>• Evening Duty Allowance</li> <li>• Night Work Allowance</li> <li>• On Call Payment</li> </ul>	<ul style="list-style-type: none"> <li>• Recruitment Payments</li> <li>• Retention Payments</li> <li>• Expenses (e.g. travel, subsistence)</li> <li>• Any Payment 'representing money value for provision of vehicle or paid in lieu' (e.g. mileage payments or similar payments to cover expenses)</li> <li>• Telephone Rental Payment</li> <li>• Cycle Allowance</li> </ul>

<ul style="list-style-type: none"><li>• First Aid Payment</li><li>• Lettings Allowance</li><li>• Work on Public Holiday Payment</li><li>• Weekend Working Allowance</li><li>• Additional Hours/Overtime</li><li>• SEN Allowance</li><li>• Legionnella/Asbestos Allowance</li><li>• Maternity/Paternity KIT pay</li><li>• Thank You Payment</li></ul>	
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**Additional Hours /Overtime**

For LGPS purposes, ‘additional hours’ includes all hours worked above the normal contractual hours of the individual employee. Also any employee with a ‘nil hours’ contract where **all** hours worked are pensionable.

**Other Working Arrangements**

With variable hours’ contracts, e.g. between 5 and 15 hours per week, pensionable pay will apply to all hours worked.

Also, with annualised hours’ contracts, pensionable pay will be payable on all hours worked.



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**Staffing Matters and Urgency Committee****10 November 2014**

Report of the Assistant Director, Governance and ICT

**Appointments to Committees and Outside Bodies****Summary**

1. Following the Westfield By-Election, a number of changes within Groups and the number of Independent Members, an Extraordinary meeting of Council was held on 23 October 2014. The meeting was held in order to review the allocation of seats, appointments to the Council structure and outside bodies for the remainder of the municipal year, in accordance with the political balance requirements under the Local Government and Housing Act 1989.

**Background**

2. The Council makes appointments at its Annual Meeting, to Committees for the coming year and following the above Extraordinary meeting a number of additional changes and appointments have now been requested. As the Staffing Matters & Urgency Committee has authority to deal with any changes or appointments to those Committees and bodies within year, the following changes and additions are now put forward for consideration:

3. **Audit & Governance Committee**

Subsequent to last week's Council meeting, a request has been made for Councillor Brooks to replace Councillor Potter as Vice-Chair of the Audit and Governance Committee. The Labour Group intend to move a proposal to retain Councillor Potter as Vice Chair of the Committee.

4. **Learning and Culture Overview and Scrutiny Committee**

We have also been advised that Councillor Fitzpatrick will be replacing Councillor Reid as Vice-Chair of the Learning and Culture Overview and Scrutiny Committee.

5. **Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber)**

A vacancy has arisen on the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) following the resignation of Councillor Funnell as the City of York Council representative. Councillor Doughty has been nominated for this vacancy, with Councillor Funnell as substitute.

6. **NewCo Shareholders Group**

The creation of NewCo as a company follows a report to City of York Council in November 2013 in which Cabinet members agreed to develop a new approach to delivering marketing, culture, tourism and business development for York and its economic area.

NewCo will act independently from the Council, though it will be wholly owned by the Council. There will shortly be a paper to Cabinet containing the business plan with the financial model and the company will be set up after that point.

The nominations below relate to the shareholder committee and not the board of NewCo. There is a separate process for the set up of the NewCo board and identifying and appointing Directors.

The shareholder committee is a body that represents the council's interests as the sole shareholder. The Shareholder Committee provides a simple mechanism with which the Shareholder, in this case the Council, can engage with the Board of NewCo. It provides a forum to influence the NewCo Board of Directors on the direction of the company, scrutiny of the affairs of the company, appointment of new Directors and Directors pay packages in order to maintain an element of control over the business without affecting the operational management of the company.

To ensure wide cross party representation on the Committee, it is suggested that the representation of political parties be 2 Labour, 1 Liberal Democrat, 1 Conservative and 1 Green.

