



Local Government Pension Scheme – Employer Discretions Policy

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Introduction

The Local Government Pension Scheme regulations require employers who participate in the Local Government Pension Scheme (LGPS) to draw up and publish a discretions policy and to keep it under review.

Discretions are powers that enable employers to choose how to apply the scheme in respect of certain provisions. Discretions only apply at the time of application and are subject to change.

When the Council sets and reviews these employer discretions, consideration is given to:

- Cost – discretionary powers come with a cost attached - policies mustn't lead to a loss of confidence in public services and therefore have to be affordable.
- Basis on which decisions are made – policies should not be as rigid or restrictive as to prevent flexibility where a possibly unanticipated situation requires it.
- Equality – criteria that do not discriminate and where decisions are objectively justified

There are many employer discretions in the current Scheme regulations and several more still existing from previous Schemes; however only a relatively small number of employer discretions have to be published.

The LGPS Employer Discretions Policy is therefore the Council's written policy statement detailing all mandatory employer discretions, plus a number of non-mandatory employer discretions the LGPS recommend employers also publish.

North Yorkshire Pension Fund Board publish the Administering Authority discretions on their website.

Scope and Policy

Due to changes of the Scheme over time, different regulations and provisions may apply to pension benefits and pensionable service accrued under different arrangements. This policy sets out the relevant discretions in different sections. At the commencement of each section the applicable Regulations are detailed.

Sections

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Definitions

Within the Regulations all discretions have a classification as follows:

- Mandatory - an employer must formulate, publish and keep under review a policy on these discretions.
- Recommended - there is no requirement for an employer to publish a written policy on these discretions. However, as these matters arise fairly frequently it may be appropriate so that members can be clear on your policy on these matters.
- Less common - there is no requirement for employers to publish a written policy on these discretions, though they may choose to do so.

Within a number of the discretions, reference is made to **administrative shortcomings**. The following would be considered an administrative shortcoming:

- A scheme member is not given appropriate advice/information to enable him/her to transfer pension rights
- A scheme member contacts RDC, NYPF or a previous pension scheme regarding transfer within 12 months but does not receive correct or sufficient information to enable them to make a proper decision
- A scheme member believes that the action he/she has taken within 12 months is sufficient to have effected transfer
- A scheme member has used his/her best endeavours to effect a transfer within 12 months of joining the scheme but the transfer has not taken place for reasons outside of his/her control, e.g. investigation into mis-selling, winding up of previous fund, etc.

SECTION 1	Discretions applicable 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)
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Applicable Regulations:

Abbr. Description

- R** Local Government Pension Scheme (LGPS) Regulations 2013 [SI 2013/2356]
TP LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014 [SI 2014/525]
A LGPS (Administration) Regulations 2008 [SI 2008/239]
B LGPS (Benefits, Membership and Contributions) Regulations 2007 (as amended) [SI 2007/1166]
T LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238]
L LGPS Regulations 1997 (as amended) [SI 1997/1612]

No	Area	Discretion	Regulation	Policy
1	Mandatory Granting additional pension	Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member by reason of redundancy or business efficiency (by up to £6,500 p.a - figure at 1 April 2014. This is inflation proofed annually)	R31	RDC will not grant additional pension to a member.
2	Mandatory Shared cost Additional Pension Contributions (to buy additional pension)	Whether, how much and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme A member can buy additional pension through an APC contract. The discretion is whether the employer will share the cost of the APC	R16(2)(e) & R16(4)(d)	RDC 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.
3a	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)	R30(6) & TP11(2)	RDC will consider applications in accordance with its policy on early/flexible retirement.
3b	Flexible retirement	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	RDC will not waive any actuarial reduction on benefits paid on flexible retirement. All applications for flexible retirement will be considered in line with the process and criteria set out in RDC's policy on early/flexible retirement.

