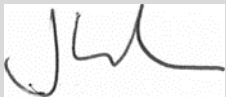


**Discretions Policy for: Yorkare (Haxby) Ltd (00232)**

**Date: 04/11/2021**

This policy confers no contractual rights. Yorkare (Haxby) Ltd retains the right to change the policies 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.

**Signed by:** Jonathan Garton (Operations Director)



**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)**

**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)**

<b>Area</b>	<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Key</b>	<b>Policy</b>
<b>Granting additional pension</b>	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)	<b>R31</b>	Employer	<b>Mandatory</b>	Yorkare will not grant additional pension to a member.

<p><b>Shared cost Additional Pension Contributions (to buy additional pension)</b></p>	<p>Whether, how much and in what circumstances to contribute to a shared cost Additional Pension Contributions (APC) scheme</p> <p>A member can buy additional pension through an APC contract. The discretion is whether the employer will share the cost of the APC</p>	<p><b>R16(2)(e) &amp; R16(4)(d)</b></p>	<p>Employer</p>	<p><b>Mandatory</b></p>	<p>Yorkare will not contribute to Shared Cost APC schemes</p>
<p><b>Flexible retirement</b></p>	<p>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)</p>	<p><b>R30(6) &amp; TP11(2)</b></p>	<p>Employer</p>	<p><b>Mandatory</b></p>	<p>Yorkare 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.</p>
	<p>Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement</p>	<p><b>R30(8)</b></p>	<p>Employer (or Admin. Authority where Employer has become defunct)</p>	<p><b>Mandatory</b></p>	<p>Yorkare will not ordinarily waive, in whole or part, any actuarial reduction on flexible retirement unless there are exceptional reasons for doing so. Yorkare 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.</p>

<b>85 Year Rule</b>	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)	<b>Mandatory</b>	Yorkare will not ordinarily switch on the Rule of 85 unless there are exceptional reasons for doing so. Yorkare 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.
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<p><b>Waive Reduction</b></p>	<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 / or, 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 / or, 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 / or, 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 / or, 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>	<p><b>TP3(1), TPSch 2, para 2(1) &amp; B30(5) &amp; B30A(5)</b></p>	<p>Employer (or Admin. Authority where Employer has become defunct)</p>	<p><b>Mandatory</b></p>	<p>Yorkare will not ordinarily waive, in whole or part, any actuarial reduction on voluntary early retirement unless there are exceptional reasons for doing so. Yorkare 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.</p>
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	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)	<b>Mandatory</b>	Yorkare will not ordinarily waive, in whole or part, any actuarial reduction on voluntary early retirement unless there are exceptional reasons for doing so. Yorkare 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>Shared cost Additional Pension Contributions (to buy lost pension following a period of authorised unpaid absence)</b>	<p>If a member has an <b>authorised unpaid</b> 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	Recommended	Yorkare 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>	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	R100(6)	Employer and Admin. Authority	Recommended	Yorkare 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 pre 1.4.14 re-joiners)</b>	Whether to extend the 12 month option period for aggregation of deferred benefits <b>Care: This must match your existing discretion under the 2008 Scheme.</b>	<b>A16(4)(b)(ii)</b>	Employer	Recommended	Yorkare 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>	Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with a new employment	<b>R22(8)(b)</b>	Employer	Recommended	Yorkare will only extend the 12 month option period beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings.
	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	<b>R22(7)(b)</b>	Employer	Recommended	Yorkare 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 (ie. final salary benefits which will buy CARE pension only for post 1.4.14 re-joiners)</b>	<p>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</p>	<b>TP10 (6)</b>	Employer	Recommended	Yorkare only permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings.
<b>Employee contribution rate</b>	<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>	<b>R9(1) &amp; R9(3)</b>	Employer	Recommended	N/A
<b>Assumed Pensionable Pay (APP)</b>	<p>In determining APP, whether a lump sum payment made in the previous 12 months is a “regular lump sum”</p>	<b>R21(5)</b>	Employer	Recommended	Yorkare would consider each case whether to include, or not, lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.

	<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>	<b>R21(5A) &amp; R21(5B)</b>	Employer	Recommended	Yorkcare will not 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>	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)	<b>TP15(2A)(b) &amp; L66(8) &amp; former L66(9)(b)</b>	Employer	Less Common	Yorkcare will extend the 30 day deadline if there is evidence of administrative shortcomings.
<b>Shared cost AVCs</b>	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements	<b>R17(1) &amp; definition of SCAVC in RSch 1</b>	Employer	Less Common	Yorkcare will not enter into SCAVCs.



<b>Refund of contributions - member left due to an offence/grave misconduct</b>	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	<b>R19(2)</b>	Employer	Less Common	Yorkare will consider whether or not to make a refund based on the merits of each case and in light of legal advice.
<b>Pensionable payments</b>	<b>Specify in an employee's contract</b> what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	<b>R20(1)(b)</b>	Employer	Less Common	Yorkare reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations.
<b>T3 Ill health review</b>	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	<b>R37(3) &amp; (4)</b>	Employer	Less Common	Yorkare 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>	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	<b>R37(3)</b>	Employer	Less Common	Yorkare will recover any overpaid Tier 3 pension following commencement of gainful employment.
<b>Deferred member - ill health</b>	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	<b>R38(3)</b>	Employer (or Admin. Authority where Employer	Less Common	Yorkare will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP). Yorkare will consider each case

	age or for at least three years, whichever is the sooner		has become defunct)		on its own merits taking into account factors such as the personal circumstances of the member and the financial cost. 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.
<b>T3 Ill health recommencement</b>	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	<b>R38(6)</b>	Employer (or Admin. Authority where Employer has become defunct)	Less Common	Yorkare will be guided by the recommendation of an Independent Registered Medical Practitioner (IRMP). See above
<b>Forfeiture certificate</b>	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)	<b>R91(1) &amp; (8)</b>	Employer	Less Common	Yorkare will consider whether or not to apply for and enact a certificate based on the merits of each case

