YORKSHIRE DALES NATIONAL PARK AUTHORITY **ITEM 6**

Committee: **FINANCE & RESOURCES**
Date: **11 February 2020**

Report: **THE LOCAL GOVERNMENT PENSION SCHEME : EMPLOYER DISCRETIONS AND OTHER MATTERS**

Purpose of the report

1. To seek Members approval for a revised and updated set of discretions applicable to the Authority's participation in the Local Government Pension Scheme (LGPS), and to provide an update on the 2019 triennial Valuation of the Pension Fund

RECOMMENDATION

2. That Members:
    a) approve the revised set of Pension Fund Discretions at **Annex 1**;
    b) note the other matters raised in this report.

Strategic Planning Framework

3. The information and recommendations contained in this report are consistent with the Authority's statutory purposes and its approved strategic planning framework, and in particular, Corporate Plan Objective 37 'Ensure that we have personnel policies, procedures, terms and conditions to attract and support the right people with the right skills to deliver the work of the Authority effectively' and Action 37.2 'Review and update the Authority's Pension Discretions Policy'.

Discretions Policy

4. As an employer member of the Local Government Pension Scheme (LGPS), the Authority has a statutory obligation to agree a series of discretions, and to keep those discretions under review and up to date. An agreed set of discretions, covered by a Discretions Policy, must be lodged with the appropriate pension fund manager, in our case, the North Yorkshire Pension Fund (NYPF).

5. The decisions about which discretions to adopt sits wholly with the Authority, as a component of the statutory make-up of the LGPS; there is no requirement to negotiate or consult on how to agree and apply the discretions, rather this is solely a decision for the participating employer.

6. The Authority has always sought to choose discretions that will limit additional costs, in order that it can continue to justify – in 'Best Value' terms – its ongoing participation in the LGPS. This approach mirrors that taken by North Yorkshire County Council (NYCC), the largest participating employer in the NYPF. The policy discretions proposed here are also very similar to those of the other local authorities operating in 'our' area, including Craven and Richmondshire District Councils and the North York

Moors NPA. The only significant difference between the Authority's discretions and those of NYCC relates to Shared Cost AVCs (see below), which are currently only offered by the Authority.

7. Our Employer discretions were last reviewed in 2014, so are due for review as part of the established (5 years maximum) cycle of reviewing all policies and strategies. In summer 2019, and as part of their work in assisting participating employers to review and update their pension discretions, NYPF produced a proforma structure covering the main components of a Discretions Policy; this structure has been applied within the Policy at **Annex 1**.

8. The Policy is unavoidably complex. The statutory changes made to the LGPS over the years mean that different rules apply to different periods of scheme membership (pre 1998, 1998-2008, 2008-2014, and 2014 onwards), which in turn require different sets of Discretions; these are defined within the explanatory table at the start of Annex 1.

9. In general, the discretion 'solutions' proposed for the Authority (right hand column of Sections 1 to 8 in Annex 1) are unchanged from the previous Policy; the key difference is presentational, in so far as different sets of policies apply to different periods of pension membership, and these have been disaggregated into time-specific tables.

10. Two discretions which have arisen since the pension scheme changes made in 2014 should be highlighted:

    - Within Sections 1-3 of Annex 1: **85 Year Rule**. It is proposed not to 'switch on' an entitlement to apply the 85 Year Rule to the younger 'early retirement' age of 55 now permitted by the post 2014 pension regulations, but to continue with the existing age limit of 60 which forms part of the original '85 Year Rule' regulations. This proposal has no impact on existing rights, but a decision to change the reference age for early retirement to 55 would create a pension 'strain' (and material additional cost) for the Authority. Further details on this issue are included at **Annex 2** of this report.

    - Within Section 1 of Annex 1: **Shared Cost Additional Voluntary Contributions (SCAVCs)**. The discretion enables employees to make SCAVC payments, and thereby benefit from tax and National Insurance savings as a means of building up pension savings. The arrangement requires the Authority to make a minimal contribution to the arrangement (£1 per month per participating employee), but this cost is (substantially) more than offset by the savings accruing to the Authority through no longer being required to pay National Insurance Contributions on the amount of the salary sacrificed.

11. It is also useful to note the '**Forfeiture**' discretions (within Section 1-3 of Annex 1). These discretions all remain unchanged, but give the Authority a potential route to remove or reduce pension benefits earned by a member, including recovering costs associated with a 'criminal, negligent or fraudulent act or omission in connection with employment'; this is a powerful governance tool, and is highlighted here to raise awareness of its existence.

12. Previously, The Authority had a separate policy (rather, a process) document covering its **Injury Allowance Scheme**. As that process is only initiated as a result of discretions set out in Sections 7 and 8 of the Discretions Policy tables, it has now been

included within the Discretions Policy (Appendix 1 of the Policy at Annex 1), rather than remaining as a standalone document. This Scheme has been reviewed to ensure that it remains appropriate, and no changes have been made to the previous edition.

13. Similarly, the Authority had a separate document setting out the definition of **Pensionable Pay**. This has now been included within this Discretions Policy (Appendix 2 of the Policy at Annex 1) but is otherwise unchanged.

The 2019 Triennial Valuation of the Pension Scheme

14. The valuation exercise has now been completed, and the actuary has concluded that the net position as at 31 March 2019 is a fully funded one, with assets exceeding the current projection of liabilities. That conclusion allows the future employer contribution rate to be reduced, even after taking account of the impacts of a lower-risk investment strategy and the judgement in the McCloud case. These matters are described further in **Annex 2**.

15. In terms of its impact on the Authority's finances, the valuation has resulted in new Employer Contribution Rates for the next three years (2020/21, 16.9%; 2021/22, 15.2%; 2022/23, 13.5%) and which have now been incorporated into the forthcoming Budget and Medium Term Financial Strategy for the three years starting on 1 April 2020. These rates compare with a figure of 18.6% for 2019/20.

