



## **Notice of a public meeting of**

### **Staffing Matters and Urgency Committee**

- To:** Councillors Aspden (Chair), D'Agorne (Vice-Chair), Hook and Kilbane
- Date:** Monday, 21 March 2022
- Time:** 5.30pm
- Venue:** The George Hudson Board Room - 1st Floor, West Offices (F045)

### **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. Exclusion of Press and Public**

To consider the exclusion of the press and public from the meeting during consideration of the following:

Annex A to Agenda Item 9 (Redundancy, Pension or Exit Discretion) on the grounds that it contains information relating to individuals and the financial affairs of particular persons. This information is classed as exempt under paragraphs 1, 2 and 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

**3. Minutes (Pages 1 - 10)**

To approve and sign the minutes of the meetings of the Staffing Matters & Urgency Committee held on 1 February 2022 and 15 February 2022.

**4. Public Participation**

At this point in the meeting members of the public who have registered to speak can do so. Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering is **5.00pm on Thursday 17 March 2022**. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please visit [www.york.gov.uk/AttendCouncilMeetings](http://www.york.gov.uk/AttendCouncilMeetings) to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda.

**Webcasting of Public Meetings**

Please note that, subject to available resources, this public meeting will be webcast including any registered public speakers who have given their permission. The public meeting can be viewed on demand at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts). During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates ([www.york.gov.uk/COVIDDemocracy](http://www.york.gov.uk/COVIDDemocracy)) for more information on meetings and decisions.

**5. Amendment to the Council's LGPS Discretionary Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme (Pages 11 - 88)**

This report requests approval of the Committee of an amendment to the Council's LGPS Discretionary Policy Statement in order to comply with The Local Government Pension Scheme Regulations 2013 (the "LGPS Regulations"), to implement a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) for employees.

**6. Retention Payments** (Pages 89 - 92)

This report is for information and advises the Staffing Matters and Urgency Committee of retention payments approved and processed for payment.

**7. Work Plan** (Pages 93 - 94)

To consider the Committee's draft work plan for the municipal year 2021-22.

**8. Urgent Business**

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

**9. Redundancy, Pension or Exit Discretion** (Pages 95 - 100)

This report advises the Staffing Matters and Urgency Committee of the expenditure associated with redundancy, pension or exit discretions paid in accordance with council policy to employees below Chief Officer.

Democracy Officer

Robert Flintoft

Contact details:

- Telephone – (01904) 555704
- Email – [robert.flintoft@york.gov.uk](mailto:robert.flintoft@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 and Urgency Committee
Date	1 February 2022
Present	Councillors Aspden (Chair), D'Agorne (Vice-Chair), Hook and Kilbane
Apologies	

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## **55. Declarations of Interest**

At this point in the meeting, Members were asked to declare if they had any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests that they might have had in the business on the agenda. There were none.

## **56. Public Participation**

It was reported that there had one registration to speak at the meeting under the Council's Public Participation Scheme.

Cllr Webb noted that vulnerable children and the department needed stability, which he felt it had not had due to multiple department restructures. He expressed that he felt senior management restructures had been carried out to cover for issues and costs relating to issues highlighted in the Public Interest Report, relating to the involvement of the Leader of the Council and the exit of the former Chief Executive. Finally he asked that regardless of the decision, that sufficient time be given to allow the Adult's and Children's Services to succeed.

## **57. People Directorate Restructure**

Officers introduced the report and outlined that two previous restructures had taken place in recent years. It was confirmed that the savings identified in the first restructure were unaffected by the options provided in the report. It was confirmed that the Council had faced challenges recruiting to the Corporate Director of People and the Assistant Director of Children's Services. The Chief Operating Officer recommended the Committee support Option 3 in the report. This would create two Corporate Director posts and two Director posts replacing the Corporate Director of People post and the Assistant Director of Children's Services post.

Members enquired about the costs and savings related to the two prior restructures and the proposed structure. It was confirmed that savings made in previous restructures were unchanged and the proposed £40,000 would be a growth cost in the directorates budget. The success of the previous restructures was raised in relation to the directorate, and officers noted that they deemed the previous restructure to be a success which facilitated closer working between Adults and Children's services. However, they noted that the inability to recruit to the posts previously noted meant that it was appropriate to propose the restructure.

The Committee noted that this would create an additional Corporate Director post if option 3 was agreed, and enquired whether sufficient duties would be assigned to the posts, noting that this was originally adjudged to be capable of a single post. Officers confirmed that the two proposed Corporate Director posts had been graded and would contain the relevant responsibility's, duties, and budget for them to be Corporate Director roles. The Committee therefore requested that evaluation of the posts be shared with committee members, as well as a structure chart of all management positions in the Council.

Current support for Children's Services was discussed and officers noted that the interim arrangements had supported the services well and were reviewing how to support social workers. Officers did note however, that services would benefit from a solution to the current turnover of Assistant Director posts and above. The Council's poor performance in its previous OFSTED review was raised by Members. Members enquired about whether the Council would now expect a more favourable review, officers noted that they were unable to predict future OFSTED reviews.

The Committee discussed the recruitment process and agreed to establish of an Appointments Sub-Committee for the Chief Officer appointments for the newly created roles in line with the HR Management of Change procedures. This included the delegation of sufficient powers to the Sub-Committee enabling them to conduct the recruitment process, select and appoint a candidate, subject to the requirements of the standing orders on appointment. Members noted that the previous two attempts to recruit to the current Corporate Director post had been unsuccessful, and they noted the importance of recruitment to the post for the delivery of services. They requested that once the Appointment Sub-Committee had been created and the recruitment process agreed that its recommendations be brought back to the Committee.

The Committee voted 3 in favour of supporting option 3 and Cllr Kilbane abstained, noting that he felt insufficient information was provided in order to vote in favour of option 3. Cllr Kilbane also noted that he felt the

restructures of the department were a result of trying to covering the financial costs associated with the exit of the previous Chief Executive of the Council and had resulted in people requiring Children's or Adult's services potentially receiving a weaker service.

