Pensions Discretions Policy
(Incorporating Early Retirement Policy)

Policy / Procedure Title: Pensions Discretions Policy (Incorporating Early Retirement Policy)
Developed By: Chris Leng, Director of Human Resources
Date Developed: April 2019 – Updated May 2022; September 2025
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Please contact us on 01904 770132 or email us at qu-admin@yorkcollege.ac.uk if you would like this document in an alternative format.

Please contact Chris Leng on 01904 770396 or email cleng@yorkcollege.ac.uk if you have any questions about all or part of this document.

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1. Introduction

Every employer that offers membership of the Local Government Pension Scheme to its staff is required to formulate, publish and keep under review a policy statement in relation to the exercise of a number of compulsory discretions under the Scheme. The LGPS Regulations 2013 stipulate this requirement in a number of areas, including:

- Flexible retirement;
- Waiving all or part of any actuarial reduction;
- Award of additional pension
- Enhancement of redundancy pay
- Injury Allowances

The LGPS (Transitional Provisions and Savings) Regulations 2014 ***also require*** that employers have a policy on whether to agree to apply the '85 year rule' to a scheme member wishing to voluntarily draw (non-flexible retirement) benefits on or after 55 and before age 60.

This document sets out the College's policy on the operation of each of the above compulsory discretions under the LGPS Regulations. It states whether or not discretions will be operated and the circumstances and criteria for applying them. These apply both in relation to active and deferred members of the LGPS.

The procedure associated with receipt of an application to exercise any of the discretions outlined in this policy statement is shown at Appendix 1 below

2. The Discretions

This document incorporates York College's policies under the LGPS Regulations below:

Ref 'R'	The Local Government Pension Scheme 2013
Ref 'TP'	The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014

[Note: York College retains the right to amend these provisions at any time. The policies confer no contractual rights. The policy in force at the time of a relevant event occurring will be the one that is applied]

Regulation	Discretion	Policy
Flexible retirement		
R 30 (6) (8) TP 11(2)	**Whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement** A member who is over 55 and who has agreed with their employer to reduce their working hours or grade is	York College's policy is to support all requests for Flexible Retirement, subject to being able to maintain high quality services to stakeholders. However, where flexible retirement benefits are claimed before normal retirement age, the College will not waive the

	entitled to claim 'flexible retirement', and receive a pension ***less an actuarial adjustment.*** Regulation 30 (8) allows a scheme employer to waive the actuarial adjustment.	actuarial adjustment for early pension benefits unless there are truly exceptional circumstances and the payment is authorised by the full governing body on the basis of a written report by the Principal and Chief Executive (See also Early Retirement Policy at Appendix 2).
Waiving all or part of any actuarial reduction		
R 30(5)	**Whether to waive, in whole or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age** A member who is 55 or over and who has ceased employment is entitled to receive a pension less an actuarial adjustment. Regulation 30 (8) allows a scheme employer to waive the actuarial adjustment.	York College will not waive the actuarial adjustment unless there are truly exceptional circumstances and the payment is authorised by the full governing body on the basis of a written report by the Principal and Chief Executive
R 30 A (5)	**Whether to waive any actuarial reduction on pre and/or post April 2014 benefits on compassionate grounds or otherwise**	College will not fund a waiver of any actuarial reduction unless there are truly exceptional circumstances and the payment is authorised by the full Governing body on the basis of a written report by the Principal and Chief Executive
Voluntary funding of additional pension via a Shared Cost Additional Pension Contribution (SCAPC)		
R 16(2)(e) and 16(4)(d)	**Whether, how much, and in what circumstances to contribute to a Shared Cost Additional Pension Contribution (SCAPC) scheme** Regulation 16 sets out the circumstances where a scheme member can make an Additional Pension Contribution	College will not fund an APC unless there are truly exceptional circumstances and the payment is authorised by the full Governing body on the basis of a written report by the Principal and Chief Executive