Conclusion

16. The Pension Discretions set out here are largely the same as previous agreed discretions (with a small number of modifications), although they have been re-categorised to make it clear how they apply to different periods of scheme membership.

17. Members should note that these discretions are not intended to form guidance for staff in terms of pension benefits, but are a record of the discretions the Authority has agreed will be applied. Guidance on how these discretions, along with all the other aspects of the LGPS, might affect a particular officer, would be provided when that circumstance arose. It is almost certain that in any circumstance other than retirement at normal (state) retirement age, each situation will be different in some respect; NYPF, the Pension Fund manager, has recently restructured to enable it to provide employers with a high quality advice service on these matters.

18. The overall position in relation to the pension fund is positive, and the future investment strategy seeks to lock in the gains made over the last three years and to adopt a lower risk approach to investments, in order to achieve long term stability.

Richard Burnett
Director of Corporate Services
7 January 2020

ANNEX 1

YORKSHIRE DALES NATIONAL PARK AUTHORITY

LGPS EMPLOYER DISCRETION POLICY
With effect from 11th February 2020

Introduction

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

2. Due to changes to the LGPS over time, different regulations and provisions apply to pensions and pensionable service accrued under different arrangements. This Policy sets out the relevant discretions in different sections as listed below; at the start of each of each section, the Regulations applicable to those particular discretions are listed. Should any provision within this policy contradict any LGPS Regulation then the Regulation would apply.

Section	Description
1	Discretions from 1/4/14 in relation to post-31/3/14 active members and post-31/3/14 leavers
2	Discretions in relation to scheme members who ceased active membership on or after 1/4/08 and before 1/4/14
3	Discretions in relation to scheme members who ceased active membership on or after 1/4/98 and before 1/4/08
4	Discretions in relation to scheme members who ceased active membership before 1/4/98
5	Discretions in relation to redundancy and compensatory payments on the early termination of employment
6	Discretions in relation to any compensatory added years awarded before 1/4/07
7	Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15/1/12
8	Injury allowances as they apply to leavers, deaths and reductions in pay that occurred before 16/1/12

Definitions

3. Within the Regulations all discretions have a classification as follows:

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

4. Within a number of the discretions, reference is made to **administrative shortcomings,** particularly in relation to the permitted period for the transfer to the LGPS of pension rights accrued under a different pension scheme. The following would be considered a potential administrative shortcoming:

- A scheme member is not given appropriate advice/information to enable them to transfer pension rights ;
- A scheme member contacts the Authority, the North Yorkshire Pension Fund (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 they have taken within 12 months is sufficient to have effected transfer;
- A scheme member has used their best endeavors to affect a transfer within 12 months of joining the scheme but the transfer hasn't taken place for reasons outside their control, e.g. investigation into mis-selling or winding up of a previous pension fund.

Injury Allowances

5. The process for the consideration and approval of injury allowances set out in Section 7 and Section 8 is attached as **Appendix 1** to this policy.

Application

6. This policy will apply from the date of approval and replaces all previous employer discretion policies from that date. The policy in force at the time of a relevant event occurring will be the one that is applied.

7. Unless otherwise stated, the application of these discretions will be in accordance with the Authority's Scheme of Delegation. The decision-maker retains the right to deviate from the policy in exceptional circumstances.

8. The definition of Pensionable Pay applicable to this policy is set out in **Appendix 2**.

Review

9. This policy will be reviewed every five years or in the event of any change which makes an earlier review necessary. The Authority retains the right to amend these policies at any time.

Signed: [add signature]

Position: Director of Corporate Services (approved F&R Committee 11/02/20)

Date: [add date]

SECTION 1.

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)

Regulations are marked M (Mandatory), R (Recommended) or LC (Less Common) according to their status.

Area	Discretion	Reg.	Policy
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)	**R**31 (M)	YDNPA will not grant additional pension to a member.
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	**R**16(2)(e) & **R**16(4)(d) (M)	YDNPA will only contribute to Shared Cost Additional Pension Contributions when an employee has opted to buy back 'lost' pension related to a period of authorised unpaid leave (including sickness) 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 Authority will pay two thirds of the cost.
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)	**R**30(6) & **TP**11(2) (M)	YDNPA will consider applications in accordance with its **Early / Flexible Retirement** Policy.
	Whether to waive, in whole or in part, actuarial reduction to benefits paid on flexible retirement	**R**30(8) (M)	YDNPA 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 set out

			in the Authority's policy on **Early / Flexible Retirement.**
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)	**TP**Sch 2, para, 1(2) &1(1)(c) (M)	YDNPA will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60.
Waive Reduction	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) 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, 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 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 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	**TP**3(1), **TP**Sch 2 para 2(1), & B30(5), B30A(5) (M)	YDNPA will not waive any actuarial reduction arising out of a voluntary or flexible retirement. The Authority will pay any pension strain costs arising out of retirement on the grounds of redundancy or in the interests of the efficient exercise of the Authority's functions, where this has been approved through its **Early / Flexible Retirement** Policy.