Resolved:

- i. That the Committee approved Option 3 within in the report to delete of the following roles; Corporate Director of People, Director of Prevention, Commissioning and Education, Director of Safeguarding (Children's and Adults), and Assistant Director of Children's Services. As well as, agreeing to the creation of the following roles; Corporate Director of Adult Social Care and Integration, Corporate Director of Children and Education, Director of Adults Safeguarding, and Director of Children's Safeguarding;
- ii. The Committee Noted that the existing roles of Assistant Director of Education and Assistant Director of Adults Services will remain in the structure as per their current grades;
- iii. The Committee confirmed the pay package (salary and relocation package) for the vacant roles to be advertised for the Corporate Director of Children and Education and Director of Children's Services;
- iv. The Committee agreed to establish an Appointments Sub-Committee for the Chief Officer Appointments for the newly created roles in line with the HR Management of Change procedures. To delegate sufficient powers to the Sub-Committee enabling them to conduct the recruitment process, select and appoint a candidate, subject to the requirements of the standing orders on appointment;
- v. That the evaluation of the Corporate Director posts grading be shared with Committee members;
- vi. That a structure chart of managerial posts in the Council be shared with Committee members.

Reason: To allow appointment to the vacant posts identified as part of the restructure Option 3 as outlined in this report to be made.

## **58. Work Plan**

The Committee considered their work plan for 2021/22 and agreed that the Amendment to the Council's LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution

Scheme be brought to the Committees meeting on the 15 February 2022 and an item on Workforce demographics be brought to the Committees 21 March 2022.

Resolved:

- i. That the work plan be agreed with the addition of the Amendment to the Council's LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme be brought to the Committees meeting on the 15 February 2022 and Workforce Demographics be brought to the Committees 21 March 2022.

Reason: To ensure the Committee maintains a program of work for 2021-22.

Cllr Aspden, Chair

[The meeting started at 4.00 pm and finished at 4.36 pm].

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Meeting	Staffing Matters and Urgency Committee
Date	15 February 2022
Present	Councillors Aspden (Chair), D'Agorne (Vice-Chair), Hook and Kilbane

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## **59. Declarations of Interest**

At this point in the meeting, Members were asked to declare if they had any personal interests not included on the Register of Interests or any prejudicial or disclosable pecuniary interests that they might have had in the business on the agenda.

Several Members noted that they did not have a prejudicial or disclosable pecuniary interest. However, Cllr Aspden and Cllr D'Agorne and noted that he had previously contributed to the North Yorkshire Pension Fund due to their previous jobs in education. Cllr Hook also noted that she was currently on the North Yorkshire Pension Fund Board.

## **60. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during the consideration of annexes to Agenda Item 9 on the grounds that they contained information relating to individuals and the financial affairs of particular persons. This information is classed as exempt under Paragraphs 1, 2 and 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the Local Government (Access to Information) (Variation) Order 2006).

## **61. Minutes**

Resolved: That the minutes of the Staffing Matters and Urgency Committee held on 17 January 2022 be approved and then signed by the Chair as a correct record with the following amendments:

- a) That minute 50 be amended to state that members asked for additional information as to why (not where) individuals had resigned from their position at the Council.

- b) That the resolved of minute 51 be amended to read ‘The Committee agreed to defer the item to the meeting of the Committee on 15 February 2022.’

## **62. Public Participation**

It was reported that there had been one registration to speak at the meeting under the Council’s Public Participation Scheme.

Gwen Swinburn asked why reports and Council meetings didn’t have a section for officer declarations of interest. She stated that she felt the proposed LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme would only support highly paid Council officers avoid tax and lacked an equalities impact. She asked that the Committee defer the item to gain more information.

## **63. Changes to Membership of Committees, Joint Committees administered by other Councils, Regional Local Authority Bodies and Other Bodies**

The Committee noted the request to amend the appointment to the West Yorkshire Combined Authority – Corporate Overview and Scrutiny Committee and agreed to Cllr Fitzpatrick being named as a substitute member.

Resolved:

- i. Approved the change to outside body appointments for the West Yorkshire Combined Authority – Corporate Overview and Scrutiny Committee with Cllr Fitzpatrick being named as a substitute member.

Reason: In order to make appropriate Council appointments to representatives on Outside Bodies for the remainder of the current municipal year.

## **64. Amendment to the Council's LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme**

Officers introduced the report outlining the recommendation to amend the Local Government Pension Scheme Regulations 2013 (LGPS) to

implement a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) for employees. They outlined how the salary sacrifice scheme would work for employees and the Council. It was confirmed that the proposed supplier was the only one in the market offering this scheme. It was confirmed that the scheme would come with a 4.5% charge to the Council, which officers confirmed should be saved through lower National Insurance contributions.

Members enquired about whether the scheme was supported by HMRC and whether future problems could arise if HMRC challenged the Council to pay any money back. Officers confirmed that the PS Tax outlined that they were backed by HMRC and therefore, officers didn't expect issues arising in the future. Members asked how many employees officers expected to take up the new scheme. Officers confirmed that 110 employees were currently taking up the Council's Additional Voluntary Contributions scheme (AVC) and expected around 90% of those employees to transfer over or use both schemes. Members enquired why so few employees accessed the current AVC and whether the new scheme would largely just benefit the highest paid Council employees. Officers noted that the scheme would be promoted to all employees and as long as someone didn't sacrifice their salary below the national minimum wage they would be able to participate in the scheme, however, it was confirmed that the scheme would benefit most those with the highest salaries.

The Committee discussed whether to support the scheme. Members noted the proposed savings to the Council which would cover the costs for participating in the scheme, they asked for further detail to be provided to the Committee about expected cost depending on the number of employees that take up the scheme. Members also agreed that they would wish for confirmation directly from HMRC that they supported the scheme. Therefore, Members discussed the prospect of delaying a decision until this information was available. Officers noted that a delay to the decision would lose the Council its current position to implement the scheme and would likely be delayed until October.

Resolved:

- i. That a decision be deferred to the Committees 21 March 2022 meeting;
- ii. That the financial breakdown of savings for the Council and the projected costs and savings depending on the number of employees that would take up the scheme be shared with the Committee;
- iii. That a programme for how the scheme would be advertised to staff from across the workforce to be able to take advantage of

the scheme. Also where possible a breakdown of employees under which pay grades currently take up the Council's current AVC and what experience PS Tax have from implementing at other Councils to be shared with the Committee;

- iv. That if approved at the 21 March 2022 then the Committee agreed to schedule an annual report for a meeting around a year after the scheme is implemented to review take up of the scheme and costs associated.

Reason: To provide the Committee with further information regarding the Shared Cost Additional Voluntary Contribution scheme for employees prior to deciding whether to implement.

## **65. Work Plan**

The Committee considered their work plan for 2021/22 and noted that the Amendment to the Council's LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme item would be added to the Committees 21 March 2022 meeting. Officers also confirmed that they would bring the Workforce demographics as of 31 March 2022 would be added to the Committees work plan for either May or June 2022. The Committee also requested that an item be added to look at the use of recruitment consultants on recruitment panels.