	and the process they need to follow. APCs allow active members to increase their pension entitlement via regular payments or a lump sum. Regulations 16 (2)(e) and 16 (4)(d) allow scheme employers to fund part of all of a member's APC.	
Award of Additional Pension		
R 31	The employer has discretion to grant extra annual pension of up to £6,822 (figure at 1 April 2018) to an active member or within 6 months of leaving to a member whose employment was terminated on the grounds of redundancy or business efficiency	York College will not award an additional pension unless there are truly exceptional circumstances and the payment is authorised by the full governing body on the basis of a written report by the Principal and Chief Executive.
The 85 year rule		
TP Sch 2 para 192	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60.	YC will not normally 'switch on' the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60, unless there are truly exceptional circumstances and the payment is authorised by the full governing body on the basis of a written report by the Principal and Chief Executive.
TP Sch 2 para 192	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.	YC will not normally 'switch on' the 85 Year Rule for any pensioner member with deferred benefits (i.e. a suspended tier 3 ill health pensioner) voluntarily drawing benefits on or after, unless there are truly exceptional circumstances and the payment is authorised by the full governing body on the basis of a written report by the Principal and Chief Executive.
Redundancy Pay		
R 5	Whether to base redundancy payments on actual weeks pay where this exceeds the statutory weeks pay limit	York College will normally pay redundancy pay calculated on the basis of employees' actual weeks pay, where this exceeds the statutory limit. However, it

		reserves the right to pay at the level of the statutory maximum on the grounds of cost and in the light of the financial circumstances pertaining at the time.
Lump Sum Compensation		
R 6	Whether 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	York College will comply with its obligations under employment law and will not exercise discretion to grant enhanced severance payments, unless there are truly exceptional circumstances and the payment is authorised by the full governing body on the basis of a written report by the Principal and Chief Executive.
Injury Allowances		
R 3(1)	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	York College will consider each case on its merits.
R 3(4) and 8	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.
R 3(2)	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 York College. 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.
R 4(1)	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	York College will consider each case on its merits.
R 4(3) and 8	Amount of injury allowance following cessation of employment as a result of	Any injury allowance granted will not exceed 85% of the employee's final pensionable

	permanent incapacity caused by sustaining an injury or contracting a disease in the course of carrying out duties of the job	remuneration, offset against any other benefits, payments or awards received in relation to the injury or disease.
R 4(2)	Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	Any injury allowance granted will cease when the employee reaches their state pension age or is granted tier 1 ill-health retirement.
R 4(5)	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.	Any injury allowance granted will be reassessed or suspended if the employee becomes capable of working again
R 6(1)	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	York College will not make an injury allowance.
R 6(1)	Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	York College will not make an injury allowance.
R 6(2)	Determine whether and when to cease payment of an injury allowance payable under regulation 6(1) (payment of injury allowance following cessation of employment)	York College will not make an injury allowance.
R 7(1)	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	York College will consider each case on its merits.

R 7(2) and 8	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)	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.
R 7(3)	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)	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.

Procedure

1. Applicant submits written request to Human Resources, outlining the reasons why the College should exercise discretion in respect of one of the pensions discretions outlined above

2. Director of Human Resources (DHR) provides an estimate of the pension strain costs associated with the application, together with any other relevant information (e.g. employee's length of service, employment history etc).

3. DHR submits copies of the documentation associated with 1 and 2 above to the Principal and Chief Executive

4. Principal and Chief Executive considers the merits of the application in the context of the likely costs involved, and prepares a written report recommending approval or refusal.

5. Report is submitted to meeting of the full governing body (GB). In the light of the contents of the Principal and Chief Executive's report the GB will consider the application. The GB will decide either to confirm approval of the application, or confirm refusal.

6. Decision of the GB communicated to the applicant in writing as soon as possible thereafter. There is no right of appeal.