	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)	**R**30(8) (M)	YDNPA will not waive any actuarial reduction on benefits paid which a member voluntarily draws before pension age.
Shared cost Additional Pension Contributions (to buy lost pension following a period of authorised unpaid absence)	If a member has an **authorised unpaid** absence (not including illness or injury, relevant child-related leave or reserve forces service leave) and within 30 days of returning to work they elect to buy back the lost pension, the employer must share the cost (2/3rds) The discretion is whether to extend the 30 day deadline for a member to elect for a shared cost APC	**R**16(16) (R)	YDNPA will extend the 30 day deadline if there is evidence of administrative shortcomings.
Transferring in non LGPS pension rights	Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS	**R**100(6) (R)	YDNPA 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.
Transferring in LGPS pension rights (only for pre 1.4.14 re-joiners)	Whether to extend the 12 month option period for aggregation of deferred benefits	**A**16(4)(b)(ii) (R)	YDNPA will permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of administrative shortcomings
Transferring in LGPS pension rights (only for post 1.4.14 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	**R**22(8)(b) (R)	YDNPA will only extend the 12 month option period 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	**R**22(7)(b) (R)	YDNPA will only extend the 12 month option period in exceptional circumstances and/or if there is evidence of administrative shortcomings.
Transferring in LGPS pension rights (i.e. final salary benefits which will buy CARE pension only	Whether to extend the 12 month option period for a member (who did not become a member of the 2014	**TP**10 (6) (R)	YDNPA will permit aggregation beyond 12 months in exceptional circumstances and/or if there is evidence of

for post 1.4.14 re-joiners)	Scheme by virtue of **TP**5 (1)) to elect that pre 1 April 2014 deferred benefit should be aggregated with a new employment		administrative shortcomings.
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.	**R**9(1) & **R**9(3) (R)	On 1 April each year, YDNPA will allocate the appropriate band for all members' pensionable pay based on current salary. Where there any subsequent adjustments to pay, including promotions, pay awards notified after 1 April, changes in hours/FTE (reductions or increases) and other pensionable payments, the banding will be amended accordingly by the Authority's payroll system. Casual workers will be allocated to the lowest available contribution rate band, and this will only be adjusted in the unlikely circumstance that their eventual pay exceeds that band limit.
Assumed Pensionable Pay (APP)	In determining APP, whether a lump sum payment made in the previous 12 months is a "regular lump sum"	**R**21(5) (R)	YDNPA would include lump sum payments in the calculation of APP where there is evidence that the lump sums were regularly received.
	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	**R**21(5A) & **R**21(5B) (R)	YDNPA will allow the substitution of a higher level of pensionable pay assessed over the previous 12 month period.
Late conversion of AVCs	Allow late application to	**TP**15(2A)(b)	YDNPA will only extend the 30

to service	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)	& **L**66(8) & former **L**66(9)(b) (LC)	day deadline if there is evidence of administrative shortcomings.
Shared cost AVCs	Whether, how much, and in what circumstances to contribute to shared cost AVC arrangements	**R**17(1) & definition of SCAVC in **R**Sch 1 (LC)	YDNPA will pay SCAVC contributions where an employee has elected to pay AVCs by salary sacrifice. The amount of these employer SCAVC contributions will not exceed the amount of salary sacrificed by the employee. This is an Authority discretion which is subject to the employee meeting the Authority's conditions for acceptance into the Salary Sacrifice Shared Cost AVC Scheme, and may be withdrawn or changed at any time.
Refund of contributions - member left due to an offence/grave misconduct	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	**R**19(2) (LC)	YDNPA will consider whether or not to make a refund based on the merits of each case and in the light of advice from Internal Audit.
Pensionable payments	**Specify in an employee's contract** what other payments or benefits, other than those specified in R20(1)(a) and not otherwise precluded by R20(2), are to be pensionable	**R**20(1)(b) (LC)	YDNPA reserves the right to specify what, if any, other payments or benefits are to be pensionable in accordance with the Regulations but will automatically include 'detriment' or 'protected' pay as pensionable pay. See **Appendix 2** for guidance on pensionable and non-pensionable pay.
T3 Ill health review	Determine whether person in receipt of Tier 3 ill health pension has started gainful employment	**R**37(3) & (4) (LC)	YDNPA will make a determination whether to suspend or cease the pension, if it is made aware that such a person has stated gainful employment (more than 30 hours per week for more than 12 months).

T3 Ill health review overpayments	Whether to recover any overpaid Tier 3 pension following commencement of gainful employment	**R**37(3) (LC)	YDNPA will recover any overpaid Tier 3 pension following commencement of gainful employment.
Deferred member - Ill health	Decide whether deferred beneficiary meets criteria of being permanently incapable of former job because of ill health and is unlikely to be capable of undertaking gainful employment before normal pension age or for at least three years, whichever is the sooner	**R**38(3) (LC)	YDNPA will be guided by the Recommendation of an independent registered Medical Practitioner (IRMP). Payment of pension benefits will commence from the date that YDNPA makes the decision that the member meets the criteria for early release of deferred benefits.
T3 Ill health recommencement	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	**R**38(6) (LC)	YDNPA will be guided by the Recommendation of an independent registered Medical Practitioner (IRMP). Payment of pension benefits will commence from the date that YDNPA makes the decision that the member meets the criteria for early release of deferred benefits.
Forfeiture certificate	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)	**R**91(1) & (8) (LC)	YDNPA will consider whether or not to apply for and enact a certificate based on the merits of each case and in the light of advice from Internal Audit.
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited (other than rights to GMP – but see **R**95 below)	**R**91(4) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly, based on the merits of each case and in the light of advice from Internal Audit.
	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	**R**92(1) & (2) (LC)	YDNPA will not direct that interim payments are made from the Pension Fund pending a decision.
Recovery of monetary obligation	Whether to recover from Fund any monetary obligation or, if less, the value of the member's benefits (other than benefits from	**R**93(2) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly, based on the merits of each case and in the light of advice 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		Internal Audit.
Bulk transfer	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	**R**98(1)(b) (LC)	YDNPA 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.
Final pay period (fees)	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	**TP**3(6), **TP**4(6)(c), **TP**8(4), **TP**10(2)(a), **TP**17(2)(b) & **B**11(2) (LC)	YDNPA will allow members to so choose.