Resolved:

- i. That the Amendment to the Council's LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme item would be added to the Committees 21 March 2022 meeting;
- ii. That the Workforce Demographics as of 31 March 2022 be added to the Committees work plan for either May or June 2022;
- iii. That an item to review the use of recruitment consultants on recruitment panels be added to the Committee work plan.

Reason: To ensure the Committee maintains a program of work for 2021-22.

## **66. Redundancy, Pension or Exit Discretion**

Members considered a report which advised them of expenditure

associated with pension or exit discretions. An overview of expenditure was provided in the table at paragraph 5 of the report. There were total costs to the council of £113,904.22 and £17,610.23 in relation to two compulsory redundancies. Full details were set out in exempt Annexes A, B, C, and D to the report.

Resolved:

- i. That the expenditure associated with each proposal, as detailed in the report annexes, be noted.

Reason: So that the council has an overview of expenditure.

*Note: the above item was considered in private session, in accordance with the decision in Minute 60.*

Cllr Aspden, Chair

[The meeting started at 5.31 pm and finished at 6.36 pm].

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**Staffing Matters and Urgency Committee**

21 March 2022

Report of the Chief Operating Officer and  
Head of Human Resources and Organisational Development

**Amendment to the Council's LGPS Discretionary Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme**

1. This report requests approval of the Committee of an amendment to the Council's LGPS Discretionary Policy Statement in order to comply with The Local Government Pension Scheme Regulations 2013 (the "LGPS Regulations"), to implement a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) for employees.

**Background**

2. This paper contains further information, as requested at the meeting of 15 February 2022. The background information from previous reports is attached at **Annex 1** (from 17 January 2022) and **Annex 2** (from 15 February 2022) for the Committee's reference.

**Additional Information provided**

3. The revised Policy Statement is attached at **Annex 3**.
4. **Annex 4** shows the new text in red on page 6 of the discretionary policy statement. This was included in the papers for the meeting of 17 January, 2022. The amendment is to Regulation R17(1) and definition of SCAVC in RSch 1.
5. The current version of the Policy Statement is attached at **Annex 5**.
6. The following table shows the numbers of staff on each grade, together with the numbers of staff within those grades who currently contribute to AVCs from their monthly pay. (These figures are as at 31 January 2022, and will fluctuate with time).

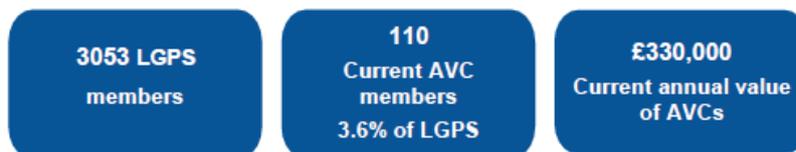
<b>Grade</b>	<b>No staff eligible to be in the LGPS pension plan</b>	<b>No staff paying into AVCs</b>
GRADE02	185	1
GRADE03	61	0
GRADE04	461	2
GRADE05	380	4
GRADE06	346	11
GRADE07	459	10
GRADE08	342	18
GRADE09	483	22
GRADE10	182	15
GRADE11	153	15
GRADE12	40	6
GRADE13	16	1
AsstDir	6	1
Dir	7	0
CorpDir	1	0
CH-EXC	1	0
<b>Grand Total</b>	<b>3123</b>	<b>106</b>

7. Based on their experience with other local authorities, AVC Wise expect that 90% of those staff already paying into AVCs would transfer to the new salary sacrifice Shared Cost AVC scheme.
8. They also expect that our current overall numbers of staff paying into AVCs would increase from 3.4% to 10% over a 12 month period, this is based on experience of other Councils implementation and communication plans to promote the scheme.
9. A communications strategy and action plan would be agreed between AVC Wise and CYC and would include communications and promotion via a range of different medias to promote the service. Employees will have the choice to access group webinars and one to one sessions hosted by AVC Wise. This is in addition to downloads of information / education and webinars available at any time on the AVC Wise portal. Those staff who are eligible to join the scheme and express interest in the scheme will be able to view the portal content. This support should encourage staff from all grades to benefit from the savings of these AVCs.
10. The projections of savings can be seen below, these have been provided by AVC Wise. These are based on the snapshot figures from summer 2021, and are based on standard NI charges. The temporary

increase from April would give a higher saving to both employees and the council, for as long as it may last.

### Employer Savings Estimate

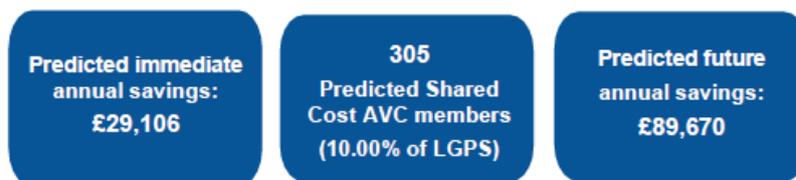
Based on the information you have provided we have estimated the following Employer savings as a result of introducing the Shared Cost AVC scheme with the help of AVC Wise's fully managed solution.



If we assume 90% of the current AVC members (99) transfer to the salary sacrifice Shared Cost AVC arrangement, **City of York Council** can expect to achieve immediate annual savings of around **£29,106**.

In addition to these savings, with the support of the AVC Wise fully managed service, our easy to use platform and our concerted marketing and staff communication plans, we confidently expect the take-up to increase to a minimum of 10.00% (305 members). If we apply £250 per month as the average Shared Cost AVC value (based on our experience) and use 10.00% of take up, **City of York Council** could achieve annual savings of around **£89,670**.

This savings figure could be our ultimate three-year target to achieve working together with **City of York Council**.



11. AVC Wise created the scheme working with Public Sector Tax to ensure compliance, following HMRCs guidance. The scheme for CYC would be in line with the 125 schemes that have all been approved to date through AVC Wise. NYCC have now implemented the AVC Wise scheme and NYCC Pensions team are aware and happy with the scheme.
12. Clearance with HMRC is not compulsory, but to follow best practice AVC Wise recommend we seek clearance. Each scheme per employer is registered uniquely and, as per all salary sacrifice schemes. HMRC will not pre-approve a scheme: the scheme must be in operation before seeking clearance that the scheme is compliant. The following is an extract from the HMRC website <https://www.gov.uk/guidance/salary-sacrifice-and-the-effects-on-payee>

## **Ask HMRC to confirm the tax and National Insurance contributions**

If there is a point of legal uncertainty you can contact the [HMRC clearance team](#). HMRC will not comment on a proposed salary sacrifice arrangement before it has been put in place.