The nominations by each of the parties, above, are as follows:

<b>NewCo Stakeholder Committee (5)</b>			
Party	Composition	Membership	Status
Labour	(2)	Cllr Crisp	
		Cllr Williams	
			Substitute
Conservative	(1)	Cllr Steward	
			Substitute
Liberal Democrat	(1)	Cllr Hyman	
			Substitute
Green	(1)	Cllr Taylor	
			Substitute

A chief officer will also be represented on the Shareholder Committee. It is recommended that this be the Director of Customer and Business Support Services. The Chair of the NewCo Board will also form part of the Committee.

In addition, a request has been made for the Cabinet Member for Leisure, Culture & Tourism to Chair the Shareholder Committee.

## 7. **York Central Lead Members**

The York Central Lead Members (YCLM) will provide a steer to the strategic direction of travel for CYC involvement in the development and delivery of the York Central site and Station Gateway projects (collectively, the York Central Programme).

The YCLM will fit within a wider strategic context, which culminates in governance terms in a joint CYC-Network Rail York Central Partnership Programme Board (YCPPB). This latter joint board has been set up as the partnership decision-making body for the site and station projects.

An officer working group has been established to steer the Council's contribution to the project with relevant teams represented. This is chaired by the Director of City & Environmental Services, who also co-chairs the joint project board with Network Rail.

The area with which 'York Central' is concerned comprises the brownfield 'teardrop' site to the north and west of the rail station in the city centre, as well as the proposals to redevelop the Station Gateway.

Representing the largest brownfield regeneration opportunity in the city, with 35ha of developable land, the development of the York Central site is a vital project for the future of York; the Station Gateway offers a complementary opportunity to work with Network Rail to encourage and grow modal interchange at this key hub for North Yorkshire, East Riding and the Leeds City Region.

Whilst efforts have been made in previous years to redevelop the site, these attempts have met with some difficulty, hindered in particular by the constraints posed in accessing the site, and the cost of the enabling infrastructure required to overcome these. Over recent years, however, considerable progress has been made in overcoming these constraints - including the rationalisation of Network Rail's operations across the site, facilitated by important land purchases such as the Thrall Works which allows rail uses to be supported elsewhere, and the return of leasehold interests within the site to Network Rail greatly assisting in the land assembly process and allowing development plots to be readily brought forward.

The first step toward redevelopment has already been taken, with the recent opening of the Rail Operating & Workforce Development Centres by Network Rail. This has put a new, high quality facility on the site, demonstrating a long term commitment to the site.

Strong Council leadership and involvement has also strengthened the redevelopment case; in particular the commitment to fund a crucial new bridge link and access road in to the site from Holgate Road in the south, allowing a maximum quantum of development on the site, securing a viable scheme, and to unlock a new western entrance to York Railway Station, offering wider benefits to the city.

Taking into account all these dimensions and the significant progress now being made, it is important for a York Central Leaders Group to emerge reflecting a wide representation and dynamic. Members are asked to consider an appropriate composition at this meeting and whether that should include representation from all parties and Ward Members for instance.



The Combined Opposition Groups have indicated that they will propose the following composition and membership at the meeting:

6 cross-party places:

- 1 x Conservative Group – Councillor Steward
- 1 x Liberal Democrat Group – Councillor Aspden
- 1 x Green Group – Councillor D’Agorne
- 1 x Labour Independent – Councillor King
- 1 x Independent – Councillor Watson

8. **City of York Council Trading Company Shareholder Board**

A request has been made for a change in the Council’s membership on the City of York Council Trading Company Shareholder Board. The Council’s present representation on the Board consists of 3 Labour members (Councillors Alexander, McIlveen and Semlyen).

The combined Opposition Groups will be proposing to amend the composition, to provide cross party representation, with 1 Labour, 1 Conservative (Councillor Healey) and 1 Liberal/Democrat Member (Councillor Cuthbertson).

When set up in October 2011, the membership of this Board was originally delegated to the Councillor Leader but has subsequently been confirmed and re-appointed to by Council. As a result, the Leader may wish to nominate himself as Labour nominee and Chair.