4	Mandatory 85 Year Rule	Whether to “switch on” the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (other than on the grounds of flexible retirement).	TPSch 2, para, 1(2) &1(1)(c)	RDC will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60
5a	Mandatory Waive Reduction	<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 not be 60 by 31/3/16 and will attain 60 between 1/4/16 and 31/3/20 inclusive</p>	TP3(1), TPSch 2 para 2(1) & B30(5) & B30A(5)	RDC will not waive any actuarial reduction arising out of a voluntary early or flexible retirement.
5b	Mandatory Waive Reduction (cont)	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)	R30(8)	RDC will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age
6	Recommended Shared cost Additional	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	R16(16)	RDC 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 shortcoming.

	Pension Contributions (to buy lost pension following a period of authorised unpaid absence)	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		
7	Recommended Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	RDC will 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. The Administering Authority can provide guidance on individual queries.
8	Recommended Transferring in LGPS pension rights (only for pre 1 April 2014 re-joiners)	Whether to extend the 12 month option period for aggregation of deferred benefits Care: This must match your existing discretion under the 2008 Scheme.	A16(4)(b)(ii)	RDC will only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
9a	Recommended Transferring in LGPS pension rights (only for post 1 April 2014 re-joiners)	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	R22(8)(b)	RDC will only extend the 12 month option period beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
9b		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	R22(7)(b)	RDC will only extend the 12 month option period beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
10	Recommended Transferring in LGPS pension rights (i.e. final salary benefits which will buy CARE pension	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	TP10(6)	RDC will only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings

	only for post 1 April 2014 re-joiners)			
11	Recommended Employee contribution rate	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.	R9(1) & R9(3)	<p>On 1st April each year, RDC 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 .</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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). If any member believes this would be inaccurate, they should ask their Line Manager to contact ESS for further information.</p>
12a	Recommended	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	RDC would include lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.

12b	Assumed Pensionable Pay (APP)	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	R21(5A) & R21(5B)	RDC will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.
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SECTION 2	Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1 April 2008 and before 1 April 2014
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Applicable Regulations:

Abbr. Description

- A** LGPS (Administration) Regulations 2008 [SI 2008/239]
- B** LGPS (Benefits, Memberships and Contributions) Regulations 2007 (as amended) [SI 2007/1166]
- T** LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238]
- TP** LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525]
- R** LGPS Regulations 2013 [SI 2013/2356]
- L** LGPS 1997 (as amended) [1997/1612]

No	Area	Discretion	Regulation	Policy
13a	Mandatory	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1(1)(c)	RDC will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60
13b	85 Year Rule	Whether to "switch on" the 85 year rule for a pensioner member with deferred benefits (i.e. a suspended tier 3 ill health pensioner) voluntarily drawing benefits on or after age 55 and before age 60,	TPSch 2, para 1(2) & 1(1)(c)	RDC will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60
14	Mandatory Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under B30 (member)	B30(5) TPSch 2, para 2(1)	Applications from deferred Pensioners will only be considered on compassionate grounds, taking into account the costs of waiving any reduction.

				All applications will be considered by the Strategic Management Board
15	Mandatory Waive reduction	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)	B30A(5) TPSch 2, para 2(1)	Applications from deferred Pensioners will only be considered on compassionate grounds, taking into account the costs of waiving any reduction. All applications will be considered by the Strategic management Board

SECTION 3	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
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Applicable Regulations:

Abbr. Description

A	LGPS (Administration) Regulations 2008 [SI 2008/239]
B	LGPS (Benefits, Memberships and Contributions) Regulations 2007 (as amended) [SI 2007/1166]
T	LGPS (Transitional Provisions) Regulations 2008 [SI 2008/238]
TP	LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525]
R	LGPS Regulations 2013 [SI 2013/2356]
L	LGPS 1997 (as amended) [1997/1612]

No	Area	Discretion	Regulation	Policy
16	Mandatory Employer consent retirement	Grant application for early payment of deferred benefits on or after age 50 and before age 55	L31(2)	RDC will not grant early payment of deferred benefits before the age of 55
17	Mandatory Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	L31(5) & TPsSch 2, para 2(1)	RDC will not waive actuarial reduction on deferred benefits paid early.
18	Mandatory Employer consent at Normal Retirement Date for optant out	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).	L31(7A)	RDC will agree to optants out being able to get benefits paid from their NRD

