

Scope: All Staff	Effective Date: March 2024	Responsible Dept: HROD & Finance	Equality Impact Assessment:
Last updated by/date: HROD February 2024	Next review date: March 2027	Associated links & web pages: Available on Finance webpages	

LGPS Employer Discretion Policy

Introduction

1. The regulations governing the application of the Local Government Pension Scheme allow each employer to determine how certain discretionary provisions of the scheme will be applied. The following is a statement of York St John University's policy on the exercise of these discretions.

Scope and Policy

2. 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.
3. The sections are as follows:

Section	Contents
Section 1	Discretions from 1.4.14. in relation to post 31.3.14. active members (excluding councillor members) and post 31.3.14. leavers (excluding councillor members)
Section 2	Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14
Section 3	Discretions in relation to: <ul style="list-style-type: none"> • councillor members who ceased active membership on or after 1.4.98., and • any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08
Section 4	Discretions in relation to scheme members who ceased active membership before 1.4.98
Section 5	Discretions in relation to redundancy and compensatory payments on the early termination of employment
Section 6	Discretions in relation to any compensatory added years awarded before 1 April 2007
Section 7	Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15 January 2012

4. Unless otherwise stated, the application of these discretions will be overseen by the Director of Finance and Director of HR.

Definitions

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

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- A scheme member is not given appropriate advice/information to enable him/her to transfer pension rights
- A scheme member contacts the University, 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.

Review

6. This policy will be reviewed every three years or in the event of any change which makes an earlier review necessary.
7. Should any provision within this policy contradict any LGPS Regulation then the Regulation would apply.
8. This policy confers no contractual rights. The University retains the right to change the policy at any time without prior notice or consultation. The policy in force at the time a relevant event occurs will be the one that is applied.

Section One - Discretions from 1.4.14. in relation to post 31.3.14. active members and post 31.3.14. leavers

Applicable Regulations:

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

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

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

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

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

No.	Area	Discretion	Regulation	Exercised by	Policy
1	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	Employer	YSJ will not grant additional pension to a member unless in exceptional circumstances that are in the interests of the University
2	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)	Employer	YSJ 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	Flexible retirement	Whether all or some benefits can be paid if an active member aged 55 or over and with at least 2 years qualifying service reduces their hours or grade (flexible retirement)	R30(6) & TP11(2)	Employer	YSJ will consider applications in accordance with its policy on early/flexible retirement.

No.	Area	Discretion	Regulation	Exercised by	Policy
3b	Flexible retirement (cont.)	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	R30(8)	Employer (or Admin. Authority where Employer has become defunct)	YSJ 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 YSJ's policy on early/flexible retirement.
4	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)	Employer (or Admin. Authority where Employer has become defunct)	YSJ will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60
5a	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>	TP3(1), TPsch 2 para 2(1) & B30(5) & B30A(5)	Employer (or Admin. Authority where Employer has become defunct)	YSJ will not waive any actuarial reduction arising out of a voluntary early or flexible retirement unless in exceptional circumstances in the interests of the University. YSJ will pay any pension strain costs arising out of voluntary early or flexible retirement where this has been approved through its early/flexible retirement policies.

No.	Area	Discretion	Regulation	Exercised by	Policy
	Waive Reduction (cont.)	<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>			
5b		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)	Employer (or Admin. Authority where Employer has become defunct)	YSJ will not waive any actuarial reduction on benefits paid which a member voluntarily draws before normal pension age
6	Shared cost Additional Pension Contributions (to buy lost pension following a period of authorised unpaid absence)	<p>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)</p> <p>The discretion is whether to extend the 30 day deadline for a member to elect for a shared cost APC</p>	R16(16)	Employer	YSJ 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.

No.	Area	Discretion	Regulation	Exercised by	Policy
7	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)	Employer and Admin. Authority	YSJ will allow members to opt to transfer pension rights beyond the 12 month period in exceptional circumstances in the interests of the University and/or if there is evidence of administrative shortcomings. The Administering Authority can provide guidance on individual queries.
8	Transferring in LGPS pension rights (only for pre 1.4.14 rejoiners)	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)	Employer	YSJ will only permit aggregation beyond 12 months in exceptional circumstances in the interests of the University and/or if there is evidence of administrative shortcomings
9a	Transferring in LGPS pension rights (only for post 1.4.14 rejoiners)	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)	Employer	YSJ will only extend the 12 month option period beyond 12 months in exceptional circumstances in the interests of the University 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)	Employer	YSJ will only extend the 12 month option period beyond 12 months in exceptional circumstances in the interests of the University and/or if there is evidence of administrative shortcomings
10	Transferring in LGPS pension rights (i.e. final salary benefits which will buy CARE pension only for post 1.4.14 rejoiners)	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)	Employer	YSJ will only permit aggregation beyond 12 months in exceptional circumstances in the interests of the University and/or if there is evidence of administrative shortcomings

No.	Area	Discretion	Regulation	Exercised by	Policy
11	Employee contribution rate	<p>Employers to assess the relevant contribution band to determine the rate of employee contribution.</p> <p>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.</p>	R9(1) & R9(3)	Employer	<p>On 1st April each year, YSJ 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. 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.</p> <p>If members have variable or nil hours contracts, the relevant band will be based on an assessment of the total pensionable pay received in the previous year. For new variable or nil hours posts, banding will be based on the whole time equivalent salary, and reviewed 6 months after appointment to ensure the correct band has been allocated (based on total pensionable pay in their first 6 months).</p>
12a	Assumed Pensionable Pay (APP)	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	R21(5)	Employer	YSJ would include lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.