	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see R95 below)	R91(4)	Employer	Less Common	Yorkare will consider whether or not to recover and reduce benefits accordingly based on the merits of each case.
	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	R92(1) & (2)	Employer	Less Common	Yorkare will not direct that interim payments are made from the Fund pending a decision.
<b>Recovery of monetary obligation</b>	Whether to recover from the 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	R93(2)	Employer	Less Common	Yorkare will consider whether or not to recover and reduce benefits accordingly based on the merits of each case.
<b>GMP forfeiture</b>	Whether, if the member has committed treason or been imprisoned for at least 10 years for one or more offences under the Official Secrets Acts, forfeiture under R91 or recovery of a monetary obligation under R93 should deprive the member or the member's surviving spouse or civil partner of any GMP entitlement	R95	Employer	Less Common	Yorkare will consider each case on its merits.

<b>Bulk transfer</b>	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	<b>R98(1)(b)</b>	Employer / Admin. Authority / trustees of new scheme	Less Common	Yorkare 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>	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	<b>TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) &amp; B11(2)</b>	Employer	Less Common	N/A
<b>Admission bodies only</b>	Which employees to designate for membership (admission bodies).	<b>R2(1C),R3(1)(b) &amp; R4(2)(b)</b>	Employer	Recommended	
<b>Discretions in relation to scheme members (excluding councillor members) who ceased active membership on or after 1.4.08 and before 1.4.14</b> <b>A = LGPS (Administration) Regulations 2008</b> <b>B = LGPS (Benefits, Memberships and Contributions) Regulations 2007</b> <b>T = LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238)</b>					
<b>Area</b>	<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Key</b>	<b>Policy</b>
<b>85 Year Rule</b>	Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60	<b>TPSch 2, para, 1(2) &amp;1(1)(c)</b>	Employer (or Admin. Authority where Employer has become defunct)	<b>Mandatory</b>	N/A

	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)	<b>Mandatory</b>	N/A
<b>Waive reduction</b>	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)	<b>Mandatory</b>	N/A
<b>Waive reduction</b>	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)	<b>Mandatory</b>	N/A
<b>Late conversion of AVCs to service</b>	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)	TSch1 & L66(8) & former L66(9)(b)	Employer	Less Common	N/A
<b>Refund of contributions - member left due to an offence/grave misconduct</b>	No right to return of contributions where member left 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	A47(2)	Employer	Less Common	N/A

<b>Forfeiture certificate</b>	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 th employment)	A72(1) & (6)	Employer	Less Common	N/A
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	A72(3)	Employer	Less Common	N/A
	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	A73(1) & (2)	Employer	Less Common	N/A
<b>Recovery of monetary obligation</b>	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	A74(2)	Employer	Less Common	N/A

	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	A76(2) & (3)	Employer	Less Common	N/A
<b>Deferred member - Ill health</b>	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	B31(4)	Employer (or Admin. Authority where Employer has become defunct)	Less Common	N/A
<b>T3 Ill health recommencement</b>	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	B31(7)	Employer (or Admin. Authority where Employer has become defunct)	Less Common	N/A
<p><b>Discretions in relation to:</b></p> <p>a) councillor members who ceased active membership on or after 1.4.98., and</p> <p>b) any other scheme members who ceased active membership on or after 1.4.98. and before 1.4.08</p> <p>L = LGPS Regulations 1997 (as amended) (SI 1997/1612)</p> <p>R = LGPS Regulations 2013(SI 2013/2356)</p> <p>TP = LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI 2014/525)</p>					
	<b>Discretion</b>	<b>Regulation</b>	<b>Exercised by</b>	<b>Key</b>	<b>Policy</b>

<b>Employer consent retirement</b>	Grant application for early payment of deferred benefits on or after age 50 and before age 55	L31(2)	Employer	<b>Mandatory</b>	N/A
<b>Waive reduction</b>	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	L31(5) & TPSch 2, para 2(1)	Employer	<b>Mandatory</b>	N/A
<b>85 Year Rule</b>	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)	<b>Mandatory</b>	N/A
<b>No double entitlement</b>	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 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)	L34 (1)(b)	Employer	Less Common	N/A



<b>Refund of contributions - member left due to an offence/grave misconduct</b>	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	L88(2)	Employer	Less Common	N/A
<b>Forfeiture certificate</b>	Forfeiture of pension rights on issue of Secretary of State's certificate following 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)	L111(2) & (5)	Employer	Less Common	N/A
	Where forfeiture certificate is issued, direct interim payments out of Pension Fund until decision is taken to either apply the certificate or to pay benefits	L112(1)	Employer	Less Common	N/A
<b>Recovery of monetary obligation</b>	Recovery from Fund of monetary obligation owed by former employee or, if less, the value of the member's benefits (other than transferred in pension rights)	L113(2)	Employer	Less Common	N/A
	Recovery from Fund of financial loss caused by employee, or amount of refund if less	L115(2) & (3)	Employer	Less Common	N/A

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

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

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

Area	Discretion	Regulation	Exercised by	Key	Policy
<b>Employer consent retirement</b>	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)	<b>Mandatory</b>	N/A
<b>No double entitlement</b>	<p>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</p> <p>(i.e where a member is entitled to 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)</p>	D10	Employer	Less Common	N/A