Appendix 2

Early Retirement Policy: Local Government Pension Scheme Members

Policy / Procedure Title: Early Retirement Policy: Local Government Pension Scheme Members
Developed By: Chris Leng, Director of Human Resources
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1. Introduction

This Policy is intended to cover all of the College's employees who have membership of the Local Government Pension Scheme (LGPS). It excludes early retirement on the grounds of ill-health, which is covered by LGPS rules. This document also sets out the College's Policy on flexible retirement for LGPS members, i.e. the ability to work for the College whilst in receipt of a local government pension after the age of 55.

(a) Note: Teachers Pension Scheme

Employees who are members of the Teachers' Pension Scheme (TPS) should note that the rules on early and flexible retirement are set by the TPS - employers have very limited or no discretion in that area. Hence employees who are TPS members are referred to the TPS website where the early and flexible retirement provisions are clearly set out.

(b) Normal Retirement Age: LGPS Members

The normal age at which retirement benefits become payable is at a minimum of age 65, and is linked to members' State Pension Age.

There are a number of circumstances when retirement benefits may be paid before normal retirement age and this Policy looks at those in more detail.

In the interests of equity amongst all staff, applications for early retirement will not be considered where there is disciplinary action or formal action under the capability procedure.

2. Retirement on Grounds of Redundancy

When employment is terminated on grounds of redundancy, the LGPS provides for the immediate payment of pension benefits to any active member who is aged 55 or over and has at least two years' vesting period[1] in the Scheme. Employees who are made redundant aged under 55 will have any accrued pension benefit deferred ('frozen') until they reach normal retirement age or they return to pensionable LGPS employment.

To qualify for early payment of pension on these grounds, the statutory definition of redundancy must be met, together with Regulation 30(7) of the Local Government Pension Scheme Regulations 2013.

Where an employee is 55 or over and entitled to pension benefits these will include:-

(a) Pension benefits as they may have accrued at the date of retirement and as they may subsequently be adjusted annually.
(b) A lump sum payment calculated on relevant reckonable service at the date of retirement.

As a matter of policy and in the interest of the fair and efficient use of public money 'Additional Pension' will not be granted to accrued reckonable service.

[1] The vesting period refers to the period of time that a member must be an active member of the LGPS before becoming entitled to benefits under the scheme.

3. **Retirement in the Interests of the Efficient Exercise of the College's Functions**

This is a rare phenomenon and will be at the sole discretion of the Principal and Chief Executive. Discretion is only exercised where an employee is dismissed on grounds of efficient exercise, or where termination is of mutual consent between the employee and employer.

In cases other than those concerning redundancy or permanent ill-health, the Principal and Chief Executive will only consider retirement in the interests of efficient exercise where it is possible to identify tangible benefits in operational efficiency of the College's services.

'Efficient Exercise' ***does not*** include cases where an employee agrees to leave the College via terms set out in a settlement agreement, unless the agreement explicitly states that their leaving is 'on grounds of efficient exercise of the College's functions'.

In considering applications under this heading, regard will be given to the following criteria:-

(i) The availability of a clear statement on the benefits gained and the way in which the early retirement is to be funded. Normally, this will demonstrate how the additional costs arising out of the early retirement can be met within the first three years from the date of retirement.
(ii) Whether there will be any additional consequential savings to the College.
(iii) Whether the early retirement will facilitate an increase in the efficiency of the division/department in question, for example through the introduction of more effective working methods or the provision of an opportunity to introduce new skills which might benefit the student experience.
(iv) The health of the employee, if that is such that the individual suffers from a serious medical condition but which is insufficient to meet the definition of ill-health retirement within the pension regulations.
(v) Whether approving the early retirement will facilitate reorganisation of staffing to better facilitate service delivery.
(vi) Any other circumstances which may be relevant to the decision and which may contribute to the more efficient exercise of the College's functions.

It should be noted that the above criteria are not listed in any rigid order of merit or importance, though any request made will not be approved unless funding and efficiency considerations are satisfactorily addressed.

Where retirement in the interests of efficient exercise is approved, the employee will receive:-

a) Pension payments as they have accrued at the date of retirement and as they may subsequently be adjusted annually.
b) A lump sum payment calculated on relevant reckonable service at the date of retirement.