SECTION 2.

Discretions in relation to scheme 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, Membership and Contributions) Regulations 2007
T = LGPS (Transitional Provisions) Regulations 2008 (SI 2008/238)

Regulations are marked M (Mandatory) or LC (Less Common) according to their status.

Area	Discretion	Reg.	Policy
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).	**TP**Sch 2, para, 1(2) &1(1)(c) (M)	YDNPA will not switch on the 85 Year Rule for any employee voluntarily drawing benefits on or after age 55 and before age 60.
	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.	**TP**Sch 2, para, 1(2) &1(1)(c) (M)	YDNPA will not 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.
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early under **B**30 (member)	**B**30(5), TPSch 2 para 2(1) (M)	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 relevant service Director, the Head of HR and the Chief Executive.
Waive reduction	Whether to waive, on compassionate grounds, the actuarial reduction applied to benefits paid early under **B**30A (pensioner member with deferred benefits, i.e. a suspended tier 3 ill health pensioner)	**B**30A(5) TPSch 2 para 2(1) (M)	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 relevant service Director, the Head of HR and the Chief Executive.
Late conversion of AVCs to service	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	**T**Sch1 & **L**66(8) & former **L**66(9)(b) (LC)	YDNPA will only extend the 30 day deadline if there is evidence of administrative shortcomings.

	before 13/11/01)		
Refund of contributions - member left due to an offence/grave misconduct	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	**A**47(2) (LC)	YDNPA will consider whether or not to make a refund based on the merits of each case and in the light of advice from Internal Audit.
Forfeiture certificate	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 that employment)	**A**72(1) & (6) (LC)	YDNPA will consider whether or not to apply for and enact a certificate based on the merits of each case and in the light of advice from Internal Audit.
	Where forfeiture certificate is issued, whether to direct that benefits are to be forfeited	**A**72(3) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly, based on the merits of each case and in the light of advice from Internal Audit.
	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	**A**73(1) & (2) (LC)	YDNPA will not direct that interim payments are made from the Pension Fund pending a decision.
Recovery of monetary obligation	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	**A**74(2) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly, based on the merits of each case and in the light of advice from Internal Audit.
	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	**A**76(2) & (3) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly, based on the merits of each case and in the light of advice from Internal Audit.

	of refund if less		
Deferred member - Ill health	Decide whether deferred beneficiary meets permanent ill health and reduced likelihood of gainful employment criteria	**B**31(4) (LC)	YDNPA will be guided by the Recommendation of an independent registered Medical Practitioner (IRMP). Payment of pension benefits will commence from the date that YDNPA makes the decision that the member meets the qualifying criteria.
T3 Ill health recommencement	Decide whether a suspended ill health tier 3 member is permanently incapable of undertaking any gainful employment	**B**31(7) (LC)	YDNPA will be guided by the Recommendation of an independent registered Medical Practitioner (IRMP). See above

SECTION 3.

Discretions in relation to 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 = Local Government Pension Scheme (LGPS) Regulations 2013 (SI 2013/2356)
TP = LGPS (Transitional Provisions, Savings and Amendments) Regulations 2014 (SI 2014/525)

Regulations are marked M (Mandatory) or LC (Less Common) according to their status.

Area	Discretion	Reg.	Policy
Employer consent retirement	Grant application for early payment of deferred benefits on or after age 50 and before age 55	**L**31(2) (M)	YDNPA will not grant early payment of deferred benefits before the age of 55.
Waive reduction	Waive, on compassionate grounds, the actuarial reduction applied to deferred benefits paid early	**L**31(5) & **TP**Sch 2, para 2(1) (M)	YDNPA will not waive actuarial reduction on deferred benefits paid early.
Employer consent at Normal Retirement Date (NRD) 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 31/3/98 and before 1/4/08).	**L**31 (7A) (M)	YDNPA will agree to optants out being able to get benefits paid from their NRD.
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	**TP**Sch 2, para 1(2) & 1(1)(f) & R60 (M)	YDNPA will not switch on the 85 Year Rule for any deferred member voluntarily drawing benefits on or after age 55 and before age 60.
No double entitlement	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	**L**34 (1)(b) (LC)	YDNPA will choose to automatically apply the regulations of greatest benefit to the employee.

	(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)		
Refund of contributions - member left due to an offence/grave misconduct	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	**L**88(2) (LC)	YDNPA will consider whether or not to make a refund based on the merits of each case and in the light of advice from Internal Audit.
Forfeiture certificate	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)	**L**111(2) & (5) (LC)	YDNPA will consider whether or not to apply for and enact a certificate based on the merits of each case and in the light of advice from Internal Audit.
	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	**L**112(1) (LC)	YDNPA will not direct that interim payments are made from the Fund pending a decision.
Recovery of monetary obligation	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)	**L**113(2) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in the light of advice from internal audit.
	Recovery from Fund of financial loss caused by employee, or amount of refund if less	**L**115(2) & (3) (LC)	YDNPA will consider whether or not to recover and reduce benefits accordingly based on the merits of each case and in the light of advice from internal audit.

SECTION 4.

Discretions in relation to scheme members who ceased active membership before 1/4/98

Applicable Regulations:
L = LGPS Regulations 1995 (as amended) (SI 1995/1019)
TL = LGPS (Transitional Provisions) Regulations 1997 (SI 1997/1613)

Regulations are marked M (Mandatory) or LC (Less Common) according to their status.

Area	Discretion	Reg.	Policy
Employer consent retirement	Grant application for early payment of deferred benefits on or after age 50 on compassionate grounds	**TP**3(5A)(vi) **TL**4 & **L**106(1) & D11(2)(c) (M)	YDNPA will not grant applications for early payment of deferred benefits between the ages of 50 and 55. Over the age of 55, YDNPA will consider on a case by case basis.
No double entitlement	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)	D10 (LC)	YDNPA will choose to automatically apply the regulations of greatest benefit to the employee.