To be satisfied that the change has been effective at the right time and not applied retrospectively, HMRC would need to see:

- evidence of the variation of terms and conditions (if there is a written contract)
- payslips before and after the variation

13. As part of their fully managed services, AVC Wise will submit a clearance request to HMRC on behalf of the Council following the first payroll deductions with the evidence above. They have completed this process for their current partners and all have been approved by HMRC.
14. If the changes to the Discretionary Policy Statement were agreed in March, there is a minimum of two months before changes can take effect for existing employees with an AVC (this is also dependant on the AVC Wise Team having the capacity to implement CYC's scheme as other employers schemes are also pending). The first action is to write to all existing AVC members and ask whether they wish to change their current AVC 'pot' to the new scheme (this is a choice and employees can choose to maintain their existing arrangements or run two 'pot / accounts'). Employees will be given one month to decide how they wish to proceed. New staff without any current AVC's should be able to be set up within one month of the scheme implementation.
15. Following the launch and communications with staff therefore, the earliest that deductions would take place would be June's payroll. If the change to the Discretionary policy statement were to be agreed later, the first deductions could be delayed to at least September due to poor take-up with launches that occur over the summer period and the availability of AVC Wise staff.

## **Recommendation**

16. The Staffing Matters and Urgency Committee is asked to approve the revised Discretionary Policy Statement amendments with the proposed wording as red lined in **Annex 4**.

Reason: To invite Members to consider changes to the Council's Discretionary Policy Statement to comply with the LGPS

Regulations and Discretionary Compensation Regulations  
and approve the new Statement

17. If approved the Pension Discretionary Policy Statement will be signed, dated and forwarded to the NY Pension Scheme by the Chief Finance Officer (Section 151 Officer).
18. It is proposed that following one year of implementation, SMUC can be provided with a summary of the savings made.

### Contact Details

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[helen.whiting@york.gov.uk](mailto:helen.whiting@york.gov.uk)

**Chief Officer Responsible for  
the report:** Ian Floyd, Chief  
Operating Officer

**Date:** 11 March 2022

**Approved**



### Specialist Implications Officers:

Accounting Technician  
Payroll Manager  
Chief Finance Officer/Section 151  
Director of Governance and Monitoring Officer

**Wards Affected:** None

For further information please contact the author of the report – Helen Whiting.

### Background Papers:

Report submitted to Staffing Matters and Urgency Committee on 17 January, 2022 but deferred for an in person meeting.  
[https://democracy.york.gov.uk/documents/s155503/Report%20Shared%20Cost%20AVCs%20amendment%20to%20Discretions\\_Policy.html?CT=2](https://democracy.york.gov.uk/documents/s155503/Report%20Shared%20Cost%20AVCs%20amendment%20to%20Discretions_Policy.html?CT=2)

Report submitted to Staffing Matters and Urgency Committee on 15 February, 2022.  
[https://democracy.york.gov.uk/documents/s156529/SMU%20Report%20S\\_CAVCs.html?CT=2](https://democracy.york.gov.uk/documents/s156529/SMU%20Report%20S_CAVCs.html?CT=2)

**Annexes:**

- 1 Report submitted 17 January
- 2 Report submitted 15 February
- 3 Revised Discretionary Policy Statement
- 4 Discretionary Policy Statement showing changes
- 5 Current Discretionary Policy Statement

**Abbreviations:**

AVC – Additional Voluntary Contribution

CYC – City of York Council

HMRC – Her Majesty's Revenue and Customs

LGPS – Local Government Pension Scheme

NYCC – North Yorkshire County Council

SCAVC - Shared Cost Additional Voluntary Contribution Scheme

SMUC – Staffing Matters and Urgency Committee



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## Staffing Matters and Urgency Committee

17 January 2022

Report of the Chief Operating Officer

### Local Government Pension Scheme 2021 Discretions Policy Summary

1. This report informs the Committee of an amendment to the Council's LGPS Discretionary Policy Statement in order to comply with The Local Government Pension Scheme Regulations 2013 (the "**LGPS Regulations**").

#### Background

2. The LGPS Regulations require the Council to prepare a written statement of its policy in relation to the exercise of its discretions under regulations 16(2)(e) and 16(4)(d) (funding of additional pension), 30(6) (flexible retirement), 30(8) (waiving of actuarial reduction) and 31 (award of additional pension) of the LGPS Regulations as well as paragraph 1(1)(c) of Schedule 2 to The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (Rule of 85).
3. The Council also exercises many other employer discretions under the LGPS Regulations although it is not compulsory to include them in the Discretionary Policy Statement.
4. The Council must also keep its Discretionary Statement under review and make such revisions as are appropriate following any change in its policy.
5. When formulating and reviewing its Discretionary Policy Statement under the Discretionary Compensation Regulations, the Council must:
  - a have regard to the extent to which the exercise of its discretions in accordance with its policy, unless properly limited, could lead to a serious loss of confidence in the public service; and
  - b be satisfied that the policy is workable, affordable and reasonable having regard to the foreseeable costs.

6. The Council wishes to introduce a new salary sacrifice Shared Cost AVC scheme for employees, who are members of the Local Government Pension Scheme (LGPS). This scheme provides an opportunity for employees to save for the future and gain National Insurance Contribution (NIC) savings on these additional voluntary contributions through salary sacrifice
7. This new scheme has only recently become available. It provides an additional opportunity for the Council to support LGPS members with their financial wellbeing. There is no additional cost to the Council, since any costs are absorbed by the savings in employer NIC payments.
8. An amendment to the Discretionary Policy Statement is necessary to allow the use of such a scheme.

### **Analysis**

9. The revised Policy Statement is attached at Appendix 1.
10. The amendment is to Regulation R17(1) and definition of SCAVC in RSch 1, with the new text showing on page 6 of the discretion policy statement.
11. This change which could have a material impact on scheme members and the Council is summarised as follows.

### **Contributions to Shared Cost Additional Pension Contributions (SCAPCs)**

12. The LGPS regulations allow for scheme employer's to also contribute towards the cost of AVCs through Shared Cost AVCs (SCAVC).
13. The Council has historically elected to not permit Shared Cost AVCs given any contribution made by the Council would come at a direct cost to the Council. However, it is now possible for staff to contribute to Shared Cost AVCs under a salary sacrifice arrangement without there being any direct cost to the Council.

### **Current Policy**

14. 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.