9. **West Yorkshire Combined Authority - Investment Committee**

At the Extraordinary Council meeting on 23 October 2014, Councillor Levene was appointed to this Committee, in his capacity as Cabinet Member for Transport. Since then, a request has been received from the combined Opposition Groups to replace Councillor Levene with Councillor Healey on the West Yorkshire Combined Authority’s Investment Committee.

10. **West Yorkshire Combined Authority - Audit & Governance Committee**

At the Extraordinary Council meeting on 23 October 2014, Councillor McIlveen was appointed to this Committee. Since then, a request has been received from the combined Opposition Groups to replace Councillor McIlveen with Councillor Waller on the West Yorkshire Combined Authority’s Audit and Governance Committee.

11. **Police and Crime Panel**

At the Council meeting held on 23 October, it was noted that two nominations were required for the Police and Crime Panel. The first nomination was Councillor Warters (Ind); the second Labour nomination was to be confirmed. We have now had confirmation that the Labour appointment will be Councillor Fitzpatrick.

**Consultation**

12. In accordance with the usual process for gathering nominations to available places, the relevant Groups and individuals have been consulted, as appropriate, and provided with the necessary information.

**Options**

13. The Committee has the option either to approve or propose alternatives to the nominations proposed in this report.

**Council Plan 2011-15**

14. Establishing an appropriate decision making and scrutiny structure and appointees to that, contributes to the Council delivering its core priorities set out in the Council Plan, effectively.

**Implications**

15. There are no known implications in relation to the following in terms of dealing with the specific matters before Members:

- Financial
- Human Resources (HR)
- Equalities
- Crime and Disorder
- Property
- Other

**Legal Implications**

16. The Council is statutorily obliged to make appointments to Committees, Advisory Committees, Sub-Committees and certain other prescribed bodies in accordance with the political balance rules, where applicable.

Proportionality does not strictly apply to the 'outside bodies' under reconsideration for appointment of representatives at this meeting.

### **Risk Management**

17. In compliance with the Council's risk management strategy, there are no known risks associated with the recommendations in this report.

### **Recommendations**

Staffing Matters and Urgency Committee is asked to consider and agree the following appointments and nominations as set out in paragraphs 3 to 11 above for the remainder of the 2014/15 municipal year:

- (i) To consider the request for Councillor Brooks to replace Councillor Potter as Vice-Chair of the Audit and Governance Committee.
- (ii) To appoint Councillor Fitzpatrick to replace Councillor Reid as Vice-Chair of the Learning and Culture Overview and Scrutiny Committee.
- (iii) To agree to the appointment of Councillor Doughty to fill the vacancy on the Joint Health Overview and Scrutiny Committee (Yorkshire and the Humber) with Councillor Funnell as the substitute representative.
- (iv) To consider the nominations, set out in paragraph 6 to the NewCo Shareholders Committee, including the request for the Cabinet Member to Chair the Committee.
- (v) To consider appointments to the York Central Lead Members Group referred to at paragraph 7 of the report.
- (vi) To consider changes to membership of the City of York Council Trading Company, as referred to at paragraph 8 of the report.
- (vii) To consider the request for a revised nomination to the West Yorkshire Combined Authority Investment Committee.

- (viii) To consider the request for a revised nomination to the West Yorkshire Combined Authority Audit and Governance Committee.
- (ix) To confirm the nomination of Councillor Fitzpatrick as the Labour member of the Police and Crime Panel.

Reason: In order to make appropriate appointments to the Council's Committees and Outside Bodies for the current municipal year.

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Democratic Services  
Telephone: 01904 551030

**Chief Officer Responsible for the report:**

Andy Docherty  
Assistant Director, Governance and ICT

**Report  
Approved**



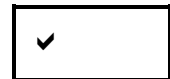
**Date** 3 November 2014

**Specialist Implications Officers**

Not applicable

**Wards Affected:** Not applicable

**All**



**For further information please contact the author of the report**

**Background Papers**

None

**Annexes**

None