12b	<p>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</p> <p>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</p>	R21(5A) & R21(5B)	Employer	YSJ will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.
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Section Two - Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14

Applicable Regulations:

A = LGPS (Administration) Regulations 2008

B = LGPS (Benefits, Memberships and Contributions) Regulations 2007

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

No.	Area	Discretion	Regulation	Exercised by	Policy
26a	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	TPSch 2, para, 1(2) & 1(1)(c)	Employer (or Admin. Authority where Employer has become defunct)	YSJ will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60

26b		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)	Employer (or Admin. Authority where Employer has become defunct)	YSJ will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60
26	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)	Employer (or Admin. Authority where Employer has become defunct)	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 Director of Finance and the Director of HR.
27	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)	Employer (or Admin. Authority where Employer has become defunct)	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 Director of Finance and the Director of HR.

Section 3 - Discretions in relation to:

- a) **councillor members who ceased active membership on or after 1.4.98., and**
- b) **any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08**

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)

No.	Area	Discretion	Regulation	Exercised by	Policy
34	Employer consent retirement	Grant application for early payment of deferred benefits on or after age 50 and before age 55	L31(2)	Employer	YSJ will not grant early payment of deferred benefits before the age of 55.
35	Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	L31(5) & TPSch 2, para 2(1)	Employer	YSJ will not waive actuarial reduction on deferred benefits paid early unless in exceptional circumstances.
36	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)	Employer	YSJ will agree to optants out being able to get benefits paid from their NRD.
37	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	Employer (or Admin. Authority where Employer has become defunct)	YSJ will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60

Discretions in relation to scheme members who ceased active membership before 1.4.98

Applicable Regulations:

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

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

No.	Area	Discretion	Regulation	Exercised by	Key	Policy
42	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)	Employer (or Admin. Authority where Employer has become defunct)	Mandatory	YSJ will not grant applications for early payment of deferred benefits between the ages of 50 and 55. Over the age of 55, YSJ will consider on a case by case basis.

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	Discretion	Regulation	Exercised by	Policy
44	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	Employer	When calculating redundancy payments YSJ will use the employee's actual weekly pay plus the applicable employer pension contribution rate, where the total does not exceed the statutory weekly capped amount. Where these combined payments exceed the statutory weekly capped amount the higher of actual weekly pay or the statutory weekly amount will be used. These entitlements will be applied to part-time staff on a pro rata basis.

45	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	Employer	YSJ will not award any lump sum compensation in any situations.
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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)

No.	Area	Discretion	Regulation	Exercised by	Policy
46	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 reemployment in local government	17	Employer	YSJ will make a determination after consultation with the administering Authority and having regard to the date of original award.
47	Reduction following cessation of reemployment	How to reduce the member's annual CAY payment following the cessation of a period of re-employment in local government	19	Employer	YSJ will make a determination after consultation with the administering Authority and having regard to the date of original award.
48	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)	Employer	YSJ will consider on a case by case basis.

49a	Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments	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	21(7)	Employer	YSJ will consider on a case by case basis.
49b		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)	Employer	If YSJ determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.
49c	Effects of remarriage, new civil partnership or co-habitation on survivor's compensation payments (cont.)	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)	Employer	YSJ 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	Exercised by	Policy
50a	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)	Employer	YSJ will consider each case on its merits.
50b		Amount of injury allowance following reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job	3(4) and 8	Employer	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.
50c		Determine whether person continues to be entitled to an injury allowance awarded under regulation 3(1) (reduction in remuneration as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	3(2)	Employer	Any injury allowance granted will cease when the employee leaves employment with YSJ. 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.
50d		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)	Employer	YSJ will consider each case on its merits.

No.	Area	Discretion	Regulation	Exercised by	Policy
50e	Injury Allowances (cont.)	Amount of injury allowance following cessation of employment as a result of permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	4(3) and 8	Employer	Any injury allowance granted will not exceed 85% of the employee's final pensionable remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
50f		Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	Employer	Any injury allowance granted will cease when the employee reaches their state pension age or is granted tier 1 ill-health retirement.
50g		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)	Employer	Any injury allowance granted will be reassessed or suspended if the employee becomes capable of working again.
50h		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)	Employer	YSJ will not make an injury allowance.

50i		Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	6(1)	Employer	YSJ will not make an injury allowance.
50j	Injury Allowances (cont.)	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)	Employer	YSJ will not make an injury allowance.
50k		Whether to grant an injury allowance to the spouse, civil partner, co-habiting partner or dependent of an employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job.	7(1)	Employer	YSJ will consider each case on its merits.
50l		Determine amount of any injury allowance to be paid to the spouse, civil partner or co-habiting partner under regulation 7(1) (employee who dies as a result of sustaining an injury or contracting a disease in the course of carrying out duties of the job).	7(2) and 8	Employer	Any injury allowance granted will not exceed 85% of the employee's final pensionable remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
50m		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)	Employer	Any injury allowance granted will cease at the date when the employee would have reached their state pension age or may be reviewed if the beneficiary remarries, enters into a new civil partnership or cohabits.