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)

All Regulations are Mandatory.

Area	Discretion	Reg.	Policy
Redundancy Pay on actual weeks pay	To base redundancy payments on an actual weeks pay where this exceeds the statutory weeks pay limit	5 (M)	YDNPA uses actual salary (= actual weekly pay) in the calculation of redundancy payments. Where the resultant value exceeds the statutory weekly capped amount, the higher of actual weekly pay or the statutory weekly pay will be used. These entitlements will be applied to part-time staff on a pro-rata basis.
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 (M)	YDNPA will not award any lump sum compensation[1] in any situation.

[1] This refers to compensation in the form of added years (expressed as weeks) of pension entitlement, and not to redundancy pay.

SECTION 6.

Discretions in relation to any Compensatory Added Years (CAY) awarded before 1/4/07

Applicable Regulations:
Local Government (Early Termination of Employment) (Discretionary Compensation) (England and wales) Regulations 2000 (as amended) (SI 2000/1410)

All Regulations are Mandatory.

Area	Discretion	Reg.	Policy
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 (M)	YDNPA will make a determination after consultation with the administering Authority and having regard to the date of the original award.
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 (M)	YDNPA will make a determination after consultation with the administering Authority and having regard to the date of the original award.
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) (M)	YDNPA will consider on a case by case basis.
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) (M)	YDNPA will consider on a case by case basis.
	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) (M)	If YDNPA determined to suspend such payment, it will reinstate after the end of the remarriage, new civil partnership or cohabitation.
	Whether, in respect of the	21(7)	YDNPA will consider on a case by

	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	(M)	case basis.

SECTION 7.

Injury allowances as they apply to leavers, deaths and reductions in pay that occurred after 15/01/12

Applicable Regulations: Local Government (Discretionary Payments) (Injury Allowance) Regulations 2011 (SI 2011/2954).

It is a **mandatory** requirement to have all of the following discretions in place; the Policy decisions have been captured within the Authority's Injury Allowance Payment Scheme (*see Appendix 1*).

Discretion	Reg.	Policy
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)	YDNPA will consider each case on its merits.
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	Any injury allowance 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.
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)	Any injury allowance granted will cease when the employee leaves employment with YDNPA. The injury allowance will be reviewed should the employee's circumstances change, e.g. in relation to the employee's working or earning capacity or other payments received.
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)	YDNPA will consider each case on its merits.
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	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.
Determine whether person continues to be entitled to an injury allowance awarded under regulation 4(1) (loss of employment through permanent incapacity)	4(2)	Any injury allowance will cease when the employee reaches their state pension age or is granted tier 1 ill-health retirement.
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)	Any injury allowance will be reassessed or suspended if the employee becomes capable of working again.

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)	YDNPA will not make an injury allowance award.
Determine amount of any injury allowance to be paid under regulation 6(1) (payment of injury allowance following cessation of employment)	6(1)	YDNPA will not make an injury allowance award.
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)	YDNPA will not make an injury allowance award.
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)	YDNPA will consider each case on its merits.
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	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.
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)	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 u into a new civil partnership or cohabits.

SECTION 8.

Injury allowances as they apply to leavers, deaths and reductions in pay that occurred before 16/01/12

Applicable Regulations: Local Government (Discretionary Payments) Regulations 1996 (as amended) (SI 1966/1680).

The following discretions all fall to be classed as 'Less Common', and there is no requirement for the Authority to publish a written policy on these discretions. In this instance, it has been decided to include these discretions as they already formed part of the preceding Discretions Policy, published in 2014. The implications of these policy decisions have been captured within the Authority's Injury Allowance Payment Scheme (*see Appendix 1*).

Discretion	Reg.	Policy
Suspend or discontinue injury allowance if person becomes capable of working again	34(4)	Any injury allowance will be reassessed or suspended if the employee becomes capable of working again.
Amount and duration of a dependent's, spouse's or civil partner's injury allowance following death of employee after sustaining an injury or contracting a disease as a result of anything required to do in carrying out duties of job	37(3), 37(6) and 38	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. This allowance will cease at the date when the employee would have reached the state pension age or may be reviewed if the beneficiary remarries, enters into a new civil partnership or cohabits.
Reinstate spouse's or civil partner's injury allowance following earlier cessation due to cohabitation, remarriage or registration of a new civil partnership	37(4)	If the YDNPA determined to suspend such payment, it will consider reinstating it after the end of the remarriage, new civil partnership or cohabitation.
Amount of gratuity payable to surviving dependent, spouse or civil partner where amount of annuity payments fall short of their capital value at date of award	41(4)	YDNPA will not award a further gratuity.
Amount of gratuity payable to surviving dependent, spouse or civil partner where amount of *redundancy* annuity payments fall short of their capital value at date of award.	42(4	YDNPA will not award a further gratuity.
Amount of gratuity payable to *any other* surviving dependent, spouse or civil partner where amount of annuity payments paid under 42(4) fall short of their capital value at date of award.	42(7)	YDNPA will not award a further gratuity.

APPENDIX 1

Injury Allowance Payment Scheme: Guidance Notes

Introduction

1. Any employee who sustains an injury or contracts a disease whilst at work which results in permanent incapacity may apply to the Authority for an injury allowance. In the event that an employee dies in the course of their duties, their dependents may be awarded an allowance.

2. The scheme as set out here scheme applies the provisions of the YDNPA LGPS Employer Discretion Policy and should be read in conjunction with that policy.