### **New Policy**

15. The Council will allow Local Government Pension Scheme Members to contribute to a shared cost salary sacrifice scheme additional voluntary contribution (SSSCAVC) scheme. The amount of these employer Shared Cost AVC contributions will not exceed the amount of salary sacrificed by the employee.
16. The reason for the change is to allow the new salary sacrificed shared cost AVCs to be offered to staff as a benefit, at no cost to the council.
17. The Council will not enter into any other form of Shared Cost AVC arrangement.
18. The Council is satisfied that the exercise of its discretions in accordance with the proposed Discretionary Policy Statement:
  - a. would not lead to a serious loss of confidence in the public service; and
  - b. in the case of the exercise of the discretions under the Discretionary Compensation Regulations, would be workable, affordable, and reasonable having regard to the foreseeable costs.

### **Consultation**

19. Consultation has taken place with key members of staff across the organisation, Corporate Management Team, and North Yorkshire Pension fund. Engagement has also been made with the trade unions.

### **Council Plan**

20. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements contributing to an 'open and effective council'.

## Implications

21.

- (a) **Financial** – There is an overall saving to the council in NICs, including after fees, where staff pay into the new SSSCAVC scheme.
- (b) **Human Resources (HR)** – There are no HR implications.
- (c) **Equalities** – There are no implications.
- (d) **Legal** – The LGPS Regulations and the Discretionary Compensation Regulations both makes it clear that the Council must formulate, publish and keep under review a Discretionary Policy Statement and any failure to do so would be a breach of those Regulations.
- (e) **Crime and Disorder** - There are no implications
- (f) **Information Technology (IT)** - There are no implications
- (g) **Property** - There are no implications

## Risk Management

22. Any failure to formulate, publish and keep under review a Discretionary Policy Statement in accordance with the LGPS Regulations and the Discretionary Compensation Regulations would be a breach of those Regulations and potentially an act of maladministration. This could also result in the Council exercising its discretions in an inconsistent manner and possible legal challenge.

## Recommendation

23. The Staffing Matters and Urgency Committee is asked to approve the revised Discretionary Policy Statement.

Reason: To invite Members to consider changes to the Council's Discretionary Policy Statement to comply with the LGPS Regulations and Discretionary Compensation Regulations and approve the new Statement

24. If approved the Pension Discretion Policy Statement will be signed dated, and forwarded to the NY Pension Scheme by the Chief Finance Officer (Section 151 Officer).

### Contact Details

**Author:** Helen Whiting /Anna  
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**Chief Officer Responsible for the  
report:** Ian Floyd, Chief Operating  
Officer

**Report Date:** 17 January 2022

**Approved**

**Specialist Implications Officers:** Accounting Technician, Chief Finance Officer/Section 151

**Wards Affected:** None

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

**Background Papers:**

None

**Annexes:**

Appendix 1 – The proposed revised Employer Discretionary Policy Statement

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**Staffing Matters and Urgency Committee**

15 February 2022

Report of the Chief Operating Officer

**Amendment to the Council's LGPS Discretions Policy to Implement a Shared Cost Additional Voluntary Contribution Scheme**

1. This report requests approval of the Committee of an amendment to the Council's LGPS Discretionary Policy Statement in order to comply with The Local Government Pension Scheme Regulations 2013 (the "LGPS Regulations"), to implement a Shared Cost Additional Voluntary Contribution Scheme (SCAVC) for employees.
2. This report was originally scheduled to be presented to the Committee in January 2022 via the virtual SMUC meeting however, it was agreed to be deferred until a meeting can be convened in person.
3. Concerns were raised as to the authorisation process for the introduction of a pension related scheme and further details of how the scheme works was requested. This report is therefore, an updated version. The report presented in January is available for reference.

**Authorisation to Implement**

4. Although, it is within the Chief Operating Officers authority to implement employee benefits, the technical advice and authorisation to proceed with this scheme rests with the Section 151 Officer. In addition, on advice from the Director of Governance and Monitoring Officer the Staffing Matters and Urgency Committee are authorised to endorse and approve the implementation of the new Shared Cost Additional Voluntary Contribution Scheme (*known as AVC Wise*) and the associated amendment to the LGPS Discretions required to implement the scheme.

**Background**

5. Members of the Local Government Pension Scheme (LGPS) already have the option to contribute to Additional Voluntary Contributions
-

(AVCs), via the Council's provider Prudential, to provide a long term savings plan that runs alongside the mainstream LGPS and allows a member to build up a capital sum with flexible drawback options at retirement. The pot available on retirement is tax free and the amount invested from employment earnings receives tax relief, for example if a standard rate taxpayer was to contribute £100 per month, this would only cost them £80, as it is deducted before tax is paid.

6. To extend the employee offer of AVC's HR have been in discussions with PSTAX representatives to implement a salary sacrifice arrangement for employees who pay AVCs linked to membership of the LGPS. PSTAX promotes AVC Wise which is a fully managed solution to process online applications for SCAVCs linking with the Council's payroll services to administer the process. PSTAX are the only provider of a SCAVC scheme for local government and therefore, we are able to request an exception to the Contract Procedure Rules, and direct award the contract.
7. The introduction of a SCAVC would not remove the current AVC offer via Prudential and employees will have a choice as to whether they move to the SCAVC option. There is not a default requirement to change, although evidence shows that most employees once aware of the SCAVC benefits do move across to the scheme.
8. The SCAVC via a Salary Sacrifice option was first announced in July 2016. AVC Wise work with Prudential and are the market leader in this area with over 75 Councils and 31 other public sectors bodies already signed up.

### **How a SCAVC Works**

9. SCAVCs continue to save the employee tax on any salary deducted, unlike standard AVCs though, it saves the employee and employer National Insurance Contribution (NIC) costs associated with the deduction.
  10. To ensure the arrangement is compliant with the LGPS regulations, the SSAVC has to be set up as a shared cost scheme which means that both the employee and employer has to contribute to the SSAVC. Although, this suggests that the Council has to actually pay its own contribution into the shared cost SSAVC plan, in reality this is not the case.
-

11. How it works in practice is that the employee agrees to take a contractual reduction in salary, equivalent to the amount of SSAVC's they would like to contribute and the Council then pays this amount into the shared cost SSAVC plan on their behalf. To ensure compliance with the LGPS Regulations of a SCAVC, the employee would also need to pay at least a nominal £1 a month into the AVC fund via a payroll deduction.

### Benefits to the Council

12. There would be a reduction in employer NIC's of 13.8% on the total value of the SSAVC's.
13. There would also be a reduction in employer Apprentice levy costs of 0.5% of the total value of the SSAVC's. This will mean a reduced amount of Apprentice Levy funding available however, this is not of concern for current apprentice training commitments and projected future costs.