As with retirement on grounds of redundancy in 2 above, Additional Pension will not be granted to accrued reckonable service.

Process for Early Retirement in the interests of Efficient Exercise:

(a) Business case for retirement in the interests of efficient exercise identified.
(b) Appropriate HR consultation with the employee. Other options are scoped (e.g. redeployment, re-training) as part of this process

(c) Estimate of cost to College (in lieu of pension strain associated with retirement) obtained from NYPF
(d) Business case completed and signed by Chief Operating Officer.
(e) Business case sent to Principal and Chief Executive for consideration and final approval.

4 (a) Early Retirement

Any member of the Local Government Pension Scheme who has attained the age of 55 can elect for the early payment of pension benefits. If retirement is before their normal retirement age, employees who take early retirement will sustain an actuarial reduction on their accrued pension benefits.

The College will not waive the actuarial reduction, thereby enhancing the pension benefits received by the employee. This is consistent with its Pensions Discretions Statement.

4(b) Flexible Retirement

Flexible retirement provisions allow employees aged 55 and above to apply to the College for consent to receive pension benefits as set out below yet continue to work for the College. There must be a reduction in either hours worked or pay grade. Requests for consent must be made by staff aged 55 but less than 75.

Note:

- ‘Reduction in hours’ must be ***permanent*** and ***significant*** e.g. from 5 days per week to 3 days, from 30 hours to 15 hours etc
- ‘Lower grade’ must be permanent and at least one full grade i.e. from Grade 6 to Grade 5. Where moving to a lower graded job a suitable vacancy must be available i.e. the employee has no right to be transferred to a lower graded job, nor is there any right for a lower graded job to be created for them

For the purpose of this policy, requests for flexible retirement are categorised as follows:

- Category one - Employee is age 60 or over.

  There is no cost to the employer as the employee is at or past age 60. If they do not meet the ‘Rule of 85’ their pension benefits will be actuarially reduced to reflect early payment.

- Category two - Employee is age 55 or over but less than 60 and ***does not*** meet the Rule of 85 until on or after their 60th birthday.

  There is no cost to the employer. The employee’s pension benefits will be actuarially reduced to reflect early payment.

- Category three - Employee is age 55 or over but less than 60 and ***does*** meet the Rule of 85 either at the date of flexible retirement or at a later date that is before their 60th birthday.

  In this case the College may have to meet the ‘Pension Strain’ costs arising from the early payment of pension benefits from the date when the Rule of 85 is met.

For those cases that fall within ***categories one and two above***, our general policy is to ***consent*** to the request for flexible retirement and payment of benefits from the Local

Government Pension Scheme, ***subject to the conditions specified in the Note above being satisfied.***

For ***category three cases***, the College policy is ***not to consent to flexible retirement*** as this would place a costs burden on the College, unless there were no pension strain costs in which case the College will consent.

Where a request is approved (category one and two above), the employee will receive:-

a) Pension benefits as they have accrued at the date of retirement as they may subsequently be adjusted annually, but actuarially reduced as appropriate in accordance with the relevant LGPS Regulations. The College's Employer Discretion Policy states the College will not waive this actuarial reduction and it will not pay any 'pension strain' costs arising out of the flexible retirement.
b) A lump sum payment calculated on relevant reckonable service at the date of retirement, actuarially reduced in accordance with the relevant LGPS Regulations.

<u>Process for Requests for Flexible Retirement</u>

(a) Employee wishes to investigate flexible retirement and discusses with their line manager
(b) Employee should obtain an estimate of benefits from the North Yorkshire Pension Fund (NYPF).
(c) Human Resources will establish whether there are any costs associated with the request
(d) Employee submits a Flexible Working request to line manager outlining new post / reduced hours, and proposed start date.
(e) Request informed by (c) and (d) above and considered by Principal and Chief Executive
(f) If approved employee and HR submit request for Flexible Retirement to NYPF

(end)