3. Allowances are decided and paid by the Authority and not by the North Yorkshire Pension Fund (NYPF), although any payment awarded is administered by NYPF. The award of an allowance is not an admission of any liability.

Scope and Eligibility

4. Any employee of the Authority who is eligible to be a member of the LGPS may apply for an allowance under this scheme. Membership of the scheme is not necessary.

5. The scheme applies where an employee sustains an injury or contracts a disease **as a result of anything he or she was required to do in carrying out his or her work and, as a result, suffers permanent incapacity**. Such incapacity results in the employee being unable to work again or only able to work in a 'reduced capacity', that is, their remuneration or potential remuneration is permanently reduced, or in their death.

6. The Authority will, therefore, consider a payment of an injury allowance in the following situations:

- Where permanent incapacity results in loss of employment;
- Where permanent incapacity results in the employee only being able to work in a reduced capacity such that their remuneration or potential remuneration is permanently reduced;
- On the death of an employee.

7. To be eligible for consideration, the injury must have occurred or the disease contracted 'during the course of employment'. If the accident/injury occurred during the journey to or from work including home to work travel in an Authority vehicle (this includes vehicles issued to Rangers and other staff who are routinely permitted to use those vehicles for home to work travel) or during a lunch break, this would **not** be construed as 'during the course of their employment'.

Conditions

8. The Authority may choose to review appropriate cases from time-to-time or in the event that the employee's circumstances change, for example, in relation to the employee's working or earning capacity or other payments received.

9. The conditions for the termination or review of payments, detailed for each type of injury allowance, are included in sections (i) to (iii), below.

10. Any award assessed will be reduced by the full amount of any other benefits or payments or awards received in relation to the injury or disease, including ill health or other pension payments (whether LGPS or otherwise), statutory benefits, compensation and damages/insurance payments. On request, the employee must furnish the Authority with documentary evidence of all of the above and any other income/capital that may be relevant.

11. The Authority may choose to pay a lump sum or annual allowance. Any lump sum payments or awards may be taken at 1/12th of their amount to produce a comparative 'annual' income.

12. Any change in circumstances must be notified immediately to the relevant Director, e.g. relating to the employee's working or earning capacity or withdrawal of benefits relating to the injury or disease. If the employee fails to notify the Authority of any relevant change, the Authority may later seek to recover all or part of any allowance made since the change of circumstances.

13. If the Authority decides there should be a regular review of the allowance, the employee will be advised of its decision and any allowance may be suspended or terminated if the employee does not comply with reasonable requests on review.

14. The amount of any award is at the discretion of the Authority.

(i) Claim for loss of employment through permanent incapacity

15. Where an employee ceases employment due to permanent incapacity as a direct result of injury or disease contracted in the course of carrying out their employment, the Authority will consider paying the employee an allowance not exceeding 85 per cent of the employee's annual rate of pensionable remuneration at the point the employment ceased. Any allowance will be offset against other payments detailed in paragraph 10, above.

16. Where the employee was receiving no pay or reduced pay at the time the employment ended because of absence, the Authority will assess the remuneration on the basis of the pay the employee would have received but for being absent.

17. The Authority may suspend or discontinue the allowance if the former employee becomes capable of working again.

18. Payment of the allowance will cease when the employee reaches their state pension age or is granted Tier 1 ill-health retirement.

(ii) Claim for reduction in remuneration

19. Whilst an employee is receiving reduced pay as a direct result of an injury or disease contracted in the course of carrying out their employment, the Authority may consider paying the employee an allowance while the reduction in pay continues.

20. The value of the allowance, when added to the reduced pay being received by the employee, will not be of a value that means the employee receives total pay in excess of the pay that they would normally expect to have received but for their injury or disease. The allowance will be offset against other payments detailed in paragraph 10 above.

21. Should the employee's remuneration change as a result of a move to another role within the Authority or due to a change in the employee's capacity, either improvement or deterioration, then their allowance will be reviewed.

22. The award will be payable from the date remuneration was reduced and may be increased in line with cost of living rises where appropriate. The allowance will cease when the employee leaves the Authority.

(iii) Death award[2]

23. Where an employee dies as a direct result of injury or disease contracted in the course of carrying out their employment, the Authority will consider paying an annual allowance or a lump sum to a surviving spouse, civil partner, nominated co-habiting partner, or dependent (as defined by the Regulations).

24. The Authority may make an award of up to 85% of that employee's final pensionable pay. Where the employee was receiving no pay or reduced pay at the date of death because of absence related to the injury or disease, the Authority will assess the remuneration on the basis of the pay the employee would have received but for being absent. The allowance will be offset against other payments detailed in paragraph 10, above.

25. An allowance to a dependent ("an eligible child") shall continue for such period as the Authority will determine and will be considered on a case-by-case basis.

26. Any allowance to widow or widower, surviving civil partner or nominated cohabiting partner will be reviewed on remarriage, civil partnership or cohabitation. An allowance will not be payable if the individual's marriage to, or civil partnership or cohabitation with, the employee took place after the event causing the injury or illness.

---

[2] Note that a member of the Pension Scheme who dies in service is entitled to a separate Death Grant of three times pensionable pay; the Authority also holds insurance against its employer liabilities (which may also be relevant where such a death is caused directly by the Authority's actions). The Death Award described above is separate from either of these other two potential payments, and is discretionary. It is likely only to be applicable in exceptional cases, for example as a result of an employee contracting a fatal disease or condition (e.g. asbestosis) linked to work practices.

Application Procedure

27. Applications under the Scheme must be made without unreasonable delay (which will depend on the specific circumstances of the case).

28. The employee is required to claim the injury allowance in writing and to provide all information or evidence they wish to submit in support of the claim. In the event of a claim after death, this should be submitted by the Executor or Administrator of the estate.