### Next Steps for Implementation

14. The introduction of a SCAVCs scheme is relatively simple to implement, with minimum risk to the Council and offers advantages for employees and the Council in terms of savings.
15. Should we progress, the Council's current Pensions Discretions Policy Statement would need to be amended for one of the current discretions, all others would remain the same.

Discretion	Regulation	Employer Policy	
		Current	Proposed
Whether, how much, and in what circumstances to contribute to a share cost AVC arrangement entered into on or after 1st April 2014	R17(1) & Definition of SCAVC in RSch1	The Council does not contribute to AVC's	<p>The Council will exercise discretion to allow Local Government Pension Scheme Members (LGPS) to contribute to a shared cost salary sacrifice scheme additional voluntary contribution (SCAVC) scheme</p> <p>This is a Council discretion which is subject to the employee meeting the Council's conditions for acceptance into the salary sacrifice Shared Cost AVC scheme and may be withdrawn or changed at any time. The Council will not enter into any other form of shared cost AVC.</p>

16. On approval HR will make arrangements to amend and publish a new version of the Pensions Discretions Policy.
17. The change of this discretion is a low risk to the Council and the benefits for the employee and savings for the Council outweigh any risks. As mentioned, there is no cost to the Council.
17. The Council is satisfied that the exercise of its discretions in accordance with the proposed Discretionary Policy Statement would not lead to a serious loss of confidence in the public service and in the case of the exercise of the discretions under the Discretionary Compensation Regulations, would be workable, affordable and reasonable having regard to the foreseeable costs.

### **Consultation**

18. Consultation has taken place with key members of staff across the organisation, Corporate Management Team, and North Yorkshire Pension fund. Engagement has also been made with the trade unions.

### **Council Plan**

19. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements contributing to an 'open and effective council'

### **Implications**

20. The following implications have been considered in the implementation of a Shared Cost Additional Voluntary Contribution Scheme;
    - (a) **Financial** – There is an overall saving to the council in NICs, including after fees, where staff pay into the new SSSCAVC scheme.
    - (b) **Human Resources (HR)** – There are no HR implications.
    - (c) **Equalities** – There are no implications from an equalities perspective, AVC's and SCAVC's are available to all employees who are members of the LGPS as long as they earn more than the NMW, this is a Government Regulation and not something that can be influenced or changed.
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(d) **Legal** – The LGPS Regulations and the Discretionary Compensation Regulations both makes it clear that the Council must formulate, publish and keep under review a Discretionary Policy Statement and any failure to do so would be a breach of those Regulations.

(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. Any failure to formulate, publish and keep under review a Discretionary Policy Statement in accordance with the LGPS Regulations and the Discretionary Compensation Regulations would be a breach of those Regulations and potentially an act of maladministration. This could also result in the Council exercising its discretions in an inconsistent manner and possible legal challenge.

### **Recommendation**

22. The Staffing Matters and Urgency Committee is asked to;

- a Approve the introduction of a Shared Cost Additional Voluntary Contribution Scheme as detailed in **paragraphs 5 to 13**
- b Thereafter, approve the revised Discretionary Policy Statement amendments with the proposed wording described at **paragraph 15**

Reason: To implement a Shared Cost Additional Voluntary Contribution scheme for employees

23. If approved the Pension Discretion Policy Statement will be signed dated, and forwarded to the NY Pension Scheme by the Chief Finance Officer (Section 151 Officer). It is anticipated that the scheme will be implemented in May 2022.

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**Contact Details**

**Author:** Helen Whiting  
Head of HR & OD  
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**Chief Officer Responsible for the report:** Ian Floyd, Chief Operating Officer

**Report Date:** 15 February 2022

**Approved**

**Specialist Implications Officers:**

Accounting Technician  
Chief Finance Officer/Section 151  
Director of Governance and Monitoring Officer

**Wards Affected:** None

For further information please contact the author of the report – Helen Whiting

**Background Papers:**

Report and appendix submitted to Staffing Matters and Urgency Committee on 17<sup>th</sup> January but deferred for an person meeting  
[https://democracy.york.gov.uk/documents/s155503/Report%20Shared%20Cost%20AVCs%20amendment%20to%20Discretions\\_Policy.html?CT=2](https://democracy.york.gov.uk/documents/s155503/Report%20Shared%20Cost%20AVCs%20amendment%20to%20Discretions_Policy.html?CT=2)

<https://democracy.york.gov.uk/documents/s155504/Appendix%201%20CYC%20Pension%20Discretions%20Policy%20Statement%20Jan%202022.html?CT=2>

**Annex – None**

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## **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 2014 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
<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.
<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 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.

Annex 3

<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.
<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.
<b>Waive Reduction (cont.)</b>	TP 3(1), TP Sch. 2, para 2(1)(c)	<b>Mandatory</b>	<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership):</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</p>	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.

			not be 60 by 31/3/16 and will attain 60 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.
<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 for post 1.4.14 re-joiners)</b>	R22(7)(b)	Recommended	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent 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 for pre</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.

1.4.14 re-joiners)				
<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 commencing during the year, their band will depend on starting salary. Only permanent changes to pensionable pay will result in re banding.  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).
<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 by the member in the previous 12 months	The Council will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.
<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 exercise discretion to allow Local Government Pension Scheme Members to contribute to a shared cost salary sacrifice scheme additional voluntary contribution (SSSCAVC) scheme. The amount of these employer Shared Cost AVC contributions will not exceed the amount of salary sacrificed by the employee. This is a Council discretion which is subject to the employee meeting the Council's conditions for acceptance into the salary sacrifice Shared Cost AVC scheme and may be withdrawn or changed at any time. The Council will not enter into any other form of shared cost AVC.
<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.

Annex 3

<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	<p>The Council reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations.</p> <p>The Council will automatically include “detriment” or “protected” pay as pensionable pay.</p>
<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>
<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
<b>Forfeiture Certificate</b>	R91(1) and (8)	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>	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.
<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.
<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.
<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.
<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.

**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
<b>Waive Reduction</b>	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.
<b>Waive Reduction</b>	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.
<b>Late Conversion of AVCs to service</b>	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.
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	A47(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.
<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	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.

			employment in which the person convicted is a member, and because of which the member left the employment)	
<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 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	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>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>

<p><b>T3 III Health Recommence ment</b></p>	<p>B31(7)</p>	<p>Less Common</p>	<p>Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment</p>	<p>The Council will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP). See above</p>
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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)

Area	Regulation	Discretion Type	Discretion	Council's Policy
<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.