19	Mandatory 85 Year Rule	Whether to “switch on” the 85 year rule for a member with deferred benefits voluntarily drawing benefits on or after age 55 and before age 60	TPSch 2, para 1(2) & 1(1)(f) & R60	RDC will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60
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SECTION 4 Discretions in relation to scheme members who ceased active membership before 1 April 1998

Applicable Regulations:

Abbr. Description

- LGPS Regulations 1995 (as amended) [SI 1995/1019]
- L** LGPS Regulations 1997 (as amended) [SI 1997/1612]
- TL** LGPS (Transitional Provisions) Regulations 1997 (SI 1997/1613)
- TP** LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525]
- R** LGPS 2013 [SI 2013/2356]

No	Area	Discretion	Regulation	Policy
20	Mandatory Employer consent retirement	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	TP3(5A)(vi) TL4 & L106(1) & D11(2)(c)	RDC will not grant applications for early payment of deferred benefits between the ages of 50 and 55. Over the age of 55, RDC will consider on a case by case basis.

SECTION 5 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]

No	Area	Discretion	Regulation	Policy
21	Mandatory Redundancy Pay on actual week's pay	To base redundancy payments on an actual weeks pay where this exceeds the statutory week's pay limit	5	RDC redundancy policy Actual weekly pay will be used to calculate the redundancy payments for all Ryedale District Council employees.

22	Mandatory Lump sum compensation	To award lump sum compensation of up to 104 weeks' pay in cases of redundancy, termination of employment on efficiency grounds, or cessation of a joint appointment	6	RDC redundancy policy Lump sum compensation payments will be made to all employees. Severance payments will be calculated by applying a multiplier of 1.5 to each completed year of service, up to a maximum of 20 years' service (30 weeks). For employees affected by TUPE regulations, RDC will take legal advice where appropriate.
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SECTION 6	Discretions in relation to any compensatory added years awarded before 1 April 2007
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Applicable Regulations:

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

No	Area	Discretion	Regulation	Policy
23	Mandatory Abatement during re-employment	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	17	RDC will make a determination after consultation with the administering Authority and having regard to the date of original award.
24	Mandatory Reduction following cessation of re-employment	How to reduce the member's annual CAY payment following the cessation of a period of re-employment in local government	19	RDC will make a determination after consultation with the administering Authority and having regard to the date of original award.
25	Mandatory Apportionment of survivor benefit	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	21(4)	RDC will consider on a case by case basis.
26a	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	21(7)	RDC will consider on a case by case basis

	Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments	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		
26b		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	21(5)	If RDC determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.
26c		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	21(7)	RDC will consider on a case by case basis.

SECTION 7 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]

No	Area	Discretion	Regulation	Policy
27a	Mandatory Injury Allowances	Whether to grant an injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(1)	RDC does not grant any injury allowance.
27b		Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(4) & 8	RDC does not grant any injury allowance.
27c		Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1)	3(2)	RDC does not grant any injury allowance.

		(reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).		
27d		Whether to grant an injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job.	4(1)	RDC does not grant any injury allowance.
27e		Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(3) & 8	RDC does not grant any injury allowance.
27f		Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	RDC does not grant any injury allowance.
27g		Whether to suspend or discontinue injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity) if person secures paid employment for not less than 30 hours per week for a period of not less than 12 months.	4(5)	RDC does not grant any injury allowance.
27h		Whether to grant an injury allowance following cessation of employment with entitlement to immediate LGPS pension where a regulation 3 payment (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job) was being made at date of cessation of employment but regulation 4 (loss of employment through permanent incapacity) does not apply	6(1)	RDC does not grant any injury allowance.
27i		Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	6(1)	RDC does not grant any injury allowance.
27j		Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following cessation of employment).	6(2)	RDC does not grant any injury allowance.
27k		Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or	7(1)	RDC does not grant any injury allowance.

		contracting a disease in the course of carrying out duties of the job.		
271		Determine amount of any injury allowance to be paid to the spouse, civil partner or co-habiting partner under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(2) & 8	RDC does not grant any injury allowance.
27m		Determine whether and when to cease payment of an injury allowance payable under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(3)	RDC does not grant any injury allowance.