29. Claims should be directed to the Head of HR and Communications, who will refer the employee (or written evidence in the case of death) to the Authority's appointed Occupational Health advisors who will in turn refer the application to an Independent Registered Medical Practitioner (IRMP) who will be asked to advise on:

- Whether the injury or disease was received or contracted wholly in the execution of the employee's duties
- The degree of disability if employment is terminated as a result of the injury or disease
- Whether the injury or disease is likely to be temporary or permanent
- If temporary, the possible length of the effect of the injury or disease
- Whether any award should be subject to regular review
- Any other matters either the Head of HR, Occupational Health Service or the IRMP thinks appropriate
- And to certify to the same by completing and signing the Certificate to be provided by Occupational Health Service in conjunction with the Head of HR.

30. In the case of deaths, written evidence will be submitted to Occupational Health.

31. In all cases, a copy of the relevant accident reports should be supplied with the Occupational Health referral to be forwarded to the IRMP. The accident report will be an important document in determining whether an employee has an entitlement under this scheme and managers should ensure that the appropriate forms are completed at the time of the incident.

32. Any other correspondence or documentation relating to the event (including any insurance claims) should be provided to the Head of HR who may share these with OH and the IRMP if relevant to the employee's claim. If the employee was working at a site not operated or managed by the Council, the Head of HR may contact a representative of the site operator, manager or owner for information.

33. Occupational Health, on the advice of the IRMP, may decide that the employee should be referred for specialist and/or up to date advice. In that case, the employee will be required to give their authority for disclosure of medical details and information and to attend for examination as reasonably requested. Should the employee refuse to give this authority the appropriate Director (see below) will base their decision on whether to make any award on the information that they have available to them at the time.

34. The decision on whether to make an award under this scheme rests with the Director responsible for the service for which the officer concerned works or worked. That director

will consult with the Chief Executive and the Head of HR before making such a decision. In circumstances where a Director or the Chief Executive is the subject of a claim under this scheme, authorisation rests with the Chief Executive or the Chairman, respectively.

35. The Director will notify the employee of their decision in writing. If the application is unsuccessful, the employee with be provided with reasons for this decision.

Appeals

36. Appeals against a decision not to make an award should be submitted to the Chief Executive within 10 working days of receipt of the decision letter, following the mechanism set out in the Authority's Grievance Procedure. There is no right of appeal against the amount of benefit awarded.

37. The Authority reserves the right to review appropriate cases on the receipt of new evidence. The employee (or widow / widower) may also request a review on receipt of new evidence.

Definition of Pensionable Pay

When is pay pensionable under the Local Government Pension Scheme?

LGPS 2014 covers what elements of pay are pensionable and, as importantly, what aren't.

The categories of pay and awards available to YDNPA employees and whether or not they are pensionable under the LGPS regulations are set out below. Pensionable payments are included in the total 'pay' figure each year on which both the employee and the employer pay pension contribution. Pensionable pay is taken into account when calculating retirement benefits.

Pensionable	***Non Pensionable***
• *Salary, wages and fees* • *Detriment or protected pay* • *Market Rate Supplement Payment* • *Acting Up Payment* • *Honoraria Payments for Additional Temporary duties* • *Additional hours / Overtime (includes all paid hours worked above the non-contractual hours of the individual employee)* • *With variable hours and annualised hours contracts, all hours worked are pensionable*	• *Recruitment Payments* • *Retention Payments* • *Expenses (e.g. travel, subsistence)* • *Any Payment 'representing money value for provision of vehicle or paid in lieu' (e.g. mileage payments or payments to cover expenses)* • *Telephone Rental Payment*

Background information

Results of the Triennial Valuation

1. It is a statutory requirement that Local Government Pension Funds are subject to a triennial valuation, with the object of monitoring whether the Fund is on track to meet its pension obligations.

2. The latest valuation of the North Yorkshire Pension Fund has now been completed and the results were reported in October 2019; the actual valuation relates to a date of 31 March 2019, though the process has been complicated by the McCloud case (for a brief explanation of this, please see below). The Valuation process leads on to the setting of future employer contribution rates.

3. The conclusions of the review were very positive: investment decisions taken by the Fund managers have resulted in the current value of investments for the whole Fund exceeding the value of its liabilities (= pension rights), with the ratio between assets and liabilities reaching 115% as at March 2019[3].

4. This result allows three things to happen:

- With the Fund achieving its 'fully funded' target, the approach to investments that has been followed until now, which focused on higher risk / higher return investments with the intention of removing the overall fund deficit (£283m at the date of the previous valuation in 2016), can be changed to a safer strategy. This will lock in the gains made, but also has a small upwards pressure on employer contribution rates;

- The 'risk' level relating to the long term solvency target adopted in the Scheme's Funding Strategy will be improved. Previously, the Fund Actuary had set this component of the overall contribution rate to achieve a 75% chance that the Fund would reach or exceed its Solvency Target after 25 years. Having now attained a stable overall position, this has been reset at 80%, taking into account the need to maintain the current healthy position, but in the light of decisions to reduce investment risk (and therefore, reduce the potential for higher investment returns);

- The surplus can in part be used to reduce the rate of employer contributions, which would otherwise have increased, at least for the next three years (2020/21-2022/23).

[3] Note that this is the whole fund, i.e. the overall position. Individual employers within the fund (e.g. YDNPA) will be affected differently, according to the demographic profile – principally, age – of their members. Note also that the results reported under the Triennial Valuation are fundamentally different from the results as reported in the Authority's annual Accounts, which are measured in a fundamentally different way. The results in our Accounts invariably show the net position (assets minus liabilities) to be one of deficit, because measurement at 31 March each year calculates liabilities as if they were all to be paid on 31 March that year (which they are not) and makes no account of future contributions and investment returns between 31 March and the date the liabilities (i.e. pensions) will actually be paid.