<p><b>Recovery of Monetary Obligation</b></p>	<p>L115(2) and (3)</p>	<p>Less Common</p>	<p>Recovery from Fund of financial loss caused by employee, or amount of refund if less</p>	<p>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.</p>
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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, CYC 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)

<b>Area</b>	<b>Regulation</b>	<b>Discretion Type</b>	<b>Discretion</b>	<b>Council's Policy</b>
<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	The Council's general policy is that it will not award any lump sum compensation.  However, the Council reserves the right to use this discretion in exception circumstances.

## 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	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>			remarriage, new civil partnership or cohabitation	
<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
<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.
	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 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.
	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	The Council will consider on a case by case basis.

			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	
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**Signed**

**Position:**

**Chief Finance Officer**

**Date**

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## **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 2014 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
<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.
<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 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.

<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.
<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.
<b>Waive Reduction (cont.)</b>	TP 3(1), TP Sch. 2, para 2(1)(c)	<b>Mandatory</b>	<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership):</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</p>	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.

			not be 60 by 31/3/16 and will attain 60 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.
<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 for post 1.4.14 re-joiners)</b>	R22(7)(b)	Recommended	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent 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 for pre</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>1.4.14 re-joiners)</b>				
<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 commencing during the year, their band will depend on starting salary. Only permanent changes to pensionable pay will result in re banding.  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).
<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 by the member in the previous 12 months	The Council will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.
<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	<b>The Council will exercise discretion to allow Local Government Pension Scheme Members to contribute to a shared cost salary sacrifice scheme additional voluntary contribution (SSSCAVC) scheme. The amount of these employer Shared Cost AVC contributions will not exceed the amount of salary sacrificed by the employee. This is a Council discretion which is subject to the employee meeting the Council's conditions for acceptance into the salary sacrifice Shared Cost AVC scheme and may be withdrawn or changed at any time.</b> The Council will not enter into <b>any other form of shared cost AVC.</b>
<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.

Annex 4

<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	<p>The Council reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations.</p> <p>The Council will automatically include “detriment” or “protected” pay as pensionable pay.</p>
<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>
<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
<b>Forfeiture Certificate</b>	R91(1) and (8)	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>	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.
<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.
<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.
<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.
<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.

**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
<b>Waive Reduction</b>	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.
<b>Waive Reduction</b>	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.
<b>Late Conversion of AVCs to service</b>	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.
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	A47(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.
<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	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.

			employment in which the person convicted is a member, and because of which the member left the employment)	
<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 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	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>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 III Health Recommence ment</b>	B31(7)	Less Common	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	The Council will be guided by the recommendation of an Independent 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)

Area	Regulation	Discretion Type	Discretion	Council's Policy
<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.

<p><b>Recovery of Monetary Obligation</b></p>	<p>L115(2) and (3)</p>	<p>Less Common</p>	<p>Recovery from Fund of financial loss caused by employee, or amount of refund if less</p>	<p>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.</p>
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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, CYC 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	The Council's general policy is that it will not award any lump sum compensation.  However, the Council reserves the right to use this discretion in exception circumstances.

## 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	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>			remarriage, new civil partnership or cohabitation	
<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
<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.
	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 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.
	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	The Council will consider on a case by case basis.

			<p>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</p>	
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**Signed**

**Position:**

**Chief Finance Officer**

**Date**

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## 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
<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.
<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 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.

<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.
<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.
<b>Waive Reduction (cont.)</b>	TP 3(1), TP Sch. 2, para 2(1)(c)	<b>Mandatory</b>	<p>Whether to waive any actuarial reduction for a member voluntarily drawing benefits before normal pension age other than on the grounds of flexible retirement (where the member has both pre 1/4/14 and post 31/3/14 membership):</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</p>	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.

			not be 60 by 31/3/16 and will attain 60 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.
<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 for post 1.4.14 re-joiners)</b>	R22(7)(b)	Recommended	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent 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 for pre</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>1.4.14 re-joiners)</b>				
<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 commencing during the year, their band will depend on starting salary. Only permanent changes to pensionable pay will result in re banding.  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).
<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 by the member in the previous 12 months	The Council will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.
<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.
<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.

<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>
<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
<b>Forfeiture Certificate</b>	R91(1) and (8)	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>	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.
<b>Forfeiture Certificate</b>	R92(1) and (2)	Less Common	Where forfeiture certificate is issued, whether to direct interim payments out of Pension Fund	The Council will not direct that interim payments are made from the Fund pending a decision.

			until decision is taken to either apply the certificate or to pay benefits	
<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.
<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.
<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.
<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.

**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
<b>Waive Reduction</b>	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.
<b>Waive Reduction</b>	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.
<b>Late Conversion of AVCs to service</b>	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.
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	A47(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.
<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	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.

			member, and because of which the member left the employment)	
<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 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	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>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>	<b>B31(7)</b>	Less Common	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	The Council will be guided by the recommendation of an Independent 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)

Area	Regulation	Discretion Type	Discretion	Council's Policy
<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, CYC 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	The Council's general policy is that it will not award any lump sum compensation.  However, the Council reserves the right to use this discretion in exception circumstances.

## 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

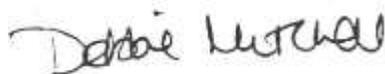
#### Applicable Regulations:

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

Area	Regulation	Discretion Type	Discretion	Council's Policy
<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.
	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 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.
	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	The Council will consider on a case by case basis.

			<p>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</p>	
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**Signed**



**Position:**

**Chief Finance Officer**

**Date**

**17<sup>th</sup> February 2021**




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**Staffing Matters and Urgency Committee**
**21 March 2022**

Report of the Head of HR and Organisation Development

**Retention Payments**
**Summary**

1. This report is for information and advises the Staffing Matters and Urgency Committee of retention payments approved and processed for payment.

**Background**

2. It was agreed in September 2021 that quarterly reporting of the number of retention payments would be provided following the approval of the Retention Payment Protocol.
3. It was agreed that these would be presented to the Committee on a rolling basis each March, June, September and December.
4. Details will be added to the Committee's Work Plan to include reference to these reports. Where there is a nil return / no retention payments, a report will not be submitted.
5. Since September 2021, there has been two applications covering 28 employees. The applications have been assessed and approved by Management and the Trade Unions as part of the Pay Board. Payments are for a 12-month period unless stated otherwise. The following payments were approved in March 2022;

Grade of post	Number of job holders	Effective date
12	1	retrospective from 1/10/21
9*	2	03/03/2022
6*	1	03/03/2022
5*	24	03/03/2022

\*payments to these groups have only been approved for a 6 month retention period.