5. The net effect is a reduction in employer contribution rates for the next three years, as follows:

	2019/20 (current)	2020/21	2021/22	2022/23	2023/24
Employer Contribution Rate	18.6%	16.9%	15.2%	13.5%	20.9%
Budgeted cost (£'000)	609	565	514	466	749

6. The reduction will be stepped over the period, in line with advice from the actuary, during which time the surplus will be used up and its netting-off effect will disappear, returning us to a background rate currently projected to be 20.9% from 2023/24 onwards (2.3% higher than for 2019/20). Note, however, that 20.9% is a prudent estimate of the possible rate in four year's time; the actual rate might be higher but will - hopefully - be lower.

The McCloud Case

7. When the LGPS changed - nationally - from a Final Salary (FS) Scheme[4] to a Career Average (CA) Scheme[5], a protection was agreed for those members of the pension scheme who were within 10 years of normal retirement age (~ state pension age) at as 1 April 2014. This protection would allow such members to select whichever of the pension arrangements (the FS scheme as at 31 March 2014, or the CS scheme as at 1 April 2014) generated the higher pension on retirement.

8. The idea behind this was that members within ten years of retirement would not have sufficient career-time remaining to make adjustments to their financial expectations, where those expectations had been materially reduced by the introduction of the CA scheme. For other (i.e. younger) Members, it was considered that they would have sufficient time to plan accordingly, and – because of the higher accrual rate in the CA scheme - such younger members would have longer to benefit from that higher rate, compensating for the downside in moving away from a final salary scheme.

9. This position was challenged successfully in the UK courts during 2019, on the basis that it represented age discrimination, favouring as it inevitably did older employees amongst the scheme members as at 1 April 2014.

10. The impact of this decision is not yet fully clear, but has had to be taken into account in the 2019 triennial valuation, in so far as it changes the rights of other (younger) members of the pension scheme, where those members were already members of the scheme prior to 1 April 2014 (later joiners are not affected). The cost of 'improving' the rights of those pre 1 April 2014 members who were not within 10 years of retiring is dependent on factors including the demographic (particularly, age) of a particular employer's staff cohort. The remedy for this situation has yet to be finalised by central government (a central

[4] The Final Salary Scheme pension is based on a set fraction (or multiplier) of final salary, times the number of year's of service. For membership up until April 2008, this was 1/80th of final salary for every year's service, changing to 1/60th for membership between 1 April 2008 and 31 March 2014.

[5] In the Career Average Scheme, members earn pension entitlements that are directly linked to a proportion of their actual pay each year, and those entitlements don't get 'upgraded' wholesale if (as in most cases) the employee's final salary at the end of a career is higher than at the start; however, the multiplier rate is higher for this post-2014 arrangement, at 1/49th of actual salary.

government issue because it affects any and all of the public sector where there has been a move from FS to CA schemes and where a protection period has been in place). However, at this stage, the likely cost to the Authority would be covered by an increase to our annual employer pension fund contributions of 0.9%, and this has now been allowed for in the 'future service' costs deriving from the latest Triennial Valuation.

The 85 Year Rule Protection

11. The normal retirement date under the LGPS is fixed to match the state pension Retirement Age; this now varies, according to date of birth / age, being 66 in October 2020 and 67 between 2026 and 2028, and continuing to rise slowly thereafter.

12. The current (post 2014) LGPS rules allow members to retire earlier than this, from age 55 onwards. However, the benefits accrued, which are projected based on the normal retirement date, will not be received in full, but will be reduced in line with a gradational calculation that takes into account early payment and the impact of the LGPS not receiving pension contributions (from either the employee or the employer) for the period between early retirement and the normal retirement date.

13. However, Officers who were members of the LGPS at anytime between 1 April 1998 and 30 September 2006 may be protected from an early payment reduction under what is called the 85 year rule, and this rule continues to apply (i.e. after the change to LGPS 2014). The rule states that if your age (in whole years) plus your scheme membership (in whole years) adds up to 85 by the date of retirement, the member will not be subject to actuarial reduction of benefits.

14. The above is only a general summary of the position, as the details of how the 85 Year rule protection actually works are complex, made more so by the fragmentation of pension regulations into three segments (pre 2008; 2008-2014; post 2014). Individuals will be affected differently according to the dates of their service and therefore the different benefits they will have built up under each segment of the pension fund's history (so this note is not a definitive guide to how the Protection will work for individuals). However, what is important to understand is that the age from which this Protection applies is unchanged from when it was originally set, i.e. from an early retirement age of 60.

15. This means that the protection does not apply to members who choose to voluntarily retire on or after age 55 (for which there is now a general permission) and before age 60.

16. Employers have the discretion to extend the Rule of 85 protections so that they are 'increased', to cover early retirements from age 55, but this approach has not been adopted in the proposed discretions accompanying this paper. Deciding on a policy to agree such a change would add materially to the Authority's pension costs, because of the 'missing'[6] employer and employee pension contributions for the 5 years between age 55 and 60. Whilst this approach may appear to be to the benefit of the Authority, it is really a decision that will not dis-benefit the Authority; the benefits of those members qualifying under the '85 Year' protection are unchanged from when they were earned.

[6] A very rough indication for the missing contributions might be £40k per pensioner (for a retirement age of 55 rather than 60), based simply on the average annual total of employer + employee contributions for the whole Authority, divided by the number of full time staff, x 5 years (based on the 2019/20 budget). This figure may be an understatement, because the actuary would need to take account of missing investment growth (to the value of the contributions) which would otherwise have happened, and also because officers nearing retirement are likely to have a pay level that is above the average for the whole Authority.