## **Council Plan**

6. Whilst retention payments are not material to the Council Plan, they are consistent with the required outcomes of the Organisation Development Plan of maintaining a skilled and experienced workforce to deliver Council Services.

## **Implications**

7. The business cases for each of the retention payments have been assessed and implications have been considered prior to the approval by the Pay Board.

## **Financial Implications**

8. The Departmental Financial Manager signs off financial implications for each business case prior to the application being presented to the Pay Board for full consideration and approval. Costs are met by the individual service area.

## **Equalities Implications**

9. There are potential equalities implications in the application of any retention payment but these are addressed via risk management. The risks are assessed to ensure that the payments are proportionate and reviewed in line with the agreed retention payment protocol.

## **Legal Implications**

10. Individual legal risks are highlighted as part of any application, and managed as part of risk management.

## **Crime and Disorder, Information Technology and Property**

11. There are no known crime and disorder, information and technology and property risks.

## **Risk Management**

12. Each application has been assessed against the criteria identified in the Retention Policy. The risks of not applying a retention payment to the cases identified will impact on the Council retaining employee skills and experience which will directly impact on the delivery of Council Services.

**Recommendation**

13. Staffing Matters and Urgency Committee are invited to:

- a. Note the number of retention payments made in the last quarter

Reason: In order to provide an overview of the number of payments made.

**Contact Details**

**Author:**

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Human Resources  
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**Chief Officer Responsible for the report:**

Ian Floyd  
Chief Operating Officer

**Report  
Approved**

**Date**

10 March  
2022

**Specialist Implications Officer(s):** None

**Wards Affected:**

All

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

**Background Papers:**

Emergency Retention Protocol 20 September 2022

<https://democracy.york.gov.uk/documents/s152173/Emergency%20Retention%20Protocol%20Report.pdf>

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**Staffing Matters & Urgency Committee  
Draft Work Plan 2021-22**

21 June 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> <li>2. Workforce demographics at 31 March 2021 <ul style="list-style-type: none"> <li>• FTE</li> <li>• Equality Data</li> <li>• Absence and Well Being</li> <li>• Starters and Leavers</li> <li>• Reasons for leaving i.e. retirement, redundancy, dismissal, settlement agreement</li> <li>• Agency</li> </ul> </li> <li>3. Progress in implementing the new Corporate Leadership Group (CLG).</li> </ol>
19 July 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
16 August 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
20 September 2021	<ol style="list-style-type: none"> <li>1. Emergency Retention Protocol</li> <li>2. Redundancy, Retirement and Settlement Agreements</li> </ol>
18 October 2021	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
29 November 2021	<ol style="list-style-type: none"> <li>1. Appointment of the Managing Director of Make It York</li> <li>2. Redundancy, Retirement and Settlement Agreements</li> </ol>
17 January 2022	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>

	<ol style="list-style-type: none"> <li>2. Amendment to the Discretions Policy Statement, to allow for Salary Sacrificed Shared Cost AVCs (<i>item was deferred until 15<sup>th</sup> February</i>)</li> <li>3. Workforce demographics at 31 December 2021 <ul style="list-style-type: none"> <li>• FTE</li> <li>• Equality Data</li> <li>• Absence and Well Being</li> <li>• Starters and Leavers</li> <li>• Reasons for leaving i.e. retirement, redundancy, dismissal, settlement agreement</li> <li>• Agency</li> </ul> </li> </ol>
1 February 2022	<ol style="list-style-type: none"> <li>1. People Directorate Restructure</li> </ol>
15 February 2022	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> <li>2. Amendment to the Discretions Policy Statement, to allow for Salary Sacrificed Shared Cost AVCs</li> <li>3. Change to Committee Membership</li> </ol>
21 March 2022	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> <li>2. Amendment to the Discretions Policy Statement, to allow for Salary Sacrificed Shared Cost AVCs</li> <li>3. Retention Payments</li> </ol>
25 April 2022	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
16 May 2022	<ol style="list-style-type: none"> <li>1. Redundancy, Retirement and Settlement Agreements</li> </ol>
TBC June 2022	<ol style="list-style-type: none"> <li>1. Workforce Demographics as at 31<sup>st</sup> March 2022</li> <li>2. Executive Recruitment Searches</li> <li>3. Retention Payments</li> </ol>



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**Staffing Matters and Urgency Committee****21 March 2022**

Report of the Chief Operating Officer

**Redundancy, Pension or Exit Discretion****Summary**

1. This report advises the Staffing Matters and Urgency Committee of the expenditure associated with redundancy, pension or exit discretions paid in accordance with council policy to employees below Chief Officer.

**Background**

2. The background and detailed case surrounding each proposal are contained in the individual business case(s) attached as confidential annexes to this report for noting

**Consultation**

3. All of the proposed redundancy, pension or exit discretions have been subject to consultation in accordance with the Council's statutory obligations.

**Approval**

4. In accordance with Council policy the appropriate Chief Officer of Departmental Management Team and S151 officer have approved the attached business case(s). The decisions as to whether or not to make an employee redundant rests with the Chief Operating Officer or Officers nominated by him. In terms of payments related to redundancy the council is contractually obliged to make the payment set out in the business case. Only in exceptional circumstances can discretionary additional payments for redundancy be considered. The Section 151 Officer has decision making authority for all staff other than Chief Officers in this matter.

**Analysis**

5. The analysis of each proposal can be found in the respective business case. Below is an anonymised summary of these cases noting costs associated with each:

Employee	Business Case Annex	Type of Exit	Redundancy Costs £	Pension Costs £	Total £
1	A	Compulsory Redundancy	£23,591.09	£0	£23,591.09

### **Council Plan**

6. Whilst the actions being proposed in the report are not material to the Council Plan they are consistent with the required outcomes of the Organisation Development Plan.

### **Implications**

7. The implications of each proposal can be found in the respective business case.

### **Risk Management**

8. The specific risks associated with each proposal and how they can be mitigated are contained in each business case. In summary, the risks associated with the recommended option are financial, legal, operational and reputational.

### **Recommendations**

9. Staffing Matters and Urgency Committee is asked to note the expenditure associated with each proposal as detailed in the annexes.

Reason: In order to provide an overview of expenditure.

**Contact Details**

**Author:**

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**Chief Officer Responsible for the report:**

Ian Floyd  
Chief Operating Officer

**Report  
Approved**

**Date** 21/03/2022

**Specialist Implications Officer(s):**

**Wards Affected:**

**All**

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

**Background Papers:** None

**Annexes:**

Annex A – Confidential Business Case

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By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

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